

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 11/25/2003 **Reference No.:** CB-87-2003

Proposer: Dean **Draft No.:** 4

Sponsors: Dean, Shapiro, Exum, Harrington, Dernoga, Peters

Item Title: An Ordinance defining Class 3 fills, requiring a special exception for Class 3 fills in all zones where they are permitted and providing a limitation on grading permit renewals for Class 3 fills

Drafter: Jackie Brown, Director
PZED Committee

Resource Nell W. Johnson
Personnel: Legislative Aide

LEGISLATIVE HISTORY:

Date Presented: 10/7/2003 **Executive Action:** ___/___/___

Committee Referral: 10/7/2003 PZED **Effective Date:** 11/25/2003

Committee Action: 10/22/2003 FAV(A)

Date Introduced: 10/28/2003

Public Hearing: 11/25/2003 10:00 A.M.

Council Action: 11/25/2003 ENACTED

Council Votes: PS:-, MB:A, SHD:A, TD:A, CE:A, DCH:A; TH:N, TK:A, DP:A

Pass/Fail: P

Remarks: _____

11/25/2003: Amended on the floor; CB-87-2003 (DR-4) enacted.

10/28/2003 – CB-87-2003 (DR-2) amended on the floor; DR-3 introduced

PLANNING, ZONING & ECON. DEV. COMMITTEE REPORT 10/22/03

Committee Vote: Favorable with amendments, 5-0 (In favor: Council Members
Harrington, Dernoga, Dean, Exum and Knotts)

This bill amends CB-8-2003 (DR-2), enacted in September 2003, to impose additional requirements for Class 3 fills. Draft 2 of CB-8-2003 imposes special exception requirements on Class 3 fills, but its provisions will not be effective after March 31, 2004.

The definition of Class 3 fills in this bill is the same as that in CB-8-2003. CB-87-2003 also incorporates many of the provisions of the earlier legislation, as to effective times of an approved exception, mandatory distance separations from other uses (Class 3 fills, sanitary landfills, rubble fills, sand and gravel mines, and similar uses), buffering and screening, and operational requirements. It also includes time limitations for processing a special exception application for a Class 3 fill, including time limits for the Examiner's hearing and decision, as well as the Council's.

The bill's sponsor provided committee members with a list of existing Class 3 fill sites in the County that also included information concerning inspection, permit and expiration dates, zone of the property, status (active, inactive, and in violation) and renewals. The sponsor explained that the purpose of CB-87 is to provide regulations that would allow the County to have better oversight of new and existing Class 3 fill operations. He commented on the proliferation of these uses in inappropriate locations in the County without any requirements other than a grading permit. In addition, the sponsor proposed an amendment to the footnotes on pages 5, 6, 7 and 8 to read as follows:

A Class 3 fill in existence as of October 7, 2003 that is operating pursuant to any validly issued grading permit 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, including a renewal for said fills.

The committee members expressed their concerns to a Department of Environmental Resources (DER) representative who was present for the meeting. They requested additional information regarding the reason(s) for the "in violation" status of Class 3 fill operations in their respective districts.

The County Executive's representative summarized comments received in an October 15, 2003 letter from the DER Director. The committee discussed the comments and agreed that they should be addressed either in separate legislation amending another part of the Code, not Subtitle 27, or through an administrative process developed by DER.

The Planning Board supports CB-87-2003. The Principal Counsel found the bill to be in proper form. The Zoning Hearing Examiner (ZHE) provided a memorandum suggesting the following amendments: on page 3, line 11, add "for an extension" after "request", and on page 3, line 27, delete "place of worship" and insert "church" since that is the defined term in the Zoning Ordinance. The Office of Audits and Investigations determined that there should be no negative fiscal impact on the County as a result of enacting CB-87-2003.

Based on the discussion of existing Class 3 fills that are operating in violation, the committee further amended the footnotes on pages 5, 6, 7, and 8 to address these situations. The revised footnote includes language indicating that the Class 3 fill operations that are in violation as of October 7, 2003 have until December 31, 2003 to comply, or their permit is void.

The committee voted favorably on the bill with these amendments to the footnotes and the amendments recommended by the Zoning Hearing Examiner.

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

On September 30, 2003, the County Council enacted CB-8-2003 (DR-2) to require a special exception for Class 3 fills in all zones where they are permitted and to limit grading permit renewals for this use. CB-8-2003 (DR-2) sunsets on March 31, 2004.

This legislation provides additional requirements for approval of a Class 3 fill special exception as well as additional restrictions on expansions of an existing Class 3 fill operation.

CODE INDEX TOPICS: