



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of the Clerk of the Council
301-952-3600

October 1, 2021

**RE: SE-4774 Palmer Road Class 3 Fill Facility
Palmer Road Landfill, Inc./ Palmer Road Landfill Company
and Palmer Road, LLC., Applicant**

NOTICE OF DECISION OF THE DISTRICT COUNCIL

Pursuant to the provisions of Section 27-134 of the Zoning Ordinance of Prince George's County, Maryland requiring notice of decision of the District Council, you will find enclosed herewith a copy of the Council Order setting forth the action taken by the District Council in this case on September 20, 2021.

CERTIFICATE OF SERVICE

This is to certify that on October 1, 2021, this notice and attached Council Order was mailed, postage prepaid, to all persons of record.

A handwritten signature in cursive script that reads "Donna J. Brown".

Donna J. Brown
Clerk of the Council

County Administration Building
14741 Governor Oden Bowie Drive, Upper Marlboro, Maryland 20772

Case No. S.E. 4774
VSE 4774
(On Remand from
Court)

Applicant: Palmer Road Landfill,
Inc. (aka Palmer Road
Landfill Company) and
Palmer Road, LLC

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

ORDER OF SETTLEMENT TO TERMINATE CLASS 3 FILL USE AND OPERATIONS
IN LIEU OF ORDER OF DENIAL

This Order of Settlement, between the District Council and the Applicant, will terminate the Class 3 fill use on approximately 173.584 acres of land, in the R-E (Residential-Estate) Zone, located on the northern side of Palmer Road, abutting the western side of Tucker Road, and identified as 1500 and 1611 Ferguson Lane, Fort Washington, Maryland 20744, Council District 8.

WHEREAS, this case is on remand from court to allow the District Council to make the final decision on the merits of the application request to continue the Class 3 fill use on the subject property;¹ and

WHEREAS, on June 21, 2021, the District Council held oral arguments on the record to consider the merits of the application as ordered by the court; and

WHEREAS, on July 6, 2021, the District Council voted (9-0) to deny the application; and

¹ *Cty. Council of Prince George's Cty. v. Palmer Rd. Landfill, Inc.*, 247 Md. App. 403, 236 A.3d 766 (2020), Petition of Palmer Road Landfill, Inc., Circuit Court for Prince George's County, Md., Case No. CAL18-07570 (2018).

WHEREAS, the Applicant has since proposed a period of eight (8) months, beginning from September 20, 2021 and ending May 20, 2022, to terminate the Class 3 use on the subject property; and

WHEREAS, the general and specific terms of settlement are as follows:

1. At the close of business, or 4:00 p.m., on Tuesday, May 20, 2022, Applicant shall no longer deliver or accept Class 3 fill materials, as defined in PGCC § 27-107.01(a)(47.3), on the subject property.
2. From September 20, 2021 through May 20, 2022, hours of operation shall be Monday through Friday from 7 a.m. to 4:00 p.m. and Saturday from 7:00 a.m. to 4:00 p.m. There shall be no operational hours on Sundays and Holidays.
3. From September 20, 2021 through May 20, 2022, Applicant shall maintain an active Haul Road Permit issued by the Department of Permitting, Inspections and Enforcement (DPIE).
4. Applicant shall limit the maximum slope to 3:1 and the maximum height to 332 feet for the Class 3 facility, consistent with Sediment Control Plan (SCD #111-01) and Tree Conservation Plan (TCPII-111-94-04).
5. Applicant shall maintain all installed practices for erosion and sediment control pursuant to Sediment Control Plan (SCD #111-01) and Tree Conservation Plan (TCPII-111-94-04), or as amended.
6. Applicant shall prepare and submit an as-built document to the Prince George's Soil Conservation District for review and approval within thirty (30) days of construction required by County regulations for sediment basin #2 and stormwater management pond #2, as applicable.
7. Applicant shall install all proposed or required landscaping.
8. Left turns from the site onto Palmer Road eastbound are prohibited for all vehicles over three (3) quarter tons, and Applicant shall maintain a sign on the interior site road within 100 to 200 feet of the site exist that indicates left turns from the site are prohibited for vehicles over 3 quarter tons.
9. Applicant shall use a water truck and/or sweeper truck, as needed, on the subject property and nearby roads to minimize dust generated by its operations and to keep the public roads clear of debris from the hauling operations.

10. Except for the existing Overall Grading Permit No. 8307376-00 and Stormwater Management Permit No. 968008840, DPIE shall not issue any new permit for the Class 3 fill use or facility unless such a permit is deemed necessary by DPIE and/or MDE to facilitate the terms of this settlement agreement from September 20, 2021 through May 20, 2022. Any additional permit deemed necessary by DPIE and/or MDE, *beyond* the terms of this settlement agreement from September 20, 2021 through May 20, 2022, shall not be for delivery or acceptance of Class 3 fill materials on the subject property, but only to facilitate *permanent* closure of the Class 3 facility in accordance with requirements of the County Code and/or requirements of MDE.
11. After May 20, 2022, in accordance with statutory requirements of the Prince George's County Code and/or the Maryland Department of Environment (MDE), Applicant shall submit a plan to permanently close the Class 3 facility, which shall include, but not limited to, plans for final grading, landscaping, elevation, stormwater management, stabilization and vegetation. The plan to permanently close the Class 3 facility shall be submitted to the Director of DPIE, the Director of Department of the Environment (DOE), MDE, Solid Waste Program, 1800 Washington Boulevard, Suite 605, Baltimore, Maryland 21230-1719, and the Prince George's County Council, Sitting as the District Council, c/o, Principal Counsel to the District Council, 1301McCormick Drive, Third Floor, Largo, Maryland 20774.
12. DPIE and/or MDE shall be authorized access to the subject property to monitor and/or ensure Applicant's compliance with the general and specific terms of this settlement agreement.
13. Upon receipt of final certification of closure of the Class 3 fill facility from DPIE and/or MDE, Applicant shall submit said certification to the Prince George's County Council, sitting as the District Council, c/o Principal Counsel to the District Council, 1301McCormick Drive, Third Floor, Largo, Maryland 20774, and any other County or State agency required by law to receive notice of final certification of closure.

WHEREAS, failure of the Applicant to use of the subject property in accordance with the general and specific terms of this settlement agreement shall constitute a zoning violation and shall constitute sufficient grounds for the appropriate County agency to institute any proceeding to void or terminate this agreement or take any other action deemed necessary to enforce the general and specific terms of this settlement agreement.

WHEREAS, beyond the general and specific terms of this settlement agreement, use of the subject property is subject to all other requirements of the Zoning Ordinance.

WHEREAS, the Applicant through counsel, Arthur J. Horne, Jr., and Dennis Whitley, III, Esquires, has agreed to the general and specific terms of this Order of Settlement In Lieu of Order of Denial.

ORDERED this 20th day of September, 2021, by the following vote:

In Favor: Council Members Anderson-Walker, Davis, Dernoga, Franklin, Harrison, Hawkins, Ivey, and Taveras.

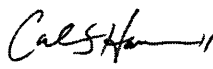
Opposed:

Abstained:

Absent: Council Members Glaros, Streeter, and Turner.

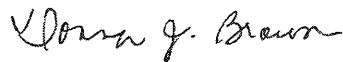
Vote: 8-0.

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

By: 

Calvin S. Hawkins, II, Chair

ATTEST:



Donna J. Brown
Clerk of the Council