



City of Tucker

Land Use Petitions: RZ-19-0004 & SLUP-19-0007

Date of Staff Recommendation Preparation: July 18, 2019

Community Council: June 16, 2019

Planning Commission: July 25, 2019

Mayor and City Council, 1st Read: August 26, 2019

Mayor and City Council, 2nd Read: September 23, 2019

PROJECT LOCATION:	1374 Beverage Drive
DISTRICT/LANDLOT(S):	18 th District, Land Lot 138
ACREAGE:	±8.009 acres
EXISTING ZONING	M (Light Industrial)
PROPOSED ZONING:	M-2 (Heavy Industrial)
CURRENT FUTURE LAND USE DESIGNATION:	Light Industrial
OVERLAY DISTRICT:	Mountain Industrial Boulevard Overlay
APPLICANT:	Clean Harbors Environmental Services, Inc. c/o Dennis Webb, Jr.
OWNER:	Clean Harbors Environmental Services, Inc.
PROPOSED DEVELOPMENT:	Rezoning from M to M-2 and SLUP to allow a solid waste facility.
STAFF RECOMMENDATION:	DENIAL of RZ-19-0004 DENIAL of SLUP-19-0007

BACKGROUND

The applicant, Clean Harbors previously operated a solid waste transfer facility at another location in Tucker (4720 Stone Drive) from 2006 through March 2019, which pre-dated the current zoning ordinance and was considered a legally non-conforming use. Due to the business wanting to move to a new location, the applicant must apply for a rezoning and SLUP. If the request is not approved at the September 23, 2019 Mayor and City Council meeting, more than (6) six months will have elapsed since operations ceased at 4720 Stone Drive. The business will not be able to operate at the previous location as a legal non-conforming use.

PROJECT DATA

The subject site is located on 1374 Beverage Drive, approximately 255 feet from the intersection of Beverage Drive and East Ponce de Leon Avenue. The project site consists of one parcel, with a ±59,169 square-foot vacant building and associated site improvements including a parking lot. The subject property is located in the Mountain Industrial Boulevard Overlay. The applicant proposes no exterior renovations to the existing structure. There is a stream buffer to the west of the developed area. The existing building and associated parking and loading areas are located outside the 75-foot stream buffer. The parcel appears to run along East Ponce de Leon Avenue; however, there is a narrow parcel abutting the subject property that is approximately 42 feet wide by 900 feet long (owned by SMIP LL LLC) according to the DeKalb Property Assessor's office). Just north is an active (±200-foot wide) CSX railroad right-of-way that abuts East Ponce de Leon Avenue. The subject property is accessed from Beverage Drive, as shown below.

The Mountain Industrial Boulevard overlay lists prohibited uses, including but not limited to adult entertainment establishments; adult service facility; late night establishments; and extended stay motels. The overlay is silent on solid waste facilities, which forces the use provisions to be determined solely by the underlying zoning. The Use Table in Article 4 states that solid waste facilities are only allowed in the M-2 zoning district with a Special Land Use Permit.

The applicant is proposing a solid waste facility that temporarily receives and houses waste, from Georgia and the southeast region, before the waste is shipped out for disposal. The materials are packaged at the source site and brought to the facility in smaller trucks, where they are unloaded. The waste arrives in metal drum containers of varying sizes, primarily fifty-five-gallon drums, and is stored for no longer than ten days before being shipped off-site. The applicant proposes no sorting, no disposal, and no other processing of the waste materials at the subject site. The containers remain sealed while at the facility. Additionally, loading, unloading and storage of the waste is done inside the facility. Article 9 defines *Solid waste transfer facility* as a site at which temporary storage and transfer of solid waste from one vehicle or container to another, generally of larger capacity, occurs prior to transportation to a point of processing or disposal. A solid waste transfer facility is an intermediary point between the location(s) of waste generation (e.g., households, businesses, industries) and the site(s) of ultimate processing or disposal.

The applicant is requesting two items. The first request is a rezoning (RZ-19-0004) from M (Light Industrial) to M-2 (Heavy Industrial). The second request is a Special Land Use Permit (SLUP-19-0007) to allow a solid waste facility which is only allowed in the M-2 zoning district. No exterior changes are proposed on the building nor expansion of parking.

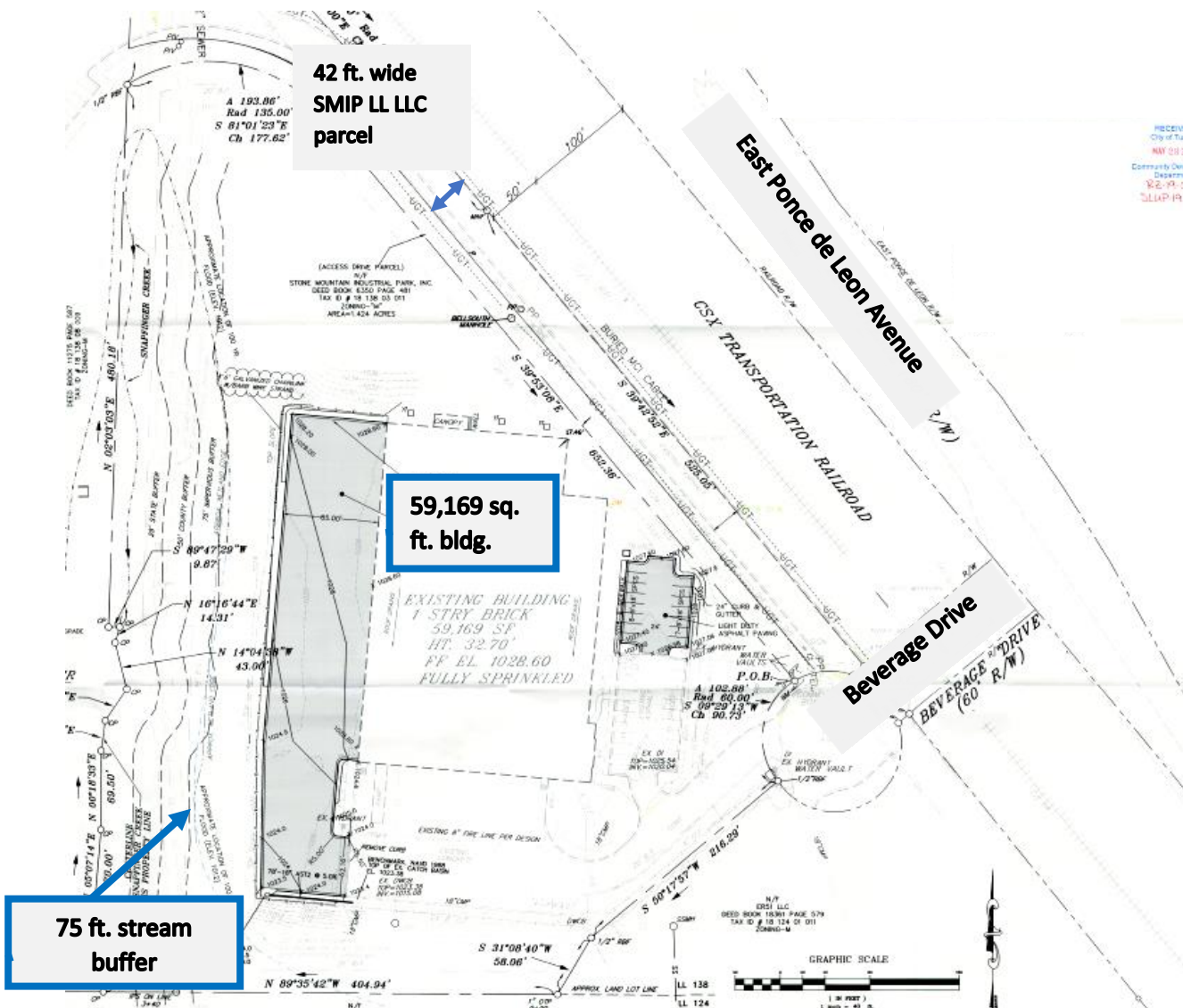


Figure 1: May 28, 2019 Site Plan

COMMUNITY COUNCIL REVIEW

On June 12, 2019, the applicant presented the land use petition applications to the Community Council for rezoning from M (Light Industrial) to M-2 (Heavy Industrial) and a concurrent Special Land Use Permit to allow a solid waste facility. Items discussed included whether the company has a history of spills and how to mitigate future spills. The applicant stated that there were no spills at the 4720 Stone Drive location and that Clean Harbors does over 5,000 emergency responses annually, including highway spills, bird flu, hurricanes, etc. Company is registered with GA EPD/US environmental agencies, and subject to inspections from GA EPD. All materials are transported and not consolidated at site.

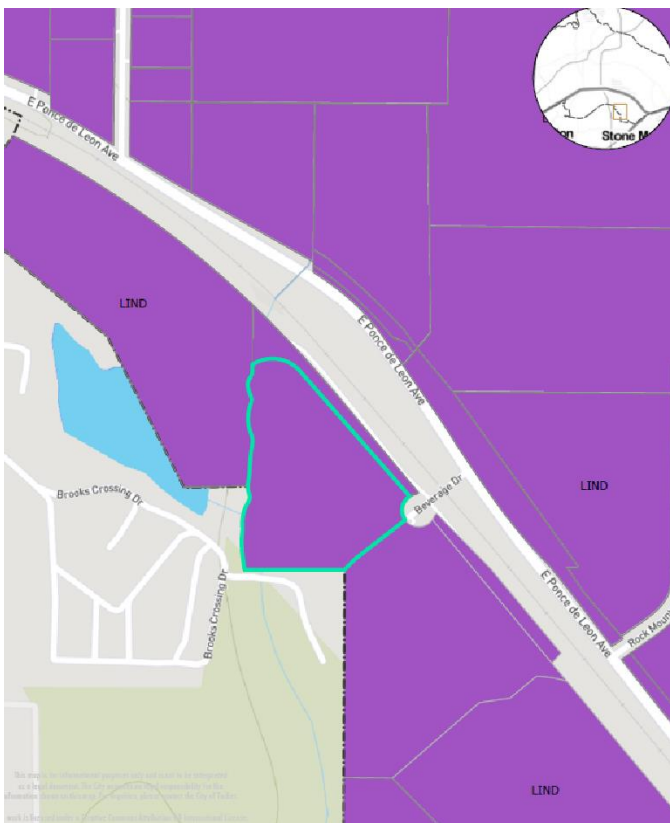
The community council inquired about buffering the apartment units south of the city limits, and the applicant explained the subject site has a stream and tree buffer and is located over 200 feet away from the apartment complex, and further stated that all of the subject site traffic will be oriented off East Ponce de Leon Avenue. Additional queries included whether the proposed operation is the same as the operation at the Stone Drive location; the applicant stated that the proposed operations would be the same as the operations at the previous facility. The community council also queried whether the trucks are open bed or fully enclosed and the applicant stated the trucks used for transport of materials are not open bed trucks. Questions regarding potential for spillage close to the stream were asked of the applicant; the applicant explained that the parking pad area leans toward the building, away from the stream to ensure spills do not enter the stream. Lastly, concern regarding uses allowed in the M-2 zoning district were expressed. The applicant stated that they plan on proposing a condition that would prohibit other M-2 type uses and the allowable activity would be specific to the proposed business.

NEARBY/SURROUNDING LAND ANALYSIS & ZONING

Adjacent & Surrounding Properties	Zoning (Petition Number)	Current Land Use
Nearby: North/northwest	M (Light Industrial)	Light Industrial (SMIP LL LLC)
Adjacent: North/northeast	M (Light Industrial)	Undeveloped and Carrier Corporation (Manufacturing/processing)
Adjacent: South / Southwest	Unincorporated DeKalb County	Mountain Lake Apartment Homes – High Density Residential
Adjacent: South / southeast	M (Light Industrial)	Eagle Rock movie studio



Aerial Map



Future Land Use Map

Zoning Map



CHARACTER AREA (Future Land Use)

The City of Tucker adopted the new *Tucker Tomorrow Comprehensive Plan* in April 2018 and the property is located within the Light Industrial Character Area on the future land use map. Character Areas are generally used as a visioning guide for an area that identifies items such as primary land uses, development strategies, and design considerations. Character Areas speak to the adopted vision of the community as it continues to grow and develop over time. The Light Industrial Character Area encourages light industrial uses, including manufacturing and warehouse/distribution. Overall, the light industrial character areas are largely dedicated to low-intensity manufacturing, wholesale trade, and distribution activities that do not generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation, or other nuisances.

Goal 5 of the comprehensive plan is to bolster the economic base. In particular, the comprehensive plan states, *“the market indicates there remains a high demand for industrial uses in this area. Investing in modernizing and redeveloping the less competitive assets in the Mountain Industrial area to compete better in this market strengthens the financial health of the Mountain Industrial businesses while providing positive fiscal health and an expanded employment base for Tucker and DeKalb County”*.

OVERLAY DISTRICT

The subject property is located within the Mountain Industrial Boulevard Overlay District. The intent of the Mountain Industrial Overlay district is to preserve and enhance the long-term economic viability of the Mountain Industrial Boulevard corridor by encouraging investment that increases the tax base and provides employment opportunities to the citizens of the City of Tucker; to improve the visual appearance and increase property values within the corridor; allow flexibility in development standards in order to encourage the design of innovative development projects that set high standards for landscaping, green space, urban design, and public amenities; and promote uniform and visually aesthetic architectural features which serve to unify the distinctive visual quality of the corridor.

The purpose and intent section of the M zoning district (Article 2.32.1) indicates in part that the M district is established to “provide areas for manufacturing, warehousing and distribution facilities at locations so designated in the comprehensive plan.” However, solid waste distribution facilities are classified under solid waste. The M-2 zoning district allows for “solid waste facilities” only as a special use (Table 4-1 zoning ordinance). The intent of the City of Tucker Zoning Ordinance is that the proposed uses be determined on a case-by-case specific basis ensure compatibility with the surrounding area including environmental impacts, visual and infrastructure impacts.

Rezoning (RZ-19-0004)

The applicant is requesting to rezone the south parcel from M (Light Industrial) to M-2 (Heavy Industrial).

REZONING - CRITERIA TO BE APPLIED:

Criteria (standards and factors) for rezoning decisions are provided in Section 46-1560 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

The subject property is located within the Light industrial Character Area which supports light industrial development. Primary land uses include warehouse/distribution. The light industrial areas are largely dedicated to low-intensity manufacturing, wholesale trade, and distribution activities that do not generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation, or other nuisances. Staff finds the rezoning proposal inconsistent with the Tucker Tomorrow Comprehensive Plan because the intent and purpose of the M-2 zoning district is, *"To provide for a location for intense industrial uses that do not require and may not be appropriate for a nuisance free environment; To provide for a location that allows nuisances such as noise, vibration and other impacts which cannot be contained on-site."*

2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

Rezoning to M-2 (Heavy Industrial) will allow for an industrial development in an area that is surrounded on three sides by light industrial zoned property. North across East Ponce de Leon Avenue is also zoned M (light industrial). The requested M-2 zoning district does not appear suitable in view of the use and development of adjacent and nearby properties.

3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The subject property has a reasonable economic use as currently zoned.

4. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

The zoning proposal may adversely affect the existing use or usability of adjacent or nearby properties as the proposed zoning district would allow a development with more intensive industrial uses compared to the surrounding light industrial uses. There is no M-2 (Heavy Industrial) zoning nearby.

5. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

There are no known existing or changing conditions that affect the use and development of the parcel that are a part of this rezoning application.

6. Whether the zoning proposal will adversely affect historic buildings, site, districts, or archaeological resources.

There are no historic structures on the subject property.

7. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposed rezoning to M-2 (Heavy Industrial) will not cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools. The Institute of Traffic Engineers (ITE) manual defines traffic levels by use. As stated, in the application (page 8) the proposed use most closely resembles (Institute of Traffic Engineers) ITE category 152, warehouse/distribution center. The previous use of the property was a construction supply distribution center which would also be categorized under the ITE category 152.

8. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

There are no known environmental impacts or on-site natural resources.

STAFF ANALYSIS

The proposed use appears to be inconsistent with the Light Industrial Character Area designation because it allows incompatible uses including a range of intense industrial uses that do not require and may not be appropriate for a nuisance free environment, and allowing nuisances such as noise, vibration and other impacts which cannot be contained on-site.

The proposed M-2 zoning district may have adverse impacts upon adjoining land uses by reason of the manner of operation of proposed uses allowed in the M-2 zoning district. The M-2 zoning district would allow activities that generate excessive noise, particulate matter, vibration,

smoke, dust, gas, fumes, odors, radiation, or other nuisances. Therefore, per the City of Tucker adopted Code and Comprehensive Plan, staff recommends denial of rezoning to M-2.

SLUP-19-0007 SOLID WASTE

The applicant is requesting a SLUP for a solid waste facility. If approved, SLUP's can expire after 12-months if not used. If approved on September 23, 2019, the SLUP will expire on September, 2020 unless required approvals (such as a Business Tax License) are applied for and diligently pursued thereafter.

CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT

Criteria (standards and factors) for special land use decisions are provided in Section 46-1594 of the City of Tucker Zoning Ordinance. The applicant is required to address these criteria (see application); below are staff's findings which are independent of the applicant's responses to these criteria.

- A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.**

The total site is ±8.009 acres. The subject property is sufficient to meet required open space, off-street parking and all other applicable requirements of the zoning district.

- B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.**

The proposed development may adversely affect the existing use or usability of adjacent or nearby properties as the proposed zoning district would allow a development with more intensive industrial uses compared to the surrounding light industrial uses.

The proposed development, if conditioned to the specific use of solid waste transport facility, may be compatible with surrounding uses. If not conditioned to a specific use, the M-2 zoning district is not compatible.

- C. Adequacy of public services, public facilities, and utilities to serve the proposed use.**
Schools. There will be no impact on public school facilities.
Stormwater management. No comments.
Water and sewer. No comments.

- D. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.**

A Traffic Impact Study is not required for this application per Section 5.3.4 of the City of Tucker Zoning Ordinance. The Institute of Traffic Engineers (ITE) manual defines traffic levels by type of business. The application states that the use aligns with ITE category 152, warehouse / distribution center and the previous tenant's use was a construction distribution center which would also be categorized under ITE category 152. As the building is not expanding there should be no net increase in the traffic generated by the proposed use. Truck traffic will be oriented towards East Ponce de Leon Avenue. Beverage Drive has only one outlet, which is onto the arterial classified road known as East Ponce de Leon Avenue. Further, the subject property is located approximately 0.6 miles from the Memorial Drive/Stone Mountain/US Hwy. 78 on-ramp which is a limited-access highway to other regional highways. The applicant also states that expected truck traffic shall average 4-8 trucks per day.

- E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.**

The character of vehicles and volume of traffic should be similar to the adjacent industrial uses. The subject property is located near US Hwy. 78 and Mountain Industrial Boulevard. The applicant states US 78 is their anticipated route for much of the traffic. As a result, there should be no adverse impacts along the access routes.

- F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.**

The subject property has adequate vehicular ingress and egress, including that for emergency vehicles.

G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.

The proposed development will not generate excessive noise, nor will it emit smoke, odor, dust or vibration. However, the M-2 zoning district explicitly allows for uses that generate excessive noise, odor, dust, or vibration. If the proposed use is stipulated it should not create adverse impacts.

H. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

At the Planning Commission the applicant stated the hours of operation will be 10 am to 12 am. The proposed location is surrounded by light industrial. The multi-family residential to the south is buffered by approximately 200 feet of trees and stream mitigating negative impacts.

I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

If approved in accordance with the recommended conditions, land uses along East Ponce de Leon Avenue will not be adversely affected by the manner or operation of the particular business. However, the introduction of M-2 (Heavy Industrial) introduces more intense land uses compared to the surrounding M (Light Industrial) zoning district, if not conditioned to the specific use.

J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

If developed in accordance with recommended conditions, land uses along East Ponce de Leon Avenue will not be adversely affected by the manner or operation of the development.

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property and the surrounding immediate area along Beverage Drive and East Ponce de Leon Avenue are designated Light Industrial on the Future Land Use. The intent of the Light Industrial Character Area is to identify areas that are appropriate for light industrial type uses. Primary land uses include light industrial uses, manufacturing, warehouse/distribution, automotive, accessory commercial and community facilities.

The proposed development, if conditioned to the requested use, may be consistent with the intent of the adopted comprehensive plan.

L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

The subject property is currently developed and meets the required buffer zones for the existing M zoning and the proposed M-2 zoning.

M. Whether or not there is adequate provision of refuse and service areas.

The subject property is currently developed with adequate refuse and service areas and the applicant does not anticipate any changes.

N. Whether the length of time for which the special land use permit is granted should be limited in duration.

No limits on the length of time on the special land use permit are recommended, if granted.

O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.

The structure is already existing and the applicant proposes no exterior changes.

P. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.

There are no historic buildings, or archeological resources located at this site that would suffer adverse impacts from the request.

Q. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

The applicant meets the requirements in the supplemental regulations, Sec. 7.4.7.D, Biomedical waste disposal facilities, disposal facilities, landfills, solid waste disposal facilities, solid waste landfills, private industry solid waste disposal facilities, solid waste handling facilities, solid waste thermal treatment technology facilities, and disposal facilities for hazardous and/or toxic materials including radioactive materials.

- a. **Whether the proposed use does not pose any potential negative impact resulting from air pollution, degradation of soil and/or water quality, noise, odor, or other negative environmental effects.**

The application states that the waste materials will be kept entirely inside the building, except when it is loaded on trucks to leave the facility. All the waste is kept in sealed containers which remain sealed and are not opened at the facility. The applicant implements spill containment practices at its facility, so that in the event of an accidental spill no waste enters storm sewers. The applicant also has its own spill response team that is responsible for clean-up and handling of spills on site.

- b. **Whether the proposed use will not have a significant deleterious effect on use of land and value of existing housing in adjacent and nearby neighborhoods.**

The subject property is located in a predominantly light industrial area. If conditioned, the solid waste should have no adverse impact on the adjacent properties.

- c. **Whether the proposed use will not create a negative traffic impact on any adjacent or nearby residential street(s) resulting from truck and other vehicular traffic associated with the facility.**

The truck traffic generated by the proposed solid waste facility operations will be similar to the previous distribution facility that existed on the subject property. The applicant has also stated that most of the truck traffic leaving the facility will use the nearby access to US Hwy. 78 with minimal impact to local roads.

- d. **Whether the proposed use does not represent an over-concentration of such uses in the area.**

There are no other solid waste uses on adjacent properties.

- R. **Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.**

The existing building on the site is one story and modifications are not being proposed. The proposed use will not produce an adverse shadow effect.

- S. **Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.**

There will not be a proliferation of solid waste facilities if approved.

- T. **Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.**

Light Industrial Character Area. As referenced earlier in the report, the proposal may be in conflict with the intent of the Light Industrial Character Area as the M-2 zoning

district would allow activities that generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation, or other nuisances. However, if approved in accordance with the recommended conditions, land uses along East Ponce de Leon Avenue should not be adversely affected by the manner or operation of the development.

CONCLUSION

The proposal is inconsistent with the Light Industrial Character Area as the M-2 zoning district would allow activities that may generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation, or other nuisances. The proposed M-2 zoning district may have adverse impacts upon any adjoining land use by reason of the manner of operation of proposed uses allowed in the M-2 zoning district. If approved with recommended conditions, the proposed use should be compatible with the light industrial uses nearby.

STAFF RECOMMENDATIONS

Should the governing bodies choose to approve the requests, Staff recommends that the request be approved subject to the following conditions:

1. The property should be developed in general conformance with the site plan submitted on May 28, 2019, to the Community Development Department, with revisions to meet these conditions.
2. The proposed use shall be limited to solid waste transfer facility.
3. Radioactive, biohazard, or biomedical waste shall not be allowed on the site.
4. All waste must be in sealed containers.
5. All containers must remain sealed while at the facility.
6. All operations must be indoors, except for loading and unloading the trucks.
7. Materials shall be stored on the site no longer than 10 calendar days.
8. All operations shall be in compliance with the Nuisance Ordinance, Section 28-183, Maximum permissible sound levels and sound during certain hours.
9. All trucks must be enclosed trucks. Open bed trucks are not allowed.
10. The development shall be limited to one (1) full access entrance on Beverage Drive.
11. Water and sewer approval are required by the DeKalb County Department of Watershed Management.

DEPARTMENT COMMENTS

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

No comments.

DEKALB COUNTY FIRE MARSHAL OFFICE

No comments.

DEKALB COUNTY SCHOOL SYSTEM

Not applicable.

LAND DEVELOPMENT

No comments.