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In Anne Arundel community, growth runs up against industry

Rubble landfill proposal is Piney Orchard battleground

By [Nicole Fuller](#), The Baltimore Sun

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For years, Danielle Oldham checked housing listings, hoping that she, her husband and their two young daughters could find a place in the Anne Arundel County community of Piney Orchard.

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She researched the area meticulously, scanned county development plans and talked to residents before the family finally bought a town house there in January.

Then Oldham got a certified letter with some brow-furrowing news: Her dream home lies less than 1,000 feet from the site of a proposed rubble landfill.

To residents, the proposed landfill is another environmental concern in a fast-growing neighborhood that has plenty of them. As more and more homes are built — Piney Orchard alone has added some 1,000 homes in the past decade — residents are confronting reminders of the land's legacies.

The area at the intersection of the communities of Crofton, Gambrills and Odenton has struggled for several years with contamination from a nearby dumping site for fly ash, a byproduct of coal. The site of the proposed landfill — which would accept drywall and other construction debris and is in the late stages of the state approval process — is home to an active mining operation and in the past was a rubble landfill that registered several state environmental violations.

Oldham, who moved to the area from Baltimore County, said she thought its industrial history was just that — history.

"We waited five years to get in this neighborhood," said Oldham, who works at an internet technology company. "We always loved the trails, the nature. We finally got into a house we really love. And we're right on the front line of this landfill."

The company that has applied to build the landfill, Tolson & Associates, says it will comply with all state regulations and downplays the opposition as typical NIMBY backlash. Company officials also say the area's many industrial sites are not news.

"There's a bunch of old mining sites all around here," said Anthony Gorski, an attorney for Tolson who is

serving as its spokesman for the project. "Yeah, there's a lot of residential development, but a lot of the mines were here before."

The area's past as a mish-mash of mining quarries and landfills has collided in recent years with a new sort of identity as a growing residential community. Just down the road from the proposed landfill site, residents were paid millions of dollars three years ago to settle a lawsuit when toxic fly ash was found in their well water. The former fly ash dump is soon to be the home to a Wegman's grocery store, which is part of a controversial \$300 million development in the area. Nearby, another company is in the early stages of seeking a rubble landfill permit.

"We've had issues where toxic fly ash [pollution] was coming out of people's faucets" said Tim Berkoff, the environmental chair for Crofton First, a smart-growth advocacy group. "Some of these neighborhoods have already experienced a lot of difficulties, to add this rubble landfill on top of it, a lot of the neighbors view this as overwhelming."

The landfill's seemingly imminent arrival in the neighborhood came as a surprise, not only to newcomers like the Oldhams, but also to long-time residents who have joined to protest it. While some residents have blasted the plans, complaining of potential environmental and health risks and an increase in traffic along busy Route 3, they allege the company seeking to build and operate the Tolson landfill has sought to conceal connections to a former operator with a history of violations.

The Maryland Department of the Environment has also attracted the ire of residents, who claim the agency has failed to properly vet the company's relationship with the former owner. Both MDE and the company deny the claims. MDE, which is nearing the end of its permit application process, has twice this fall delayed a deadline for public comment on the issue, now allowing citizens to weigh in on the permit application until November. If the permit is approved, the rubble landfill would serve as a dumping site for concrete, wood, drywall and other building materials.

"MDE quality assurance engineers pay rigorous attention to ... important environmental controls to insure that any facility is built with the safeguards necessary to protect the public," agency spokesman Jay Apperson said in an e-mail

The proposed site, located at the end of Capitol Raceway near Routes 3 and 301 in Crofton, is part of a 184-acre site that includes a gravel mine and a former rubble landfill, which was operated by the Cunningham Excavation Co. until it reached capacity in 1992 and closed. James Cunningham ran the company from the early 1980's until it closed in 1992, a period during which it racked up 96 environmental violations, company officials acknowledged. In 2000, MDE denied Cunningham a permit to expand the landfill.

Then in 2002, Tolson & Associates LLC, applied to MDE for a permit to construct and operate a new rubble landfill on 72 acres within the site. According to online records, Tolson & Associates is owned by JKD Operations Inc., whose president is Kimberly Cunningham. She is the daughter of James Cunningham, who still owns the entire 184-acre site, including the mining operation and the rubble landfill, through Capital Associates LLC, essentially making him the landlord for the proposed facility.

Gorski, the Tolson attorney, confirmed those connections but said that Tolson and Cunningham Excavation Co. are separate entities and that James Cunningham will have no involvement in the rubble landfill. An MDE spokesman said a licensing agreement, lease, operating agreement and a signed affidavit claiming that James Cunningham has "no ownership or operational interest" in Tolson & Associates has satisfied any concerns they had.

Gorski said James Cunningham and other company principals were not available for comment and had

designated him a spokesman for questions.

"MDE's objection wasn't to the family, it was to Mr. Cunningham being involved," said Gorski. "In 2004, if MDE wasn't satisfied he wasn't involved and it was a separate entity, we would never had gotten this far in this process. You cannot judge the daughter based on what MDE found about the father in the late 1990s. This is a whole different type of operation. The reality is he's 75 years old, he's not in the landfill business. He's retired and he races his cars."

Gorski said employees who previously worked for Cunningham would be responsible operators for the facility. "If anything, they certainly have gotten themselves up to speed on what the law requires. They know exactly what's required."

He said the company has already spent \$250,000 on consultants and engineers, and estimated the construction process, which includes the installation of a liner, would cost millions.

Jeff Andrade, president of the Piney Orchard Community Association, said he's frustrated that MDE has accepted the company's explanations regarding ownership.

"Everybody focuses on James Cunningham," said Andrade. "Does that mean the company that he was running that had 96 violations is not responsible for what they did? It's not just James Cunningham, it's all these people. They're still running the company. And James Cunningham still owns the land....I don't understand MDE's position, that just because James Cunningham's gone, everything's OK."

In 2002, the county Department of Public Works said the proposed landfill conformed to zoning requirements and its Solid Waste Management Plan. But residents say the 9-year-old approval should be considered in light of the number of homes that have since been built in the area.

MDE officials say Tolson's plans for the site, including a storm water management plan, the required installation of a liner designed to prevent the release of polluted rainwater into groundwater, and other plans will negate any environmental impacts.

Though company officials say much of the waste will be recycled, residents say they worry about the rotten egg smell of hydrogen sulfide, which is created when dry wall gets wet, permeating their neighborhood.

Across Maryland, there are six rubble landfills, which are dumping sites for concrete, wood, drywall and other building materials. In 1997, a series of new regulations toughened state rules on the landfills, requiring liners to cover the dumping grounds to prevent groundwater contamination, much like trash landfills.

The proposed site is bounded to the northeast by Four Season's Community Estate, to the west by the Little Patuxent River, to the southeast by Capitol Raceway Park and Evergreen Road, and to the north by the closed Cunningham Rubble Landfill.

Anne Arundel County Executive John R. Leopold recently wrote a letter to MDE saying it was "imperative" that the department "carefully consider" public comments before approving the permit. But residents say the county should go beyond that and rescind its approval of the site.

Sharon Mercer, a Piney Orchard resident, said she's hopeful MDE will reject the permit altogether.

"This is not a case of 'not in my backyard,'" she said. "But negligence about the impact of opening a landfill in the middle of an active, highly populated suburban area."

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