



Note: Staff reports can be accessed at <http://mncppc.iqm2.com/Citizens/Default.aspx>.

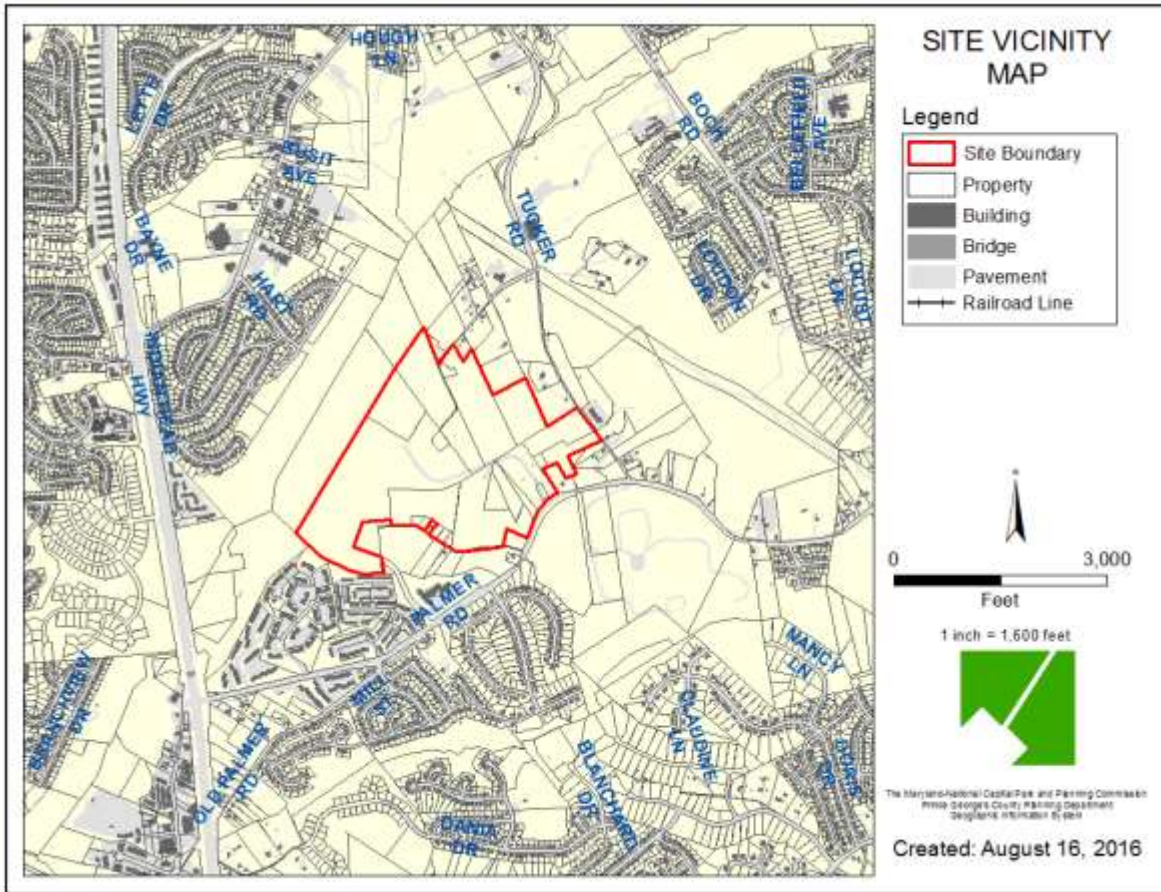
Special Exception

SE-4774

Application	General Data	
Project Name: Palmer Road Class 3 Fill Facility Location: The subject property is located on the north side of Palmer Road approximately 1,200 feet west of the intersection of Palmer and Tucker Roads. Applicant/Address: Palmer Road Landfill, Inc. (aka Palmer Road Landfill Company) and Palmer Road, LLC. 3334-A Kenilworth Avenue Hyattsville, MD 20781 Property Owner: Palmer Road Landfill, Inc. (aka Palmer Road Landfill Company) and Palmer Road, LLC. 3334-A Kenilworth Avenue Hyattsville, MD 20781	Planning Board Hearing Date:	03/30/17
	Staff Report Date:	03/15/17
	Date Accepted:	11/18/16
	Planning Board Action Limit:	N/A
	Plan Acreage:	173.584
	Zone:	R-E
	Gross Floor Area:	160 sq. ft.
	Lots:	1
	Parcels:	21
	Planning Area:	76B
	Council District:	08
	Election District	12
	Municipality:	N/A
	200-Scale Base Map:	211SE02

Purpose of Application	Notice Dates	
Obtain a special exception for an existing Class 3 fill site for five years in accordance with Section 27-405.01 of the Zoning Ordinance and request a variance to Section 27-405.01(a)(5) requiring that Class 3 fill facilities not be located within a 3-mile radius of properties containing an active or pre-existing approved or nonconforming Class 3 fill, sanitary landfill, transfer station, rubble fill, recycling facility, mining facility, sludge facility, processing facility, sand and gravel operation, or wash plant.	Informational Mailing:	09/25/16 for SE
	Acceptance Mailing:	09/28/16 for SE 02/14/17 for Variance
	Sign Posting Deadline:	N/A

Staff Recommendation		Staff Reviewer: Christina Pompa Phone Number: 301-780-2222 E-mail: christina.Pompa@ppd.mncppc.org	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	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

FROM: Christina Pompa, Acting Planning Supervisor, Zoning Review Section, Development Review Division

SUBJECT: **Special Exception Application No. SE-4774**
Variance Request from Section 27-405.01(a)(5) of the Zoning Ordinance

REQUEST: Special Exception to extend validity period for an additional five years for an existing Class 3 Fill Site in accordance with Section 27-405.01 of the Zoning Ordinance.
Variance from Section 27-405.01(a)(5) of the Zoning Ordinance requiring that Class 3 Fill facilities shall not be located within a 3-mile radius of properties containing an active or pre-existing approved or nonconforming Class 3 fill, sanitary landfill, transfer station, rubble fill, recycling facility, mining facility, sludge facility, processing facility, sand and gravel operation, or wash plant.

RECOMMENDATION: **SE-4774 – APPROVAL with Conditions**
Variance from Section 27-405.01(a)(5) of the Zoning Ordinance - APPROVAL

NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of March 30, 2017. 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.

FINDINGS

- A. **Location and Field Inspection:** The special exception boundary includes approximately 173.585 acres of land situated within 21 parcels and one lot of record. The special exception property (herein “subject property”) is located on the north side of Palmer Road approximately 1,200 feet west of the intersection of Palmer and Tucker Roads.

Staff toured the site and operation with Tony Harris, Richard Harris, and Francis Silberholz on Monday, December 5, 2016. The site entrance is well marked, and is generally free of dust and debris. The applicant recycles milled asphalt for the internal site roads, which provides a compacted stabilized surface and limits the generation of dust and debris. Upon entering the site, trucks stop at the construction trailer with raised walkway so loads can be visually inspected. Drivers are directed to different locations within the site to drop concrete, asphalt, or dirt. Different materials are separated and processed for final use/sale. Trucks leaving the site pick up speed to run debris out of their tires before exiting the site. Signage along the site exit indicates no left turns out of the landfill, no turning into communities, and no u-turns at community entrances. An acceleration lane is provided on Palmer Road so trucks can more easily enter traffic on westbound Palmer Road. A sweeper truck is available on site and was stationed at the entrance with a driver on December 5, 2016. Clean topsoil is stockpiled on the east side of the site for future use in slope stabilization.

Messrs. Harris drove staff around the southern perimeter site road to the sediment trap on the northern side of the site. Visual inspection of the side slopes on the south, west, and northern sides of project showed the slopes were stabilized with grass and that trees were growing in older stabilized areas. No rivulets were observed on any of the slopes. Mr. Tony Harris indicated that the sediment trap was mucked out in July 2016 and new filter fabric and wire mesh were installed on all of the intake pipes. Photographs of the sediment trap maintenance were provided and are included as backup to this technical staff report. Clean water was observed flowing into the riser structure from the sediment trap. Any remaining sediment is contained by sediment booms placed at the end of the outfall pipes. The outfall structure directs water to a large riprap apron, before it exits the property to the north. No erosion was observed beyond the riprap.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-E	R-E
Use(s)	Class 3 Fill Site	Class 3 Fill Site
Acreage	173.585	173.585
Parcels	Parcels 10, 12, 14, 19, 20, 23-28, 151, 189, 190, 194, 276-279, 286, and 297, and Lot 1 on Tax Map 114.	Parcels 10, 12, 14, 19, 20, 23-28, 151, 189, 190, 194, 276-279, 286, and 297, and Lot 1 on Tax Map 114.

- C. **History:** Per the applicant’s Statement of Justification, in 1981, three original parcels under the ownership of Morauer and Hartzell, Inc. started what has grown into the Palmer Road Class 3 fill site that exists today. Palmer purchased the property in 1989 and has been adding parcels to the site until approximately 2003. Over that time, the applicant has been obtaining grading permits or grading permit renewals for the use. The applicant has provided a more complete history of the acquisition of properties and grading permits in the Statement of Justification, which is included as backup to this technical staff report.

The approval of County Council Bill CB-87-2003 amended the Zoning Ordinance to include Class 3 fill facilities as a special exception use. Footnote 71 to Section 27-441 of the Ordinance as part of CB-87-2013 states the following:

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 renewals of the permit. Those fill operations that are in violation on October 7, 2003 have until December 21, 2003 to comply, or their permit is void.

Based on the current Zoning Ordinance, the use already renewed its grading permit twice and now needs a special exception. The use also needs a variance from the strict interpretation of Section 27-405.01 of the Zoning Ordinance, which requires that a Class 3 fill facility not be located within a three (3) mile radius of properties containing an active or pre-existing approved or nonconforming Class 3 fill, sanitary landfill, transfer station, rubble fill, recycling facility, mining facility, sludge facility, processing facility, sand and gravel operation, or wash plant.

D. Master Plan Recommendation:

General Plan: This application is not inconsistent with the Established Communities Growth Policy in the Plan Prince George's 2035 Approved General Plan. The vision for Established Communities is a context-sensitive infill and low to medium-density development

2006 Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area: This application does not conform with the Residential, Low-Density land use recommendation of Henson Creek-South Potomac Master Plan and Sectional Map Amendment (SMA), however, a five-year extension of existing use will not substantially impair the integrity of the master plan.

E. Request – Special Exception with Variance:

The applicant requests a special exception for five years for the continuation of an existing Class 3 fill facility in accordance with Section 27-405.01 of the Zoning Ordinance and requests a variance to Section 27-405.01(a)(5) requiring that Class 3 fill facilities not be located within a three (3) mile radius of properties containing an active or pre-existing approved or nonconforming Class 3 fill, sanitary landfill, transfer station, rubble fill, recycling facility, mining facility, sludge facility, processing facility, sand and gravel operation, or wash plant.

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

North—	Vacant and wooded land, single-family detached homes, the Tucker Road Community Center
East—	Vacant and wooded land, a former fill site, institutional uses
South—	Vacant and wooded land, a retirement community, multifamily units, single-family attached homes, and single-family detached homes.
West—	Vacant and wooded land

The neighborhood is defined by the following boundaries:

North—	Henson Creek
East—	Unnamed Branch of Henson Creek flowing through property owned by the Soresi Family Partnership
South—	Hunters Mill Branch
West—	Henson Creek and MD 210/Indian Head Highway

The neighborhood is suburban in character and comprised of vacant and wooded land, and low-to medium-density residential development. There are residential communities further west on Palmer Road and across Palmer Road to the south. There is a former fill site across Palmer Road to the east and there are two churches across Tucker Road to the east. There is a community center to the north as well as a few scattered single family homes.

G. Specific Special Exception Requirements: Section 27-405.01 – Class 3 fills:

1. A Class 3 fill may be permitted as a temporary Special Exception, subject to the following:
 - a. Within one hundred and twenty (120) days after an application for a Class 3 fill is accepted by the Planning Board, the Zoning Hearing Examiner shall conduct a public hearing. The Zoning Hearing Examiner's written decision on an application shall be issued within thirty (30) days after the public hearing. Where the District Council makes the final decision, the Council's final order shall be issued within sixty (60) days of the Examiner's decision.

Comment: On January 10, 2017, the applicant submitted a letter to waive the 120-day review period.

- b. Initially, a Special Exception for a new Class 3 fill shall be valid for five (5) years, unless the District Council grants some lesser time period. Extensions of specific periods may be granted not to exceed five (5) years. At least one hundred and eighty (180) days prior to the expiration of a Special Exception for a Class 3 fill, a request for an extension shall be filed with the Zoning Hearing Examiner. The applicant shall also send a copy of the request, in accordance with the informational mailing requirements of Section 27-125.01, to all adjoining property owners and civic associations. The Examiner shall conduct a public hearing in accordance with all requirements and procedures for the initial application. The filing fee for the extension shall be one-half the amount of the fee for a new application.

Comment: The Applicant is seeking approval to continue the use of the existing Class 3 facility for a five (5) year period, which is projected to allow for the completion of the existing Class 3 fill site that has been in continuous operation by the applicant for more than 25 years.

- c. If a proposed Class 3 fill includes a rock crusher or other processing equipment, its location shall be shown on the site plan.

Comment: The applicant has indicated in the Statement of Justification that they do not maintain a permanent rock crusher on-site. During the site visit on December 5, 2016, a

temporary rock crusher was observed on-site. Recommend a note be added to the special exception plan indicating a temporary portable rock crusher may be located on-site in accordance with necessary permits from the Maryland Department of the Environment.

- d. A traffic report, prepared in accordance with the Planning Board's "Guidelines for the Analysis of the Traffic Impact of Development Proposals," shall be submitted with the application and shall include an analysis of haul routes for the truck traffic generated by the use.

Comment: The applicant submitted a traffic impact analysis by Lenhart Traffic Consulting, Inc. on September 30, 2016. The Transportation Planning Section reviewed the analysis and found that the proposal would meet the requirements of Subtitle 27 for the approval of a Special Exception from the standpoint of vehicular circulation and transportation. From the standpoint of non-motorized transportation, the Transportation Planning Section determined that this plan is acceptable.

- e. The subject property shall not be located within a three (3) mile radius of properties containing an active or pre-existing approved or non-conforming Class 3 fill, sanitary landfill, transfer station, rubble fill, recycling facility, mining facility, sludge facility, processing facility, sand and gravel operation, or wash plant.

Comment: Due to the 25-plus-year history of this Class 3 facility being in operation before the establishment of the defined three-mile radius (which restriction came into being with the passage of CB-87-2003 on November 25, 2003) there are two incidents involving conflicts with said standard. For this reason, the applicant has included a request for variance to this standard per the guidelines outlined in Section 27-405.01 of the Zoning Ordinance. Additional information is provided in "H" below.

- f. Fill operations shall not be located within five hundred (500) feet of an existing residence, school, day care center, church, hospital, nursing home/assisted living facility or community center.

Comment: Per the special exception plan, the Palmer Road Class 3 fill site complies with this requirement. No Class 3 fill operations are located within 500 feet of any of the listed structures.

- g. A Class 3 fill shall meet the buffering and screening requirements of the Landscape Manual, shall have a one hundred (100) foot non-disturbance buffer from all property lines, and shall include landscaping or berms sufficient to screen fill operations from adjoining residentially-zoned property, property containing a use listed in Subsection (a)(6), and public streets or highways. All berms and landscaping shall be installed in the initial phase of development, before fill is placed on site.

Comment: In a referral dated October 27, 2016, the Urban Design Section analyzed urban design-related required findings from Section 27-405.01(a) of the Zoning Ordinance; Landscape Manual requirements pertaining to Section 4.2 – Requirements for Landscape Strips Along Street, Section 4.7 – Buffering Incompatible Uses, Section 4.9 – Sustainable Landscaping Requirements; and Tree Canopy Coverage. The analysis

concluded that the site was in conformance with applicable requirements and that the Urban Design Section had no specific recommendations on the subject application.

- h. The height limitations for the fill operation shall be determined during Special Exception review. No slope grade may exceed 3:1.

Comment: The approved grading and sediment control plan (SCD #111-01) reflects the applicant's compliance with the grading plan requirements of this section. All slopes are 3:1 or less. Both the approved grading and sediment control plan (SCD #111-01) and the approved tree conservation plan (TCPII-111-94-04) show projected maximum finished elevations of approximately 332± feet. Recommend including a condition that limits the maximum slope to 3:1 and the maximum height to 332 feet.

- i. The fill operation shall have a staging area with equipment for cleaning truck wheels and a minimum twenty-two (22) foot paved access road designed to accommodate no more than twenty-five (25) trucks.

Comment: The access road into the site is 30 feet wide for a distance of approximately 230 feet, after which the access road splits around the inspection trailer and then continues into the site. The applicant recycles milled asphalt for the internal site roads, which provides a compacted stabilized surface and limits the generation of dust and debris. This milled asphalt road extends into the site over 1,000 feet. Trucks are required to gain speed on the access road before leaving the site to run off any dirt and debris they may have picked up in their tires on the site. A sweeper truck is available on site and was stationed at the entrance with a driver on December 5, 2016.

- j. The site entrance shall have a gate which is locked when the fill is not in operation. Hours and days of operation shall be limited as part of the Special Exception review.

Comment: The site has an entrance gate. The applicant's statement of justification indicates that the operation complies with the requirement for an entrance gate and lock.

- k. Site or operational personnel shall be on site during hours of operation.

Comment: Personnel is on-site during the hours of operation to inspect loads and run heavy equipment.

- l. The site shall have proper signage showing the name of the operator, the permit number, hours of operation, telephone number of the operator, as well as provide directional signs for internal truck traffic and haul routes. The site plan shall also provide for final reclamation and stabilization of the site at the cessation of the fill operation.

Comment: On sheet 2 of the special exception plan, the applicant is proposing a sign at the front entrance that lists the operator, permit number, hours of operation, and operator's phone number. Every truck entering the site is stopped at the construction trailer for visual inspection. Trucks are directed into the site by personnel and additional directional signage is provided within the site. Haul routes are obvious based on the use of milled asphalt for the internal site roads. The special exception plan shows the proposed finished grades of the site. Reclamation is occurring incrementally on the site as

fill areas are completed. Visual inspection of the side slopes by staff during the site visit revealed that the south, west, and northern sides of project showed the slopes were stabilized with grass and that trees were growing in older stabilized areas. No rivulets were observed on any of the slopes. The applicant has demonstrated that the completed side slopes are being stabilized into what can regenerate into a park-like setting (see photos of north and west sides of the site included as backup to this technical staff report)

- m. The Department of Permitting, Inspections, and Enforcement shall conduct semi-annual site inspections for Class 3 fill sites and prepare a written report on the evaluation of the operations on the site, which shall include all indications of noncompliance with all County and State regulations. A copy of the report shall be provided to the County Council and shall also be available for review by the public.

Comment: DPIE performs monthly to quarterly inspections of the site. The applicant submitted the inspection reports from March 2009 to August 2016. These reports consistently show the site complies with erosion and sediment control requirements. DPIE inspectors were on site during the staff site visit on December 5, 2016 and indicated that the site is well managed. Visual inspection of the riser and outfall structures on December 5, 2016, confirmed that the site is well managed and in compliance.

- n. A haul road permit shall be obtained from the County Department of Permitting, Inspections, and Enforcement prior to issuance of any grading or building permits related to proposed Class 3 fill sites.

Comment: The applicant has maintained an active haul road permit for the site. The current haul road permit (Permit Number 8414-S (2508414-1992)) will expire May 14, 2017. Recommend a condition be added requiring the applicant to maintain a haul road permit from the Department of Permitting, Inspections and Enforcement for the life of the project.

- o. A street construction permit shall be obtained from the County Department of Permitting, Inspections, and Enforcement prior to issuance of any grading or building permits related to proposed Class 3 fill sites.

Comment: The applicant has indicated in its statement of justification that no new streets or access points are required or proposed as part of this application.

- H. **Variance Request:** The applicant seeks a variance from the strict interpretation of Section 27-405.01 of the Zoning Ordinance, which requires that a Class 3 fill facility not be located within a three (3) mile radius of properties containing an active or pre-existing approved or nonconforming Class 3 fill, sanitary landfill, transfer station, rubble fill, recycling facility, mining facility, sludge facility, processing facility, sand and gravel operation, or wash plant.

Section 27-230(a)(1) provides the following findings for approval of a variance:

- (a) **A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that:**
 - (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape,**

exceptional topographic conditions, or other extraordinary situations or conditions;

Comment: Some form of Class 3 fill facility has existed at this location since 1981. The three-mile setback requirement came into effect with the passage of County Council Bill CB-87-2003 on November 25, 2003. This constitutes an extraordinary condition.

- (2) **The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

Comment: The strict application of this Subtitle would result in peculiar and unusual practical difficulties, as it would be impossible for the property to meet the 3-mile radius distance from the certain other properties standard without the total cessation of the use.

- (3) **The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.**

Comment: The variance will not substantially impair the intent, purpose, or integrity of the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek—South Potomac Planning Area*, which designates this area for low density residential. Page 21 of the master plan recognizes the existence of Class 3 fill facilities within the Developing Tier. The master plan identifies truck traffic as an issue with area residents and the difficulty in redeveloping these sites for any other use than open space or very limited recreation activities. The applicant has limited trucks from exiting the site to only turn right and has provided an acceleration lane to allow trucks to more easily merge with westbound traffic on Palmer Road. If the site is ultimately maintained as open space, it will not impair the integrity of the master plan that calls for low density residential in this area. The Class 3 fill is a use permitted by special exception in the R-E Zone and is therefore presumed to be compatible with the surrounding area when conditioned appropriately to minimize impact to the neighborhood.

- I. **Parking Regulations:** The applicant is required to provide one parking space for every 250 gross square feet of office use. Based on the 160-square-foot inspection trailer, one parking space is required. On the special exception plan, the applicant has provided one standard 9.5-foot by 19-foot space and one van-accessible handicapped space at 8-foot by 19-foot with an adjoining 8-foot by 19-foot access aisle.
- J. **2010 Prince George's County Landscape Manual Requirements:** Section 27-405.01(a)(7) requires conformance to the buffering and screening requirements of the 2010 *Prince George's County Landscape Manual* (Landscape Manual) which apply as follows:

Section 4.2 - Requirements for Landscape Strips Along Street

Comment: The proposal is subject to Section 4.2, Requirements for Landscape Strips Along Streets, along Palmer Road and Tucker Road. The submitted plans provide the plantings and schedules demonstrating conformance to this section.

Section 4.7 - Buffering Incompatible Uses

Comment: The proposed special exception boundary is subject to the requirements of Section 4.7 along multiple property lines. The submitted plans provide the plantings and schedules demonstrating conformance to this section.

Section 4.9 - Sustainable Landscaping Requirements

Comment: The site is subject to the requirements of Section 4.9 for all proposed plantings. The submitted landscape plan and schedule demonstrates conformance with this section.

- K. **Zone Standards:** Per the Residential Table of Uses contained in Section 27-427 of the Zoning Ordinance, a Class 3 fill facility requires a special exception in the R-E Zone in accordance with Footnotes 47 and 71. Specific Special Exception Requirements for Class 3 fill facilities are contained in Section 27-405.01 of the Zoning Ordinance. Based on the analysis of information provided by the applicant and information gathered during the site visit, and contained in this technical staff report, the applicant's existing Class 3 fill facility is operating in accordance with the requirements of Section 27-405.01 with the exception of the three-mile setback from other similar facilities, for which the applicant is seeking a variance. The special exception plan and use meet or exceed the requirements of the R-E Zone.
- L. **Sign Regulations:** The applicant is proposing a new entrance sign that meets the requirements of Section 27-405.01(a)(12) of the Zoning Ordinance. Any proposed signage must meet all area, height, and setback requirements.
- M. **Referrals:** No major issues were identified in the referrals that were received for the subject application. Any necessary revisions that were requested have been addressed through the submission of revised plans and a revised Statement of Justification. The applicant has submitted a landscape plan as required and has submitted supplemental information as requested by staff. Comments from the Prince George's County Department of Permitting, Inspections and Enforcement (DPPIE), Site/Road Plan Review Division will be addressed by the applicant at the time of permit submittal.

The following comments were received for the special exception application:

- 1. **Community Planning Division:** In a referral dated November 14, 2016, the Community Planning Division (M-NCPPC) staff offered the following:

General Plan—This application is not inconsistent with the Established Communities Growth Policy in the Plan Prince George's 2035 Approved General Plan. The vision for Established Communities is a context-sensitive infill and low to medium-density development

2006 Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area—This application does not conform with the Residential, Low-Density land use recommendation of Henson Creek-South Potomac Master Plan and Sectional Map Amendment (SMA), however, a five-year extension of existing use will not substantially impair the integrity of the master plan.

The proposed development is in proximity to established residential neighborhoods. Developing Tier Policy 1, page 22, of the master plan states, "Preserve and enhance existing suburban residential neighborhoods." Ensure that the requested continuous operation does not negatively impact the stability of the surrounding residential

neighborhoods. Adequately addressing all the requirements established for the operation of this use at this site and a five-year extension of the existing use will not substantially impair the integrity of the master plan.

2. **Subdivision:** In a referral dated October 24, 2016, the Subdivision Section offered the following:

The subject property is composed of Parcels 10, 12, 14, 19, 20, 23-28, 151, 189, 190, 194, 276, 278, 279, 286 and 297 and Lot 1. Parcels 10, 12, 14, 19, 20, 23-28, 151, 189, 190, 194, 276, 278, 279, 286 and 297 have not been the subject of a preliminary plan of subdivision or record plat and are legal acreage parcels. Lot 1 is the subject of record plat WWW 45-88, Palmer Corner Subdivision which was recorded in Land Records on June 28, 1962. The properties are located on Tax Map 114 in Grids B-1, C-1 and D-1, and is 171.61 acres. The purpose of this SE is for the extension of operation for an existing class 3 fill site. No new gross floor area is proposed with this application.

The site plan should note the legal description of the property in the general notes and on the plan, listing the parcels and lot. Any proposed development exceeding 5,000 square feet will require a new preliminary plan of subdivision.

Site Comments:

The Subdivision Section recommends the following conditions:

1. Prior to certification of the SE, the following corrections shall be required:
 - a. Add a General Note to identify the legal description of the property, listing all parcels and lot.
 - b. Add a General Note to reflect that no additional GFA is proposed and indicates existing GFA if it exists.

Failure of the SE and record plat to match (including bearings, distances, and lot sizes) will result in permits being placed on hold until the plans are corrected. There are no other subdivision issues at this time.

3. **Transportation Planning Section:** The Transportation Planning Section (M-NCPPC) has reviewed the Special Exception application and provided a memorandum dated November 15, 2016.

Background

The applicant is seeking a special exception for the continuance of an existing Class 3 facility and land fill site that have been in operation since the 1980s. A five-year extension is requested to complete filling operations. No expansion of the fill operations is being requested.

Review Comments

The special exception is reviewed for compliance with general special exception requirements, including the determination that the use will not be detrimental to the health, safety, and welfare of residents and workers in the area.

The use is subject to requirements found in Section 27-405.01 of the Zoning Ordinance for Class 3 land fills. A traffic impact study (TIS) is required that follows the Planning Board's "Guidelines for the Analysis of the Traffic Impact Development Proposals." The traffic report must also include a description of the truck hauling routes to and from the site. A traffic impact study, dated January 2016, was submitted by the applicant.

The findings and recommendations outlined below are based upon a review of materials and analyses conducted by the staff of the Transportation Planning Section consistent with the "Transportation Review Guidelines, Part 1, 2012" (*Guidelines*). Based on existing traffic counts the site generates 117 AM and 13 PM peak-hour trips. The subject property is located within Transportation Service Area (TSA) 2, as defined in *The Plan Prince George's 2035 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 Transportation Guidelines.

Unsignalized intersections: The procedure for un-signalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. A three-part process is employed for two-way stop-controlled intersections: (a) vehicle delay is computed in all movements using *The Highway Capacity Manual* (Transportation Research Board) procedure; (b) the maximum approach volume on the minor streets is computed if delay exceeds 50 seconds, (c) if delay exceeds 50 seconds and at least one approach volume exceeds 100, the CLV is computed. A two-part process is employed for all-way stop-controlled intersections: (a) vehicle delay is computed in all movements using *The Highway Capacity Manual* (Transportation Research Board) procedure; (b) if delay exceeds 50 seconds, the CLV is computed. Once the CLV exceeds 1,150 for either type of intersection, this is deemed to be an unacceptable operating condition at un-signalized 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.

EXISTING CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
MD 210/Palmer Road/Livingston Road	1,733	1,689	F	F
Palmer Road/Site Entrance	852	817	A	A
Palmer Road/Tucker Road	991	836	A	A

*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*, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.

Under existing conditions, which included the operating Class 3 land fill site, the signalized intersection of MD 210 and Palmer Road/Livingston Road exceeds the critical lane volume (CLV) of 1,450 and LOS D during the AM and PM peak hours.

Background traffic included approved nearby development and an annual increase of one percent in traffic to account for growth. Traffic was increased for five years, the expected operating period of the site.

BACKGROUND/TOTAL CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
MD 210/Palmer Road/Livingston Road	1,827	1,777	F	F
Palmer Road/Site Entrance	895	866	A	A
Palmer Road/Tucker Road	1,047	887	B	A

Under background conditions the signalized intersection at MD 210 and Palmer Road/Livingston Road exceeds the *Guidelines* thresholds as under existing conditions. Total traffic conditions are the same as background conditions since no new trips are expected at the site. It should be noted that the failing intersection operates at LOS F with or without traffic from the Class 3 land fill site. MD 210 carries a large amount of regional through traffic.

Site Access Evaluation

On-site access is provided from Palmer Road. There is an existing eastbound bypass lane at the site entrance that allows motorists to avoid left-turning trucks. Most of the AM and PM peak-hour trips to the site come from MD 210 via Palmer Road. A small percentage of trips approach the site from the east. The southbound left turn lane on MD 210 to Palmer Road is 1,500 feet long, the maximum number of left turns is about 140 vehicles per hour which will result in 200 feet of queuing, far below the length or capacity of the turn lane.

Hauling Routes

The applicant's traffic consultant demonstrated the routes used by patrons and employees of the site by counting existing traffic to and from the site. It was noted that Palmer Road has both open and closed sections with one 11-foot to 12-foot lane in each direction. The pavement includes six to ten foot shoulders on both sides. In addition the truck hauling routes have been in existence since the 1980s. No changes in existing truck routes are being proposed. Based on the traffic count at the site entrance most trucks will come from MD 210 and return to it on Palmer Road.

Master Plan Roads

The site is adjacent to Palmer Road which is a master plan major collector listed in the *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*. No further dedication is required.

Review Comments for Active Transportation

Palmer Road is an open-section roadway with no sidewalks along the site's road frontage. Sidewalks and designated bike lanes are recommended in the Henson Creek Master Plan

from MD 210 to Tucker Road. These facilities will provide pedestrian and bike access from surrounding communities to the Lynnalán Neighborhood Park. The closed section of Palmer Road from MD 210 To Fran Del Drive has sidewalks on both sides. Future improvements in the vicinity of the Class 3 fill site would be implemented by DPW&T. No other comments.

Conclusion

The Transportation Planning Section finds that the proposal would meet the requirements of Subtitle 27 for the approval of a Special Exception from the standpoint of vehicular circulation and transportation. From the standpoint of non-motorized transportation, it is determined that this plan is acceptable.

4. **Environmental Section:** The Environmental Section (M-NCPPC) has reviewed the Special Exception application and provided a memorandum dated November 17, 2016.

Background

The Environmental Planning Section previously reviewed the following applications and associated plans for the subject property:

Development Review Case #	Associated Tree Conservation Plan #	Authority	Status	Action Date	Resolution Number
ROSP-4467-03	TCPII-008-05-03	Planning Board	Approved	4/16/2015	PGCPB No. 15-30
SE-4774	TCPII-111-94-04	Planning Board	Pending	Pending	Pending

The Environmental Planning Section signed a Natural Resource Inventory-Equivalency Letter (NRI-EL), NRI-238-15, for this project area on December 3, 2015. This letter stated that the site was in compliance with the previously approved TCP2-111-94 and that no new impacts were proposed. This NRI did not cover the entire area that is being reviewed with the special exception. There are two parcels (Parcel 10 and part of Parcel 10 /Parcel 286) that were not included in this NRI-238-15 review. Currently, Parcel 10 and part of Parcel 10 are wooded and will remain wooded, and Parcel 286 is part of the existing impacted and completed fill site operations. An NRI-EL review was performed as part of the ROSP-4467-03 case on Part of Parcel 10. These two parcels will not be impacted by this application.

Grandfathering

The site is grandfathered from the requirements of Subtitles 25 and 27 that became effective on September 10, 2010 because this is a revision to a previously approved special exception that was approved under prior regulations, and no new impacts or significant changes are proposed.

Proposed Activity

The current application is asking for a five-year time extension to maintain operations at a Class 3 fill site. This site has been in operation since 1981 and a Class 3 fill site since 1989. This extension is to allow time for the applicant to complete the filling operations to the permitted grades. No expansion of the operation is proposed with this application.

Site Description

The subject 173-acre Palmer Road Landfill site is located 985 feet from the intersection of Palmer Road and Tucker Road. The overall property is zoned R-E. A review of the available information indicates that wetlands, streams or floodplain are located within subject project area. The predominant soils found to occur according to the USDA NRCS Web Soil Survey are Adelphia-Holmdel complex, Beltsville silt loam, Collington-Wist complex, Croom gravelly sandy loam, Dodon fine sandy loam, Grosstown-Urban Land complex, Grosstown gravelly sandy loam, Piccowaxen-Liverpool complex, Sassafras-Croom complex, Sassafras sandy loam and Udorthents soils series. According to available information, Marlboro clay does not occur on or in the vicinity of this site. This site was actively mined and in the mining areas the soils have been severely disturbed. According to the Sensitive Species Project Review Area (SSSPRA) map received from the Maryland Department of Natural Resources Natural Heritage Program, there are no rare, threatened, or endangered species found to occur on or near this property. The on-site stormwater drains to a large stormwater pond and to the north, south, and west to on-site stream systems. The western stream system collects the stream flow and drains in a southerly direction towards the Potomac River. According to PGAtlas.com, this site contains Regulated, Evaluation and Network Gap areas within the designated network of the 2005 *Approved Countywide Green Infrastructure Plan*. The site has frontage on Tucker Road and Palmer Road which are identified as a Major Collector and Collector master plan roadways respectively. No designated scenic or historic roadways are adjacent to the project site. The site is now located within the Established Communities Area of the Growth Policy Map and Environmental Strategy Area 2 (formerly the Developed Tier) of the Regulated Environmental Protection Areas Map as designated by *Plan Prince George's 2035 Approved General Plan*.

Plan Prince George's 2035 Approved General Plan (2014): Before the current application was submitted, a new General Plan was adopted by the District Council. The site is now located within the Established Communities area of the Growth Policy Map and Environmental Strategy Area 2 (formerly the Developing Tier) of the Regulated Environmental Protection Areas Map as designated by *Plan Prince George's 2035 Approved General Plan*.

Master Plan Conformance: The subject property is located within Henson Creek Master Plan. The Henson Creek Master Plan (April, 2006) contains environmental policies that should be addressed during the review of developments within the plan area. The applicable language of the Master Plan is shown in **bold type** and EPS comments are provided in regular type.

Policy 1: Protect, preserve and enhance the green infrastructure network within the Henson Creek planning area. According to the 2005 approved Countywide Green Infrastructure Plan, the site does contain Regulated, Evaluation, and Network Gap Areas within the designated network of the plan. The site is over 85 percent located with the Green Infrastructure Plan. The site has impacted all the areas permitted for the landfill operation and this application is only to impact areas those areas previously disturb.

Policy 2: Restore and enhance water quality in areas that have been degraded and preserve water quality in areas not degraded. Preservation of water quality in this area will be provided through the application of best stormwater management practices for stormwater management. The stormwater management concept plan requires the use of a large retention pond to provide for water quality.

Policy 3: Reduce overall energy consumption and implement more environmentally sensitive building techniques. The application will not require any additional building structures requiring the use of environmentally sensitive building techniques.

Policy 4: Reduce light pollution and intrusion into residential, rural and environmentally sensitive areas. The proposed application is not expected to generate sufficient light pollution to intrude into adjacent residential areas.

Policy 5: Reduce adverse noise impacts to meet State of Maryland noise standards. The proposed application is not expected to be a noise generator and the adjacent roads do not generate sufficient traffic to result in noise levels above 65 dBA Ldn.

Conformance with the Green Infrastructure Plan: The entire site is located within the Countywide Green Infrastructure Plan and contains all three classifications (Regulated, Network Gap and Evaluation Areas) of the network. This application is to extend the use of the landfill and no new on-site areas will be impacted. All networks areas that were previously impacted will continue to be impacted. the site was found to be in conformance with the Countywide Green Infrastructure Plan. No further review for conformance is needed for this application.

Conformance Finding for 2010 Approved Water Resources Functional Master Plan: The 2010 Approved Water Resources Functional Master Plan contains policies and strategies related to the sustainability, protection and preservation of drinking water, stormwater, and wastewater systems within the county, on a county wide level. These policies are not intended to be implemented on individual properties or projects and instead will be reviewed periodically on a countywide level. As such, each property reviewed and found to be consistent with the various countywide and area master plans, county ordinances for stormwater management, floodplain and woodland conservation, and programs implemented by the Prince George's County Department of Permitting, Inspections & Enforcement, Prince George's County Department of Health, Prince George's County Department of Environmental Resources, Prince George's Soil Conservation District, Maryland-National Park and Planning Commission and Washington Suburban and Sewer and Sanitary Commission are also deemed to be consistent with this master plan.

Environmental Review:

Natural Resource Inventory / Environmental Features

The Environmental Planning Section signed a Natural Resource Inventory-Equivalency Letter (NRI-EL), NRI-238-15, for this project area on December 3, 2015. This letter stated that the site was in compliance with the previously approved Type 2 Tree Conservation Plan TCP2-111-94, and that no new impacts were proposed. This NRI did not cover the entire area that is being reviewed with the special exception. There are two parcels (Parcel 10 and part of Parcel 10 /Parcel 286) that were not included in this NRI238-15 review. Currently, Parcel 10 and part of Parcel 10 are wooded and will remain wooded, and Parcel 286 is part of the existing impacted and completed fill site operations. An NRI-EL review was performed as part of the ROSP-4467-03 case on Part of Parcel 10. These two parcels will not be impacted by this application. No additional information is required with regard to the existing conditions of the site.

Woodland Conservation

This site is subject to the provisions of the Woodland and Wildlife Habitat Conservation Ordinance because the site has previously approved tree conservation plans. It should be noted that the proposed application will not impact the previously approved Type II Tree Conservation Plan TCPII-111-94-04. The currently approved plan is in conformance with the proposed application. No additional information is required with regard to the proposed application.

Soils

The predominant soils found to occur according to the USDA NRCS Web Soil Survey are Adelphia Holmdel complex, Beltsville silt loam, Collington-Wist complex, Croom gravelly sandy loam, Dodon fine sandy loam, Grosstown-Urban Land complex, Grosstown gravelly sandy loam, Piccowaxen-Liverpool complex, Sassafras-Croom complex, Sassafras sandy loam and Udorthents soils series. According to available information, Marlboro clay does not occur on or in the vicinity of this site. This site was actively mined and in the mining areas the soils have been severely disturbed.

This information is provided for the applicant's benefit. No further action is needed as it relates to this Special Exception review. A soils report may be required by the Prince George's County Department of Environmental Resources during the permit process review.

Stormwater Management

The project has previous stormwater management concept approvals with the various applications. The last Stormwater Management Concept Approval Letter (26500-2002-00) required a large bioretention for water quality and water quantity control. The approved stormwater management concept letter is valid until April, 11, 2019. This application will not affect the approved stormwater plan. No additional information is required with regard to the existing approved stormwater management plan.

5. **Urban Design Section:** In a referral dated October 27, 2016 the Urban Design Section (M-NCPPC) analyzed urban design-related required findings from Section 27-405.01(a) of the Zoning Ordinance; Landscape Manual requirements pertaining to Section 4.2 – Requirements for Landscape Strips Along Street, Section 4.7 – Buffering Incompatible Uses, Section 4.9 – Sustainable Landscaping Requirements; and Tree Canopy Coverage. The analysis concluded that the site was in conformance with applicable requirements and that the Urban Design Section had no specific recommendations on the subject application.

6. **Historic Preservation Section:** The Historic Preservation Section (M-NCPPC), in its referral dated October 21, stated the following:

A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. Phase I archeological survey is not recommended on the subject property. This proposal will not impact any historic sites, historic resources or known archeological sites.

7. **Special Projects Section:** In a referral dated October 24, 2016, the Special Projects Section of the Countywide Planning Division (M-NCPPC), indicated that the request to extend Special Exception validity period will have no impact on public facilities.
8. **Permit Review Section:** In a memorandum dated October 18, 2016, the Permit Review Section (M-NCPPC) made the following comments:
 - a. Lot coverage calculations must be provided on the site plan.
 - b. The height of the entrance gate must be provided on the site plan.
 - c. A parking and loading schedule must be provided on the site plan for the existing trailer. The schedule must provide the method of calculating the required parking and loading, the total number of parking and loading spaces required, and the total number of spaces provided.
 - d. One van accessible parking space dimensioned at 16 feet in width must be provided.
 - e. A ramp or other means of access to the trailer from the parking space for the physically handicapped must be provided.
 - f. General Note 21 should be revised to indicate that a variance to this requirement has been requested.
 - g. The limits and square footage of the parking lot should be clearly delineated on the site plan to determine the applicability of Section 4.3 of the Landscape Manual with regards to interior planting requirements.
 - h. The surface of the haul road and parking lot must be provided on the site plan. Section 27-405.01(a)(9) of the Zoning Ordinance requires the access road to be paved. The parking lot must be dust free in accordance with Section 27-554 of the Zoning Ordinance.
 - i. Does the portion of the access road that is an 11 foot one way drive isle meet the requirements of Section 27-405.01(a)(9) of the Zoning Ordinance?
 - j. GIS indicates Ferguson Lane within the boundaries of the subject property Please refer to the Transportation Section for a determination.
 - k. Sign details must be provided on the Site and Landscape Detail Sheet.

Comment: On February 16, 2017, the applicant submitted a revised special exception plan, a revised statement of justification, and a point-by-point response to review comments. The above-listed comments raised by the Permit Review Section were adequately addressed.
9. **Prince George's County Soil Conservation District (SCD):** In a letter dated November 30, 2016, SCD offered the following comments:

The following items are noted:

- a. Grading, Erosion and Sediment Control plan is approved and active – SC #111-01. Current expiration date is 04.15.2019.
- b. Associated Stormwater Management Concept Case No. 26500-2002 with expiration date of 04.11.2019.
- c. Associated Stormwater Management Technical approval Case #968009948 (Phase I), Case #27534-2001 (Phase II), and Case #26500-2002 (Phase III).
- d. As of last approval on 4/15/14, Phases I and III were active with no activity in Phase II.
- e. As-builts for Basin #1/ SWM Pond #1 has been submitted and approved.
- f. No increase in the overall footprint of the current operations is being sought with this special exception application.

The following comments are provided based on the referenced proposal:

- a. All future improvements to this project shall conform to the Maryland Department of the Environment's 2011 Standards and Specifications for Erosion and Sediment Control, as applicable.
- b. An as-built document shall be prepared and submitted for review and approval within thirty (30) days of construction completion in accordance with County regulations for SWM Pond #2/Basin #2, as applicable.
- c. Operations and Maintenance activities and documentation shall be conducted and retained for the life of the basin/SWM pond facilities.
- d. All installed practices for erosion and sediment control shall be maintained in accordance with the approved documents of record.
- e. All approvals for the referenced project shall be maintained for its duration without lapse.

10. **Prince George's County Department of Permitting, Inspections and Enforcement (DPIE):** In a memorandum dated November 17, 2016, DPIE offered the following comments:

- a. The property is located on the north side of Palmer road and western side of Tucker Road. These are County-maintained roadways. Applicant shall secure updated haul road permits. Right-of-way dedication and frontage improvement in accordance with the County Road Ordinance, Department of Public Works and Transportation (DPW&T).
- b. Applicant shall provide offsite intersection improvement if deemed necessary by DPW&T, M-NCPPC or MSHA. The proposed site plan has an approved stormwater concept number 26500-2002 dated April 11, 2016.
- c. Applicant shall secure new grading permits and bonds.

- d. DPIE has no objection to the Special Exception No. SE-4774, if the above conditions are met.

11. **Prince George's County Health Department:** The Environmental Engineering/Policy Program of the Prince George's County Health Department has completed a health impact assessment review of the special exception plan submission for Palmer Road Landfill, Inc. dated December 2, 2016. The applicant seeks to continue the operation of the landfill which will hold clean fill dirt and other Class 3 materials. The site should continue to comply with existing county and State regulations that seek to protect the health, safety, and welfare of the local residents, the neighboring community and employees of the facility.

12. **Maryland Department of Environment:**

- a. **Solid Waste Program**—In an e-mail from Edward M. Dexter of the MDE Solid Waste Program to M-NCPPC staff dated November 10, 2016, Mr. Dexter indicated that MDE does not regulate clean fills and that they are exempt from needing a refuse disposal permit under COMAR 26.04.07.04C(5) as long as they have necessary local approvals.
- b. **Mining Program**—In an e-mail from Ed Larrimore of the MDE Mining Program to M-NCPPC staff dated November 15, 2016, Mr. Larrimore indicated that there was no impact or involvement from the Mining Program at MDE.
- c. **Air Quality Permits Program**—In an e-mail from Karen Irons of the MDE Air Quality Permits program to M-NCPPC staff dated November 14, 2016, Ms. Irons indicated that the Air Quality Permits Program offered no comments on the application.

13. **Maryland State Highway Administration (SHA):** In an e-mail from Pranoy Choudhury to M-NCPPC staff dated October 11, 2016, SHA offered no comments on the plans.

N. **Public Comment:** As of the writing of the technical staff report, no public comment had been received.

O. **Required Findings:**

Section 27-317 of the Zoning Ordinance provides that:

(a) **A special exception may be approved if:**

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

Comment: With the conditions of approval recommended below, the proposed use and special exception plan will be in harmony with the purposes of the Zoning Ordinance. The purposes of the Zoning Ordinance, which are provided in Section 27-102, seek generally to protect and promote the health, safety, morals, comfort, convenience and welfare of present and future inhabitants of the County. The use is operated in a safe and responsible manner in accordance with relevant State and local regulations and is well-buffered from neighboring properties. The applicant has demonstrated that the completed

side slopes are being stabilized into what can regenerate into a park-like setting (see photos of north and west sides of the site included as backup to this technical staff report). Additional perimeter landscaping is proposed to further screen the site from adjacent properties. The use serves businesses in the County by providing a convenient and cost-effective site for disposal of excess clean fill dirt and other Class 3 fill materials. Allowing an existing Class 3 fill site to continue is preferable to siting a new Class 3 fill site elsewhere in the County.

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

Comment: With the recommended conditions of approval, the proposed uses will be in conformance with all the applicable requirements and regulations of the Zoning Ordinance. The applicant has submitted a revised site plan dated February 14, 2017 as well as other documentation that addresses issues raised by the Permits Review and Subdivision Sections. Additional conditions are recommended to address some minor deficiencies on the plan.

(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.

Comment: The 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* calls for a land use of Residential, Low Density for the subject property, however, page 21 of the master plan recognizes the existence of Class 3 fill facilities within the Developing Tier. The master plan identifies truck traffic as an issue with area residents and the difficulty in redeveloping these sites for any other use than open space or very limited recreation activities. The applicant has limited trucks from exiting the site to only turn right and has provided an acceleration lane to allow trucks to more easily merge with westbound traffic on Palmer Road. If the site is ultimately maintained as open space, it will not impair the integrity of the master plan that calls for low density residential in this area. The Class 3 fill is a use permitted by special exception in the R-E Zone and is therefore presumed to be compatible with the surrounding area when conditioned appropriately to minimize impact to the neighborhood.

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

Comment: The proposed uses will not adversely affect the health, safety or welfare of residents or workers in the area. The applicant has provided the required information for review of adverse impacts. There do not appear to be any impacts that cannot be mitigated through the recommended conditions.

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

Comment: The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. The applicant has demonstrated that the completed side slopes are being stabilized into what can regenerate into a park-like setting (see photos of north and west sides of the site included as backup to this technical

staff report). Additional perimeter landscaping is proposed to further screen the site from adjacent properties.

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

Comment: This site is subject to the provisions of the Woodland and Wildlife Habitat Conservation Ordinance because the site has previously approved tree conservation plans. It should be noted that the proposed application will not impact the previously approved tree conservation plan TCPII-111-94-04. The currently approved plan is in conformance with the proposed application.

(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 in accordance with the requirement of Subtitle 24-130(b)(5).

Comment: No further impact to regulated environmental features is proposed beyond the original impacts associated with previously approved grading permits.

CONCLUSION

A special exception use is considered compatible with uses permitted by-right within the zone, as long as specific criteria are met. Unless unique adverse impacts are identified, the special exception may be approved. The appropriate standard for determining whether the use would create an adverse impact upon surrounding properties is to show that the proposed use, **at the particular location proposed, would have adverse impacts above and beyond those inherently associated with the special exception use, regardless of its location within the zone.** Staff believes that the applicant has met their burden of proof in this instance. Therefore, staff recommends APPROVAL WITH CONDITIONS of Special Exception Application No. SE-4774.

Recommended Conditions for SE-4774:

1. Add a note to the special exception plan indicating a temporary portable rock crusher may be located on-site in accordance with necessary air quality permits from the Maryland Department of the Environment.
2. Limit the hours of operation for the use to Monday-Friday 7:00 a.m. – 4:00 p.m. and Saturday 7:00 a.m. – noon.
3. Consistent with sediment control plan (SCD #111-01) and the approved tree conservation plan (TCPII-111-94-04), applicant shall limit the maximum slope to 3:1 and the maximum height to 332 feet for the Class 3 fill facility.
4. All installed practices for erosion and sediment control shall be maintained by the applicant in accordance with sediment control plan (SCD #111-01) and tree conservation plan (TCPII-111-94-04).
5. Documentation of operations and maintenance activities shall be conducted and retained by the applicant for the life of the sediment basin and stormwater management pond facility, and are subject to periodic inspection by various regulatory entities with authority over same.

6. An as-built document shall be prepared and submitted by the applicant to the Prince George's Soil Conservation District for review and approval within thirty (30) days of construction completion in accordance with County regulations for sediment basin #2 and stormwater management pond #2, as applicable.
7. Any future changes or proposed improvements to this project shall conform to the Maryland Department of the Environment's Standards and Specifications for Erosion and Sediment Control, as applicable.
8. Applicant shall install all proposed perimeter landscaping as shown on the special exception plan.
9. Applicant shall secure new a new grading permit and post requisite bonds from the Prince George's County Department of Permitting, Inspections and Enforcement.
10. Applicant shall maintain an active Haul Road Permit issued by the Prince George's County Department of Permitting, Inspections, and Enforcement for the life of the project.
11. Left turns from the site onto Palmer Road eastbound are prohibited for all vehicles over three-quarter tons. Applicant shall maintain a sign on the interior site road within 100 to 200 feet of the site exit that indicates left turns from the site are prohibited for vehicles over three-quarter tons.
12. The applicant shall use a water truck and/or sweeper truck as needed on its property and nearby roads in order to minimize dust generated by its operations and to keep the public roads clear of debris from the hauling operations.
13. The Class 3 fill use is approved for a period not to exceed five years.