



# Prince George's County Council

Sitting as the District Council

## Zoning Agenda Item Summary

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**Case No.:** SE-4765 **Councilmanic District:** 9  
**Meeting Date:** 10/19/2020 **Zone(s):** O-S  
**Case Name:** Mirant MD Ash Management, LLC/Brandywine Fly Ash Storage Site  
**Applicant:** NRG MD Ash Management, LLC  
**Location:** Located on the north side of North Keys Road approximately, 2,200 feet north of Gibbons Church Road (178.78 Acres; O-S Zone).  
**Request:** Requesting approval of a Special Exception for a ten-year extension to continue the existing fly ash rubble-fill disposal operation mounds in the O-S (Open Space) Zone.

### Companion

**Case(s):**

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### DECISIONS/RECOMMENDATION:

**Technical Staff:** Disapproval  
**Planning Board:** Disapproval  
**Zoning Hearing Examiner:** Approval, with Conditions

### LEGAL DEADLINES:

**Appeal date:** 10/30/2017  
**Review date:** 11/27/2017  
**Action date:** 3/28/2018

**Municipality:** None

*Comments:*

**Opposition:** Patuxent River Keeper, et. al.

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**Staff:** Taslima Alam

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### HISTORY:

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Acting Body:	Date:	Action:
M-NCPPC Technical Staff	07/07/2016	disapproval
M-NCPPC Planning Board	07/11/2016	no motion to consider
Zoning Hearing Examiner	09/28/2017	approval with conditions
Sitting as the District Council	11/06/2017	elected to make the final decision

**Notes:** Council elected to make the final decision on this case (Vote: 8-0; Absent: Council Member Toles).

Aye: 8 Davis, Glaros, Franklin, Harrison, Lehman, Patterson, Taveras and Turner

Absent: 1 Toles

Clerk of the Council 01/25/2018 mailed

**Notes:** *Notice of Oral Argument Hearing was mailed to Persons of Record.*

Sitting as the District Council 02/26/2018 hearing held; case taken under advisement

**Notes:** *Taslina Alam, M-NCPPC, provided an overview of the Special Exception application. William Peters, Frederick Tutman, Dr. Henry Cole, Richard Bergren, Joanne Flynn, and Kamita Gray spoke in opposition. Russell Shipley Esq. and Arthur Horne, Esq., spoke in support on behalf of the applicant. Stan Brown, People's Zoning Counsel, spoke to the legalities of the arguments presented.*

*The Oral Argument hearing was held and Council took this case under advisement.*

Sitting as the District Council 03/26/2018 referred for document

**Notes:** *Council referred item to staff for preparation of a disapproving document (Vote: 9-0).*

Aye: 9 Glaros, Davis, Franklin, Harrison, Lehman, Patterson, Taveras, Toles and Turner

Sitting as the District Council 03/26/2018 disapproval

**Notes:** *Council adopted the prepared Order of Denial (Vote 9-0).*

Aye: 9 Glaros, Davis, Franklin, Harrison, Lehman, Patterson, Taveras, Toles and Turner

Applicant 04/13/2018 filed

**Notes:** *Arthur J. Horne, Jr., Esquire, attorney for the applicant, filed a Petition for Judicial Review in Circuit Court.*

Circuit Court 08/21/2020 ordered

**Notes:** *Circuit Court directed the District Council to reinstate the Zoning Hearing Examiner's Decision.*

Sitting as the District Council 10/19/2020 no action

**Notes:** *Rajesh Kumar, Principal Counsel to the District Council, relayed that the Circuit Court reinstated the Zoning Hearing Examiner Decision on SE-4765 and there was no action needed by the Council.*

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**Document(s):** SE-4765 Zoning Agenda Item Summary, SE-4765 Order from Circuit Court to Reinstate ZHE Decision, SE-4765 Zoning Hearing Examiner Decision, SE-4765 PORL, SE-4765 Technical Staff Report