



Comment [COMMENT1]: WHEN INSERTING INFORMATION AT THE @ SIGN REMEMBER TO USE INDENT FOR SECOND LINE - NOT TAB. ALSO, IT WILL LOOK LIKE THE TEXT IS GOING WACKO, BUT DON'T WORRY - IT IS FINE.

## Special Exception Application No. 4396 (VSE-4396A)

Application	General Data
Project Name: Rollins Recycling Center	Date Accepted: 10/16/00
	Planning Board Action Limit: N/A
	ZHE Hearing Date: Not Scheduled
Location: Northeast side of ■S■ Street approximately 310' southeast of Olive Street, known as 4516 ■S■ Street.	Plan Acreage: 9.15 Acres
	Zone: I-2
Applicant/Address: Rollins Recycling, Inc. 2822 Solomon■s Island Road Edgewater, Maryland 21037	Dwelling Units N/A
	Square Feet: N/A
Correspondent: Greenhorne & O■Mara, Inc. 9001 Edmonston Rd. Greenbelt, MD 20770	Planning Area: 72
	Council District: 5
	Municipality: None
	200-Scale Base Map: 203 NE4

Purpose of Application	Notice Dates
<ul style="list-style-type: none"> <li>Transfer Station in accordance with 27-416.02</li> <li>Variance from 500-foot building setback</li> <li>Variance from 20-foot setback for a 10-foot high fence</li> </ul>	Adjoining Property Owners 10/18/00 (CB-15-1998)
	Previous Parties of Record None (CB-13-1997)
	Sign(s) Posted on Site N/A
	Variance(s): Adjoining Property Owners Required prior to ZHE hearing

Staff Recommendation			Staff Reviewer: Jimi Jones
APPROVAL	APPROVAL WITH	DISAPPROVAL	DISCUSSION

	CONDITIONS		
		X	

June 12, 2001

**TECHNICAL STAFF REPORT:**

TO: The Prince George's County Planning Board  
The Prince George's County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Jimi Jones, Planning Coordinator

SUBJECT: **Special Exception Application No. 4396  
Variance for 4396A**

REQUEST: **Transfer Station in the I-2 Zone**

RECOMMENDATION: DENIAL

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NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. 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 sent to the Office of the Zoning Hearing Examiner at the address indicated above. 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.

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## FINDINGS:

- A. Location and Field Inspection: The subject property is an irregularly-shaped parcel on the northeast side of S Street, approximately 310 feet southeast of Olive Street. The property is partially paved with concrete and the remainder of the site has a dirt and gravel surface. A two-story brick warehouse/office structure is situated near the northwest corner of the property at the Olive Street entrance. This vacant structure is on the subject property, but outside the special exception boundary. The entire property is enclosed by a 10-foot-high chain-link fence. Beaverdam Creek runs along the northern boundary of the property. Currently, the property is unused and in a deteriorating condition.
- B. History: The subject property is currently vacant and unused. This property housed the offices, shop and staging area for the trucking company known as Morauer and Hartzell. This property was also used as a transfer facility by the previous owner.
- C. Master Plan Recommendation: The 1993 Landover and Vicinity Master Plan recommends general industrial development for the subject property. The property was retained in the I-2 Zone during the 1993 Sectional Map Amendment (SMA) for Landover and Vicinity.
- D. Request: The applicant wishes to develop a transfer station on the subject property. The transferring of materials will occur in a proposed 21,600-square-foot structure. This application also includes two variances:
1. For the 500-foot setback from the property line required for a building associated with a transfer station.
  2. For a 10-foot-high fence that does not meet the 20-foot setback requirement.
- E. Neighborhood and Surrounding Uses: The property is surrounded by the following uses:
- North: Across Beaverdam Creek is Joseph Smith and Sons junk yard and railroad tracks in the I-2 Zone. Farther north is US 50.
- South: To the south and southeast are warehouses for storage and sale of industrial drums and railroad tracks in the I-2 Zone.
- East: Undeveloped land and railroad tracks in the I-2 Zone.
- West: Automotive uses in the I-2 Zone.
- The neighborhood is defined by the following boundaries:
- North: US 50 (John Hanson Highway)
- South: Penn-Central Railroad/Metro transit line and Eastern Ave
- East: Penn-Central Railroad tracks

West: MD 201 (Kenilworth Ave.)

The applicant describes the neighborhood boundaries as being bounded on the north by US 50 (John Hanson Highway); on the west by MD 201 (Kenilworth Avenue); on the south by Eastern Avenue and Sheriff Road; and on the east by Cabin Branch Drive. Staff, after a field inspection of the site and neighborhood, disagrees with the applicant's southern and eastern boundaries. The Penn-Central Railroad tracks form a significant and easily recognizable boundary to the south and east of the property. The subject property and surrounding neighborhood are nestled between Kenilworth Avenue to the west and the railroad tracks to the east. Only Eastern Avenue provides access to the neighborhood east of the tracks. We do not believe that the neighborhood extends as far east as the Town of Cheverly.

A large portion of the neighborhood is zoned for industrial use. A small portion at the southwest corner of the neighborhood (perhaps 10 to 15 percent) is medium-density residential, and there is a small strip of retail-commercial along the access road to MD 201 and paralleling MD 201.

- F. Specific Special Exception Requirements: Section 27-107.01(a)(242.1) of the Zoning Ordinance provides the following definition of a transfer station:

**A place or facility where solid wastes are taken from a transportation unit or collection vehicle and placed in another transportation unit or collection vehicle for transport to a solid waste acceptance facility. The movement or consolidation of solid waste at the point of generation is not a Transfer Station. A ■Materials Recovery or Processing Facility, as defined in Section 21-143 of the Prince George's County Code, and a ■Waste Material Separation and Processing Facility and ■Recycling Plant, as defined in this Section, are not Transfer Stations.**

Section 27-416.02 provides the following specific requirements for a transfer station:

- (1) Hours of operation shall occur only between 7:00 A.M. and 6:00 P.M.;**

The applicant provides that the hours of operation will be from 7:00 a.m. to 6:00 p.m.

- (2) The building associated with the use shall be set back at least five hundred (500) feet from all property lines;**

The proposed transfer station will be located in a proposed 21,600-square-foot building. The site plan indicates that the northeast corner of this building is as close as 65 feet to the property line. The applicant has filed a variance from this setback requirement. The variance is discussed in Section J of this report.

- (3) The applicant shall identify measures that will be taken to control any noxious and offensive odors;**

The applicant submits that housekeeping procedures will be implemented to maintain an appropriate working environment. A comprehensive cleaning and maintenance program is proposed to control odors, debris and litter. This program

includes regularly scheduled preventive maintenance and housekeeping inspections and the performance of any necessary corrective actions.

The applicant further provides that odor will be controlled by having all transfer operations take place within a wholly enclosed building. There will be nozzles located in the ceiling to spray odor-neutralizing chemicals and/or masking agents when necessary. To minimize an odor-producing environment, no waste will be held on the tipping floor overnight. Clean-up operations such as dry sweeping and/or washing the floor will be conducted on a daily basis.

**(4) All activities pertinent to the transferring of solid waste shall be conducted in a wholly enclosed building which has an impervious surface for loading and unloading solid waste, and is capable of accommodating all types of solid waste hauling vehicles; and**

The applicant provides that the transferring of materials from trucks to tractor-trailers will occur in a wholly enclosed building. All trucks will unload in an area with an impervious concrete floor. The floor will be sloped to drain liquids from the surface to an oil and grit separator for treatment. Two trailers will be loading simultaneously within the building.

The Environmental Planning Section, in a memo dated February 12, 2001 (attached), raises the following concern:

■The requirement that the building have an impervious surface for loading and unloading solid waste is intended to prevent contamination of the soil and underlying ground water with leachate. The protection this would provide on the site is limited because surface flood waters can flow through the building, over the impervious surface, and carry the contaminants into the adjacent surface waters.

■Further information is needed on the design and construction of the building to make a determination that the building meets the definition of wholly enclosed and is capable of accommodating all types of solid waste hauling vehicles.●

The applicant, in response to these comments, submits that the transfer station building will consist of a preengineered metal building with a storage area for recyclable materials. All solid waste transfer operations will take place inside the building. This 21,600-square-foot building will include an unloading area, a tipping floor and a loading area. An impermeable concrete tipping floor, inside the building, will be sloped to ensure proper drainage to the wastewater collection and pretreatment system.

The applicant's proposal to drain wastewater into a sanitary sewer raised concerns from the Prince George's County Health Department, Division of Environmental Health (attached memo dated February 7, 2001, comment No. 8). This application was referred to the Industrial Discharge Section of the Washington Suburban Sanitary Commission (WSSC) as recommended in the subject memo by the Health

Department. In a memo dated March 7, 2001 (attached), WSSC submits the following comments:

■ have briefly reviewed the information regarding the proposed transfer station. Although the information provided does not include any data that would indicate the pollutant characteristics of the wastes that would be discharged to the Commission's sewer system, the oil/grease interceptor is an obvious first step. In order to determine what additional pretreatment, if any, is required, we need additional information on the pollutant characteristics.●

If this application is approved, the applicant should be required to submit information for review by WSSC regarding the pollutant characteristics of wastewater commonly associated with the subject use.

**(5) The use shall not commence until the State of Maryland has issued all applicable permits including, but not limited to, a transfer station permit.**

The applicant agrees not to commence operation of this use until the State of Maryland has issued all applicable permits including, but not limited to, a transfer station permit.

- G. Parking Regulations: Staff notes that the Parking Regulations do not specifically list ■Transfer Station● in the minimum parking requirements ( Section 27-568(a) ). The applicant requests that the parking requirements for a warehouse be applied for the transfer station. The Permit Review Section (memo dated October 23, 2000 ) submits that the appropriate category for the proposed use is ■industrial plant.● The use must meet the definition of a warehouse for those parking requirements to be applied. Section 27-107.01(a)(256) provides the following definition of a ■warehouse unit●:

**A ■Building● used for the storage of goods and materials in connection with the day-to-day operation of a wholesale or distribution business, or a business that is not located in the same ■Building● or on the same property as the ■Warehouse Unit.● The storage of goods and materials as an ■Accessory Use● to a business located on the same property is not a ■Warehouse Unit.● A ■Warehouse Unit● is sometimes referred to as a ■Warehouse.●**

A transfer station does not operate in connection with a wholesale or distribution business and the business does occur on the same property. The correct parking standard for this use (industrial plant) is 2 parking spaces per 1,000 square feet. A total of 46 parking spaces are therefore required. The site plan indicates that a total of 30 parking spaces are provided for the transfer station and accessory scales. The site plan must be revised by adding 16 additional parking spaces or a departure from parking and loading standards is required.

- H. Landscape Manual Requirements: The proposed use is surrounded by warehouses (to the southeast) and vehicle repair and salvage uses (west) generally classified as ■high impact● under Section 4.7 of the *Landscape Manual*. The proposed use is also a ■high impact use.● No bufferyards are therefore required. The Urban Design Review Section further submits that the site is exempt from the Commercial and Industrial Landscaped Strip requirements in Section 4.2 of the *Landscape Manual* because the only frontage is a driveway entrance on Olive Street. Staff also notes that a

driveway entrance on S Street is exempt from Section 4.2 as well. The proposal does not necessitate an increase in the number of parking and loading spaces beyond the number currently existing. The site is therefore exempt from the requirements of Section 4.3, Parking Requirements.

I. Zone Standards: This application also includes two variances:

1. For the 500-foot setback from the property line required in Section 27-416.02(a)(2) for a building associated with a transfer station.
2. For a waiver of the 20-foot building setback for an existing 10-foot-high fence in accordance with Sections 27-465(a) and 27-474(b).

With respect to the 500-foot setback, staff notes that the proposed building is as close as 65 feet to the southeastern property line. A variance of 435 feet is required.

J. Variance Requirements: Section 27-230 provides that:

- (1) **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions;**

Comment: The applicant submits the following explanation for this finding:

■A variance from Section 27-416.02(a)(2) is requested for the subject property because of unusual shape, size and narrowness. The property is exceptionally narrow and long. Its width varies from 300 feet to 570 feet at its widest point. It is impossible for the proposed transfer station to be located 500 foot radius setback [sic] given the size and shape of the property. This is a special circumstance in that the property is located exactly in the middle of the I-2 Zone, therefore, it meets the 500 foot setback within the radius of the I-2 Zone, but not the site.●

It is more difficult to argue for a variance for a proposed structure than for an existing one. When a structure is proposed, an applicant has the option of building a smaller structure, relocating it, or choosing another site where a variance is not required. The shape and size of the subject property is such that it is not possible to move or design the structure to meet the 500-foot-setback requirement. This is not a situation that is unique compared to other properties in this industrial park. Many of the industrial sites in this park are too small to build the proposed facility with a 500-foot building setback.

With respect to the variance from the building setback (Section 27-474(b)), the applicant argues that the existing ten-foot-high fence is needed for security purposes. The maximum setback required for a 10-foot-high structure (a fence) is 20 feet. A waiver of the entire 20-foot setback is requested. The applicant notes that the entire industrial neighborhood is uninhabited at night and adjacent businesses with similar fences (and guard dogs) also have security problems. Based on a field inspection of the neighborhood, staff notes that the graffiti on buildings and abandoned cars suggests that security problems do exist in this area.

- (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 applicant submits that:

■With the proposed facility being 200 square feet of special-exception area, the size of the property would have to be 490,000 square feet or 11.94 acres in size. The size is rather large compared to surrounding properties, the typical site in the surrounding area is an average of only 3.59 acres in size.●

It is not clear how the applicant came up with the 200-square-foot special exception area. The site plan indicates the acreage of the special exception is 5.50 acres. This application is hampered by the fact that the applicant chose a site that is too small to meet the special exception requirements. The applicant notes that they need a site that is at least 11.94 acres. In our opinion, the need for variance is self-imposed and therefore not justified.

With respect to the variance for the fence setback, the applicant does not present a justification under this finding.

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

Comment: The requested variance would not substantially impair the 1993 Landover and Vicinity Master Plan, which recommends general industrial use for the subject property.

The I-2 Zone is the only zone that permits a transfer station. The specific requirements in Section 27-416.02 set forth the conditions under which a transfer station is permitted in the I-2 Zone. In selecting a site for a transfer station, an applicant has the obligation of finding a site that meets the criteria for approval. Staff believes a proposal to waive or modify these requirements, especially when they are prerequisite for a special exception use, are a particularly onerous burden. The applicant has not, in our opinion, met this burden.

K. Sign Regulations: No signs are proposed on the site plan.

L. Environmental Impact:

One of the major concerns during the review of this application has been environmental impact. We have reviewed comments from the following agencies and organizations:

1. Anacostia Watershed Society; attached fax dated February 7, 2001.
2. Prince George's County Health Department, Division of Environmental Health; attached memo dated February 7, 2001.
3. Prince George's County Department of Environmental Resources (DER); attached memo dated January 3, 2001.



4. Prince George's County Planning Department, Countywide Planning Division, Environmental Planning Section; attached memo dated February 12, 2001.
5. Washington Suburban Sanitary Commission (WSSC); attached memo dated March 7, 2001.

The applicant's responses to the comments from these agencies are also attached to this report.

The subject property is entirely within the 100-year floodplain for Beaverdam Creek. This creek, which runs along the northern edge of the property, is a tributary of the Anacostia River. The Environmental Planning Section notes (memo dated February 12, 2001) that in new development and redevelopment, the protection of the natural reserve area, including the 100-year floodplain and stream buffers, is required unless variations are approved. Redevelopment of sites in the floodplain is allowed, but only in compliance with the Floodplain Ordinance, which limits the value of improvements that can be made within the floodplain to 50 percent of the value of existing structures. The Department of Environmental Resources has approved a Stormwater Management Concept Plan (#008005170) for the site, with various conditions, but has not exempted the transfer station from compliance with the county Floodplain Ordinance prior to the issuance of building permits.

The applicant proposes to dig a compensatory floodplain storage area and use the material removed to raise the level of the proposed transfer station by six feet to achieve a finished floor level of 26.0 feet, which is approximately one foot higher than the 100-year floodplain elevation for this site. The floor of the facility will be constructed so no liquid can leave the building. The applicant has reduced the volume of waste to be transferred from 3,000 tons per day to 2,000 tons per day.

The Environmental Planning Section also points out that the truck circulation route is proposed to be raised only three feet, so that elevation of the loading lane will be two feet below the 100-year floodplain for this site, which creates the possibility of floodwaters reaching the lower levels of trucks being loaded on this site, or caught on this site during flooding situations. Also, trucks that are in queue for loading operations, or to use the scale, are located five feet below the 100-year floodplain elevation for this site. The Environmental Planning Section wishes to review additional information concerning the flood elevation levels under more frequent classifications of storm events, such as the 10- or 50-year storm, to evaluate potential impacts on site operations.

The Environmental Planning Section expressed serious concern with the appropriateness of handling and transferring commingled solid wastes in the 100-year floodplain, where the potential for contamination of the adjacent stream and the Anacostia River is much higher than if the transfer station was placed on an upland site. The applicant points out, however, that all handling of waste will be done inside of the proposed building. This enclosed building will serve to prevent dust, trash and other material from entering the waters of Beaverdam Creek. The tipping floor and truck lane will be cleaned every night. The wastewater will drain off the floors toward trenches around the perimeters of the floors and will then be directed to a grit chamber and oil/grit separator to remove solids and oil. The water will then be discharged to the sanitary sewer, if permission is granted by WSSC. If permission is not granted, the water will be collected in a storage chamber and collected by a licensed scavenger for removal to a disposal facility.

In a memo dated March 7, 2001 (attached), WSSC's Regulatory Services Group points out that:

■Although the information provided does not include any data that would indicate the pollutant characteristics of the wastes that would be discharged to the Commission's sewer system, the oil/grease interceptor is an obvious first step. In order to determine what additional pretreatment, if any, is required, we need additional information on the pollutant characteristics. •

As recommended in Part F of this report, the applicant should be required to provide information on the pollutant characteristics of the wastes that would be discharged to the sewer system.

The applicant further submits that there will be no long-term storage of refuse at the facility. Incoming waste will be loaded in transfer trailers and hauled off-site. Any waste remaining at the end of the day will be loaded into a transfer trailer. If the trailer needs to be moved outside, it will be covered with a tarp. Waste that is stored overnight will be removed the next day and taken to a landfill.

M. Traffic Impact:

The proposed use may impact intersections in Prince George's County and the District of Columbia. The Transportation Planning Section, in a memo dated January 31, 2001, submits the following analysis:

■Access to the site is provided by Olive Street which dead-ends into the property at its eastern end and intersects with Eastern Avenue to the west of the site. The proposed development will have the greatest impact on the intersection of Eastern Avenue and Olive Street. This intersection is defined by the confluence of two streets that are maintained by different jurisdictions. Eastern Avenue is a four-lane, 35-mph roadway that is located in, and maintained by, the District of Columbia. Its eastern right-of-way line represents the border between the District of Columbia and Prince George's County. Olive Street is a two-lane roadway that connects both jurisdictions. The segment between Eastern Avenue and the subject property has 36 feet of pavement and is maintained by the Prince George's County Department of Public Works and Transportation (DPW&T). Although the intersection lies entirely within the District of Columbia, its operation affects traffic to and from both jurisdictions. In light of the bijurisdictional functionality of the intersection, the traffic study that was prepared by the applicant and submitted to staff was referred to both jurisdictions for their review and comments.

■Citing information provided by the applicant, the traffic study based the analysis on 820 trips being generated on a daily basis. Using a conservative estimate, the study assumed that 20 percent of the daily total will occur during both peak hours. Consequently, 164 trips (82 inbound and 82 outbound) will pass through each of the three intersections during each peak period. Regarding distribution of traffic to and from the site, the traffic study assumes 90 percent of the traffic will be oriented to and from the west of Eastern Avenue, while ten percent will be oriented to and from the east. Based on those assumptions, the intersections were reanalyzed with the additional traffic that the proposed facility would generate.

■The results of the second analysis showed the Eastern Avenue/Olive Street intersection would still be operating inadequately. In an effort to correct this inadequacy, the traffic study recommends that the intersection be signalized. Should the signalization occur, the

intersection would operate with a level-of-service/critical lane volume (LOS/CLV) of ■B• 1088 during the AM peak hour and ■C• 1280 during the PM peak hour.

■In a January 26, 2001, response letter to staff's referral (*DerMinassian to Burton*), the Bureau of Traffic Signal within the Government of the District of Columbia expressed its willingness to support the installation of a traffic signal, provided that the appropriate technical justification is demonstrated by the applicant, and the cost of such installation will be borne by the applicant.

■In a November 29, 2000, memorandum to staff (*Issayans to Burton*), the DPW&T expressed concerns regarding the continuation of on-street parking on Olive Street at its approach to Eastern Avenue. The memorandum stated that additional truck traffic could cause safety and operational problems on that segment of Olive Street. Specifically, the DPW&T further stated that there should be a parking prohibition on the northwest side of Olive Street for its entirety. As mentioned previously, Olive Street, within Prince George's County, is only 36-feet wide. If on-street parking continues on both sides of the street, the remaining effective travel width is approximately 20-22 feet. Given the size of the trucks that are likely to be utilizing the proposed facility, staff and the DPW&T are concerned that the remaining 20-22 feet of travel way may not be adequate to allow for the safe passing of trucks from opposite directions. The DPW&T therefore encourages the applicant to interact with the local residents and business owners so that an agreement can be reached regarding the implementation of on-street parking prohibition for one side of Olive Street. The DPW&T further states that the development should not proceed if such an agreement could not be effected.

■While the Olive Street/Eastern Avenue intersection provides the most direct point of ingress and egress, there are other points of access, albeit more circuitous, that could be pursued by the applicant. Kenilworth Avenue, which is located about 500 feet north and west of the subject intersection is straddled by service roads which run for about a mile from the Kenilworth Avenue/US 50 interchange. The portion of the service road within the county that runs on the east side is a county-maintained facility, while the western service road is maintained by the State Highway Administration. S Street is a county-maintained facility that is perpendicular to both the eastern service road and Olive Street. It is conceivable that a truck could enter, leave, or both enter and leave the proposed facility by using one or both of the service roads.

■Full use of these service roads could be tempered however, by the fact that these roads are not always open to traffic on a continuous basis. To go from one side of Kenilworth Avenue to the next would require going through a locked gate that separates the east service road from the west service road. Discussion between staff and the State Highway Administration revealed that the opening and closing of the locked gate is within the control and purview of the State Highway Administration and the Washington Suburban Sanitary Commission (WSSC). As of this writing, it is not clear to staff how much effort has been made by the applicant to pursue the feasibility of access routes other than Olive Street.

■In closing, upon review of the traffic study, its conclusions, and the comments of representatives of both jurisdictions, staff concludes that the health, safety and welfare of the

community will not be adversely impacted if the proposed facility is approved with the following conditions:

- 1. Prior to the issuance of any permit, the applicant shall submit a *traffic signal warrant study* to the Prince George's County DPW&T as well as the Bureau of Traffic Signal within the Government of the District of Columbia. Should the signal be warranted, the applicant shall provide to the District of Columbia funds for the design and installation of traffic signal.
- 2. The applicant's recycling operation shall be limited to a maximum of 3,000 tons per day, with no more than 820 vehicular trips being generated per day.
- 3. Should the Department of Public Works and Transportation maintain on-street parking on both sides of Olive Street, then the applicant's use of Olive Street should be restricted to one travel direction only. This would mean that trucks could utilize Olive Street for either ingress or egress but not both.●

Subsequent to the review of the traffic study, the applicant has decreased the maximum tonnage from 3,000 to 2,000 tons per day. Staff notes that this application was referred to the Government of the District of Columbia, Department of Public Works. In a memo dated January 26, 2001, the Government of the District of Columbia, Department of Public Works, submitted the following comments:

■We have completed our review of the traffic impact study performed by Wells and Associates, Inc. for the construction of the Rollins Solid Waste Transfer Center.

■While recommending a traffic signal at the intersection of Eastern Avenue and Olive Street, N.E. to accommodate traffic generated by the Center, the consultant does not clearly demonstrate that the installation of this traffic signal is warranted in accordance with the requirements of the Manual on Uniform Traffic Control Devices. Accordingly, federal funding cannot be programmed to support the design and construction of this traffic signal.

■We have examined the movement of traffic on Eastern Avenue, N.E. and determined that the installation of a traffic signal at Eastern Avenue and Olive Street, N.E. will not adversely impact the flow of traffic in this corridor. We would have no objection to operating and maintaining a traffic signal at this intersection provided that design and construction costs are absorbed by the developer or Prince George's County. We estimate the design costs to be \$20,000.00 and the construction costs to be \$125,000.00. More precise estimates can be provided with your concurrence for us to proceed with the design by our consultant. We await your specific direction.●

The applicant has pursued the alternative access mentioned in the comments from the Transportation Planning Section. This alternative uses gated service roads adjacent to Kenilworth Avenue that are maintained by WSSC and the State Highway Administration (SHA). The applicant has proffered a Memorandum of Understanding with WSSC and SHA (see attached memo dated March 2, 2001, from Russel Shipley, Shipley and Horne, P.A. to P. Michael Errico, WSSC). In this Memorandum of Understanding, the applicant

agrees to work with WSSC and SHA to police the service road at all times when the gate is open and promptly lock the gate at the close of business. The WSSC, in a memo dated March 23, 2001 (attached), agrees with the provisions of the applicant's memo. A response from SHA has not been submitted.

N. Required Findings:

**Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:**

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

Comment: The proposed use and site plan are not in harmony with the purposes of this Subtitle. There are 15 purposes set forth in Section 27-102 of the Zoning Ordinance. These purposes seek generally to protect and promote the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the county. Of particular concern is purpose number 13:

*To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features.*

The applicant has gone to great lengths to respond to environmental impact issues raised by staff. The proposed building will be raised to an elevation where it will no longer be in the floodplain. A comprehensive cleaning and maintenance program is proposed to control odors, debris and litter. Staff notes, however, that based on a memo from the applicant (dated March 2, 2001), submitted in response to comments from the Environmental Planning Section (memo dated February 12, 2001), there may be some short-term outdoor storage of waste material. In addition, staff remains concerned about pollutants washing off trucks during floods, sheet flow and lack of a stream buffer. It is unclear how much of the property is underwater during intermediate flood events. If the property is submerged during five- or ten-year floods, this increases the likelihood that pollutants from trucks or materials being stored outdoors will drain into the creek. Generally, a 50-foot-wide stream buffer from the edge of the bank is required to protect the stream and provide water-quality benefits. The applicant correctly notes that the property is fully developed. No buffer area is provided. Given the nature of this use and the potential for pollutants impacting the adjacent stream, staff believes it is inappropriate to put such a use in at this location without the required buffer area.

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

Comment: The proposed use clearly is not in conformance with all the applicable requirements and regulations of this Subtitle. For instance, Section 27-416.02(a)(2) requires a 500-foot setback from the property line for a building associated with a transfer station. The proposed building that would house the transfer station is setback 65 feet from the eastern property line. The applicant is requesting a variance from this requirement, which specifically applies to transfer stations. Staff believes that District Council made a

conscious legislative decision to permit transfer stations in the I-2 Zone only if they met the prerequisites set forth in Section 27-416.02. There is nothing in this section that permits the requirement to be waived when the property is surrounded by other industrial uses in the I-2 Zone. We believe that a strict application of this requirement is, therefore, necessary.

In addition, the proposed use does not meet the parking requirements for this industrial use.

A total of 46 parking spaces are required under the industrial use standard. The applicant submits that this use more closely resembles a warehouse operation than an industrial operation and proposes 30 parking spaces based on the parking standard for warehouses. However, the Zoning Ordinance specifically defines a warehouse and the proposed use does not meet the definition. A departure from parking and loading standards application would be the appropriate procedure to waive this parking requirement. However, as of this writing, the applicant has not filed the departure application.

- (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 proposed use will not substantially impair the integrity of the 1993 Landover and Vicinity Master Plan. The plan recommends general industrial development. The proposed use is in accordance with this recommendation.

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

Comment: The proposed use will adversely affect the health, safety or welfare of residents or workers in the area. The subject property lies entirely within the 100-year floodplain. The applicant has taken impressive measures to address the environmental issues raised by several review agencies. With the possibility of trucks inadvertently leaving pollutants on the ground to be washed into the adjacent creek, staff believes that putting such a use on a site so close to a stream could adversely affect the health of residents and the environment. The applicant, in response to comments from the Environmental Planning Section, submits that some waste may be stored overnight in a transfer trailer. However, should a flood occur at night, the waste could send pollutants into the stream. Also, any pollutants on trucks on site during a flood event could be washed into the adjacent stream.

- (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 property is surrounded by industrial uses. No detrimental impacts on these uses are anticipated.

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

Comment: The Environmental Planning Section issued a letter dated February 10, 2001, providing that the site is exempt from the Woodland Conservation and Tree Preservation

Ordinance because the site contains less than 10,000 square feet of woodland and does not have a previously approved Tree Conservation Plan.

## CONCLUSION:

Special exceptions are required for certain specific land uses. To minimize the impact of such uses, certain prerequisites must be met before such uses are permitted. One of the requirements that must be met for a transfer station is that it must be set back at least 500 feet from all property lines. The applicant has chosen a site that does not meet these requirements. The proposed building that would house the transfer station is located approximately 65 feet from adjacent industrial uses in the I-2 Zone. The applicant believes relief from the setback requirement is justified essentially because the property is surrounded by industrial uses. There is no language in the specific requirements for a transfer station or in the findings for a variance that authorize the requirement to be waived when the property is surrounded by other industrial uses in the I-2 Zone. Staff believes that strict application of this requirement is, therefore, necessary.

With respect to environmental impacts, the proposed use could have negative impacts on the adjacent Beaverdam Creek. This creek, which is a tributary of the Anacostia River, has existing industrial uses adjacent to it that contribute to the pollution of these environmental resources. Although the applicant is willing to accept some very tough conditions of approval drafted by the Environmental Planning Section (see memo dated June 4, 2001), these conditions beg the question...■ If all these variances, departures and conditions are necessary, is this the appropriate site for this use?• Staff notes in looking briefly around the county at other I-2-zoned properties, that many of these properties are also in a floodplain. There are, however, some properties that are not. The regulations for a transfer station are among the toughest regulations in the Zoning Ordinance to meet. Any property that the applicant chooses would come with challenges.

The appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and therefore should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location would have any adverse impacts above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. The proposed use would be located entirely within a 100-year floodplain. Staff notes that the actual building which will house the transfer station will be constructed at an elevation one foot above the floodplain. It appears, however, that there will be trucks queuing for entrance into the station or to use the scale. These trucks may carry pollutants that could impact the stream. In addition, there may be some short-term storage of waste on site that could also drain pollutants into the stream. The proposed use cannot meet the 500-foot setback requirement in Section 27-416(a)(2), and it is not in harmony with Purpose Number 13 (Section 27-102(a)(13)) which seeks to protect against undue noise, air and water pollution. There are other I-2-zoned properties where a transfer station could be sited without being in a floodplain or being in a location where so many other pollution-generating uses are located. However, at the proposed location, we find that the use would have adverse impacts above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Staff therefore, recommends DENIAL of SE-4396 and VSE-4396.