



**SERVICE LIST**

Ralph McNabb, Village Clerk  
Village of Maywood  
40 West Madison Street  
Maywood, Illinois 60153

Greenwood Transfer, LLC  
1201 Greenwood Avenue  
Maywood, Illinois 60153

Mark R. Sargis, Esq.  
19 South LaSalle Street #1203  
Chicago, Illinois 60603

OCT 13 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD STATE OF ILLINOIS  
Pollution Control Board

John F. Nocita )  
)  
) No. PCB 0567  
) (Pollution Control  
) Facility Siting Appeal)  
Vs. )  
Application of Greenwood Transfer, LLC )  
for Transfer Station Local Siting )  
Approval in Village of Maywood, Illinois )

**Petition for Review/Appeal to contest siting of the Greenwood Transfer, LLC Transfer Station in Maywood, IL**

1. On September 9, 2004, the Village of Maywood, Illinois, passed and adopted A RESOLUTION APPROVING THE APPLICATION FOR LOCAL SITING APPROVAL OF GREENWOOD TRANSFER, LLC, FOR THE GREENWOOD TRANSFER STATION FACILITY TO BE LOCATED IN MAYWOOD, ILLINOIS. A copy of these proceedings and the siting authority's written approval resolution is attached hereto and made a part hereof as Exhibit A..
2. I am a proper petitioner pursuant to 35 Illinois Administrative Code 107.200, having participated in the public hearing conducted by the Village of Maywood, and having submitted a written statement during the public comment period, specifically on July 27, 2004, a copy of which is attached hereto and made a part hereof as Exhibit B, and an individual personally and as counsel for various clients who may be affected by the proposed facility.
3. The self-serving allegations and representations of the applicant referencing multiple inconsistencies in zoning and other related real estate matters impacted by the siting should not support the substantive determination of whether or not Section 22.14 would, in fact, be violated and clearly should not be given greater weight than any other information, comments, documentation and materials before the Village of Maywood nor the board. The relevant portion of the Village of Forest Park Official Zoning Map is unequivocal in establishing that the relevant parcels are zoned for residential use and are within 800 feet of the proposed transfer station as reflected in Exhibit C.
4. The hearing officer correctly identified Section 415 ILCS, Section 22.14(a) as the governing law on the issue of the 800-foot set-back from the nearest property zoned for primarily residential use in this instance. However, it is no less a matter of law that Section 22.14 of the Act must control the siting decision and Section 39.2(g) should not be applied so as to disenfranchise the potentially affected parties protected by Section 22.14, particularly so when the real estate concerned is not even within the corporate limits of the siting authority. Other than self-serving statements of the applicant, there is no evidence that the affected real estate is other than within the corporate limits of the

Village of Forest Park and zoned residential. .

THEREFORE, I am requesting an appeal of the Village of Maywood's approval of the application of Greenwood Transfer, LLC for the Greenwood Transfer Station and, when this appeal is granted, I will be in position to further address my objections made at the public hearing and confirmed in Exhibit B.

  
\_\_\_\_\_  
JOHN F. NOCITA

CERTIFICATE

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, RALPH MCNABB, do hereby certify that I am the duly elected and qualified clerk of the VILLAGE OF MAYWOOD, COOK COUNTY and state of ILLINOIS.

I do further certify that the annexed and foregoing Resolution No. R-04-47

**A RESOLUTION APPROVING THE APPLICATION FOR LOCAL SITING APPROVAL OF GREENWOOD TRANSFER, LLC FOR THE GREENWOOD TRANSFER FACILITY**

Is a true and correct copy passed by the PRESIDENT AND BOARD OF TRUSTEES of the VILLAGE of MAYWOOD, at a BOARD meetings held on September 9, 2004.

I do further certify that the original (of which the foregoing is a true and correct copy) is entrusted to my care for safekeeping, and that I am the keeper of the same.

I do further certify that I am the keeper of the records, journals, entries, ordinances and resolutions of the said VILLAGE of MAYWOOD.

In witness thereof, I have hereunto set my hand and affixed the corporate seal of the VILLAGE of MAYWOOD this 5<sup>th</sup> day of October, 2004.



*Ralph McNabb*  
Clerk  
*By Jonette Greenhow*

**RESOLUTION NO. R-04-47**

**A RESOLUTION CONDITIONALLY APPROVING THE APPLICATION FOR LOCAL SITING APPROVAL OF GREENWOOD TRANSFER, LLC FOR THE GREENWOOD TRANSFER FACILITY.**

**WHEREAS**, on May 19, 2004, GREENWOOD TRANSFER, LLC filed an application for siting approval of a pollution control facility within Maywood, Illinois for the development of a 1000 tons per day non-hazardous solid waste transfer station located at 1201 Greenwood Avenue, pursuant to Section 39.2 of the Illinois Environmental Protection Act (415 ILCS 5/39.2) (ACT); and

**WHEREAS**, Ordinance No. CO-02-32 enacted by the Board of Trustees of the Village of Maywood, Cook County, Illinois establishes a procedure for pollution control facility site approval in the Village of Maywood, Cook County, Illinois; and

**WHEREAS**, following notice, the Village of Maywood held public hearings on June 28th and June 29th, 2004, pursuant to the Act and Maywood's Siting Ordinance; and

**WHEREAS**, some members of the Village Board of Trustees attended part or all of the public hearings and some participated, as well; and

**WHEREAS**, the Hearing Officer appointed to preside over the public hearing has made her Report and Recommendation for conditional siting approval to the Maywood Board of Trustees, which includes the determination that all applicable requirements of Section 39.2 and Maywood's Siting Ordinance have been met, provided certain conditions are imposed, based upon the siting application, notifications, hearings, exhibits, public comment and the record.

**NOW, THEREFORE, BE IT RESOLVED, BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS**, pursuant to its home rule powers as provided by Article VII, Section 6 of the Illinois Constitution and the authority under Section 39.2 of the Illinois Environmental Protection Act (415 ILCS 5/39.2), that the Hearing Officer Report and Recommendation, attached hereto as Exhibit A, is adopted by the Village of Maywood Board of Trustees; and

**BE IT FURTHER RESOLVED**, that the Village of Maywood Board of Trustees has jurisdiction and hereby determines that Greenwood Transfer, LLC has satisfied the applicable criteria, subject to the conditions set forth below; and

**BE IT FURTHER RESOLVED**, that the Village of Maywood Board of Trustees conditionally approves the request of Greenwood Transfer, LLC for site approval for its proposed non-hazardous solid waste transfer station, provided that the conditions are not inconsistent with regulations of the Pollution Control Board or the terms of any development or operating permits approved by the Illinois Environmental Protection Agency.

### **APPLICABLE CONDITIONS:**

1. The Greenwood Transfer Facility shall not receive or accept in excess of an annual average of 1000 tons per day of non-hazardous solid waste.

2. Greenwood Transfer, LLC shall comply with the Host Community Benefit Agreement with the Village of Maywood dated July 21, 2003, and with those additional agreements for benefits referenced in testimony of Phil Kowalski at Tr. 228-230 and as set forth in Appendix V of the Application.

3. The Greenwood Transfer Facility shall not receive or accept the following materials:

- Regulated hazardous wastes  
(as defined by Section 3.15 of the Act)
- Regulated and manifested special wastes  
(as defined by Section 3.45 of the Act)
- Regulated PCB material
- Potentially infectious medical waste (PIMW)
- Liquid wastes
- Regulated asbestos containing material
- Radioactive wastes
- Lead-acid (automotive) batteries
- White goods
- Tires

4. The Greenwood Transfer Facility shall utilize the load check and once-weekly random inspection procedures referenced in the Application to screen out the above-referenced unauthorized wastes.

5. The Greenwood Transfer Facility shall utilize the procedures and control measures specified in the Application for the following:

- Cleaning Procedures
- Vector Control
- Dust Control
- Odor Control, including misting system and incorporation of an odor neutralization system.
- Litter Control, including charging one employee to patrol the facility throughout the operating day to collect litter originating from the facility or from the vehicles utilizing the facility
- Noise Control
- Fire Control and Prevention
- Security

6. Waste unloading and transfer shall only be conducted inside the transfer building.
7. Greenwood Transfer, LLC shall modify the building on the subject property consistent with the changes specified in the Application, including but not limited to installation of doors on the north side of the building.
8. At all times of operation, at least 1 person in the employ of Greenwood Transfer, LLC at the facility shall be required to complete 40 hours of hazard communication training in accordance with Occupational Safety & Health Administration Standard 1910.1200.
9. Prior to operation, Greenwood Transfer, LLC shall meet with the Village of Maywood Fire Department to determine appropriate fire prevention and fire fighting features, and shall install or utilize such features, including the location of fire hydrants on the site if or as deemed necessary by the Fire Department.
10. Greenwood Transfer, LLC shall contract with a hazardous material management firm to provide emergency response services to the Greenwood Transfer Facility.
11. Except for emergency vehicles requiring access at Legion Street, Greenwood Transfer, LLC shall limit site access, ingress and egress to Wilcox Street.
12. Regarding 1<sup>st</sup> Avenue and Wilcox Street, Greenwood Transfer, LLC shall provide a minimum 45-foot turning radius in the southeast corner of 1<sup>st</sup> Avenue and Wilcox Street to adequately accommodate the transfer trailer trucks turning northbound to eastbound onto Wilcox Street consistent with Exhibit 8 of the traffic report in the Application. This improvement will require the existing fire hydrant in the southeast corner of the intersection to be relocated.
13. Greenwood Transfer, LLC shall cooperate and assist the Village in:
  - Providing signage along northbound 1<sup>st</sup> Avenue at Wilcox Street indicating "Do Not Block Intersection"
  - Restricting on-street parking for a minimum distance of 100 feet on both sides of Wilcox Street.
14. Regarding Wilcox Street @ Greenwood and Orchard Avenues, the operations manager(s) of the Greenwood Transfer Facility shall inform and enforce their truck drivers to use only designated routes.
15. Regarding Facility Access/Queuing, Greenwood Transfer, LLC shall provide one inbound and one outbound lane at the Facility's access drive from Wilcox Street consistent with the site plan as included in the application as Drawing No. D5 of the Application. The turning radius for trucks turning from Wilcox Street to enter or exit the scale house area shall be constructed adequately without having a truck encroach on the



inbound or exit lane. Greenwood Transfer, LLC shall provide a stop control at the driveway of its Facility for exiting site traffic. Greenwood Transfer, LLC shall provide approximately 220 feet between the Facility entrance and the scale at the scale house for on-site stacking of arriving waste collection vehicles.

16. Greenwood Transfer, LLC shall cooperate and assist in modifying the curb radius in the southeast corner of 1<sup>st</sup> Avenue and Wilcox Street to accommodate transfer trailer trucks.

17. Greenwood Transfer, LLC shall implement the Neighborhood Relations Program as set out in Appendix U of the Application.

**ADOPTED** this 9TH day of SEPTEMBER, 2004, pursuant to a roll call vote as follows:

**AYES:** MAYOR CONNER, TRUSTEES GUZMAN, WOLL, AND SHARP.

**NAYS:** TRUSTEES PERKINS, ALEXANDER, AND WASHINGTON.

**ABSENT:** NONE

**APPROVED** by me this 9TH day of SEPTEMBER, 2004.



**ATTEST:**

A handwritten signature in cursive script that reads "Ralph W. Conner". The signature is written over a horizontal line.

VILLAGE PRESIDENT

A handwritten signature in cursive script that reads "Ralph McNeill". The signature is written over a horizontal line.

VILLAGE CLERK

**BEFORE THE VILLAGE OF MAYWOOD  
BOARD OF TRUSTEES**

IN RE: THE APPLICATION )  
FOR LOCAL SITING APPROVAL )  
FOR THE GREENWOOD )  
TRANSFER FACILITY )

**HEARING OFFICER REPORT AND RECOMMENDATION**

**Background**

This is a matter arising under Section 39.2 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/39.2, on the Application for Local Siting Approval for the Greenwood Transfer Facility filed by Greenwood Transfer, LLC ("Applicant") on March 19, 2004. Section 39.2 of the Act includes procedural and substantive requirements for pollution control facilities undergoing the local siting review process, such as the proposed Greenwood Transfer Facility. The Village of Maywood ("Village" or "Maywood") also has siting requirements for pollution control facilities within its jurisdiction, consistent with Section 39.2 of the Act. On November 13, 2002, the Village Board of Trustees ("Village Board") adopted Ordinance No. CO-02-32, an Ordinance Establishing a Procedure for Pollution Control Facility Site Approval Requests ("Siting Ordinance") for the purpose of regulating the siting review process within the Village. Maywood's Siting Ordinance includes Rules and Procedures for Pollution Control Facility Siting which requires the hearing officer appointed to preside over the public hearings to also provide a written report to the Village Board. *See* Article VII of the Rules and Procedures.

**The Village Board's Role**

The role of the Village Board in this process is like a judge; it serves in a quasi-adjudicatory capacity as the trier of fact to determine whether the Applicant has met the applicable criteria. Section 39.2(a) of the Act requires the governing board of the municipality in

which the site may be located to determine whether the Applicant has submitted sufficient details describing the proposed facility to demonstrate compliance with the criteria set forth there. Maywood's Siting Ordinance contains the same standards. Therefore, although the Siting Ordinance requires the undersigned to provide a written report, the Village Board may view the evidence on each criterion differently; it may accept or reject the hearing officer's report and recommendation, in part or in whole, and may accept or reject the proposed Resolution, granting conditional approval, which follows.

Local siting must be approved if the Village Board finds that the proposed facility meets the following criteria:

- i. the facility is necessary to accommodate the waste needs of the area it is intended to serve;
- ii. the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
- iii. the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property;
- iv. (A) for a facility other than a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year floodplain or the site is flood-proofed; (B) for a facility that is a sanitary landfill or waste disposal site, the facility is located outside the boundary of the 100-year floodplain, or if the facility is a facility described in subsection (b)(3) of Section 22.19a, the site is flood-proofed;
- v. the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;
- vi. the traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows;
- vii. if the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release;

- viii. if the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan; and
- ix. if the facility will be located within a regulated recharge area, any applicable requirements specified by the Board for such areas have been met.

415 ILCS § 5/39.2(a)(i)-(ix) (2004).

Evidence of the previous operating experience and past record of convictions or admissions of violations of the Applicant (and any subsidiary or parent corporation) in the field of solid waste management may also be considered when deciding criteria 2 and 5 above. In addition, if siting approval is granted, the Village Board may impose conditions that are reasonable and necessary to accomplish the purposes of the siting law. The imposition of conditions has become the norm, but each condition must be supported by the record.

The record in this proceeding includes the Application for Local Siting Approval ("Application"), exhibits of the Applicant and of Maywood admitted at hearing, public comments and the transcripts of the following-described public hearings. Following notice, on May 19, 2004, a public hearing in the nature of a prehearing conference was held before the Village Board to address procedures and scheduling of the siting hearing(s). Following notice as required by Section 39.2 of the Act and the Siting Ordinance, on June 28, 2004 and June 29, 2004, public hearings were held to hear evidence and public comment on the Application.<sup>1</sup> The public hearings were held in the evenings at the request of the Village Board in order to maximize the opportunity for attendance and participation by residents of the Village. Following these public hearings, on August 6, 2004, the Applicant filed Proposed Findings.<sup>2</sup>

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<sup>1</sup> In this report the terms "Application" and "Request" are used synonymously.

<sup>2</sup> A complete list of the documents comprising the record in this matter is being compiled by the hearing officer consistent with the Siting Ordinance.

The Siting Ordinance allows others to participate in the public hearings as a party through the presentation of witnesses, exhibits or other evidence. Except for the Applicant, represented by Mark Sargis, of Bellande, Cheely, O'Flaherty, Sargis & Ayres and the Village Board, represented by Dennis Walsh, of Klein, Thorpe and Jenkins, Ltd., no others participated as a party or presented any testimony or witnesses, exhibits or other evidence. The evidence presented by the Village related to notice of hearing. The role of the Village in this proceeding was not inconsistent with the role of the decision-maker in other siting proceedings, especially where the record shows that staff and other professionals on behalf of the Village participated in a pre-filing review process in which input was provided to the Applicant and incorporated in the Application prior to its finalization and filing.

Oral and written comment by counsel on behalf of an undisclosed person challenged a location standard. As explained more fully below, the attorney's challenge is unsupported by evidence. As a public comment, it is entitled to less weight than other evidence. Other than the attorney's challenge to the location standard, no witnesses testified and no exhibits were introduced or admitted that challenge or rebut any testimony or other evidence presented by the Applicant. The Applicant's evidence on each criterion, therefore, is uncontroverted.

Numerous written and oral public comments were received throughout the proceedings. The majority of those who commented orally at the public hearing support the proposed facility. Both before and after the hearings, Ralph McNabb, the Village Clerk, made available for my review all of the public comments received, consistent with the requirement for same set forth in the Siting Ordinance.

As stated above, no expert witnesses directly challenged or rebutted the testimony of the Applicant's experts. Therefore, since evidence was presented in the Application and at hearing

to support each criterion, including through the testimony of experts, it may be legally unsupportable for the Village Board to find that any criterion has not been met. The consequences of a decision denying siting approval under such circumstances includes the Applicant's option to appeal the denial to the Illinois Pollution Control Board ("IPCB") with the possible outcome being that the decision of the Village Board could be found to be against the manifest weight of the evidence. *See, e.g., Fairview Area Citizens Task Force v. IPCB*, 198 Ill. App. 3d 541, 555 N.E.2d 1178 (3d Dist. 1990); *Industrial Fuels & Resources v. IPCB*, 227 Ill. App. 3d 533, 592 N.E.2d 148 (1st Dist. 1992). In the *Industrial Fuels* case, the appellate court reversed a denial of local siting approval on the bases that there was no expert testimony in the record that the proposed facility was flawed or would violate any applicable governmental regulations. *Industrial Fuels*, 227 Ill. App. 3d at 545.

Nevertheless, the Village Board is not bound to find that a criterion has been met simply because testimony or evidence is not directly rebutted or contradicted by another witness or other evidence. The Village Board may conclude that even uncontroverted evidence or testimony is insufficient or deficient, such as because an analysis did not factor relevant information, is invalid or flawed, or is otherwise not credible. *See, e.g., CDT Landfill Corporation v. City of Joliet*, PCB 98-60 (March 5, 1998); *aff'd* in an unpublished opinion, *CDT Landfill v. City of Joliet, et al.*, No. 3-98-0248 (3d Dist. May 5, 1999). The Village Board may evaluate the credibility of a witness or weigh the evidence relying upon his or her own knowledge or familiarity with an issue, such as local conditions. However, the IPCB's *CDT Landfill* opinion suggests that the Village Board may not ignore its adjudicatory responsibilities as the trier of fact and consider public opposition to the proposed facility to make a legislative finding denying siting approval. The IPCB states instead that while consideration of public comment is

appropriate in considering the evidence on each criterion, public comments are not entitled to the same weight as expert testimony submitted under oath and subject to cross-examination. Public comments thus receive a lesser weight than expert testimony, but still must be assessed or considered with respect to the criteria.

### Jurisdiction and Notice

While an Applicant for local siting approval must demonstrate compliance with the criteria, Section 39.2 and the Siting Ordinance also requires issuance of two (2) types of notice at two (2) stages of the siting process: prior to filing of the application and prior to the public hearing on an application. The first notice is often designated "notice of the intent to file" an application or "prefiling notice." Section 39.2(b) of the Act requires that no later than 14 days prior to filing a request for location approval, an Applicant must serve notice of the intended filing upon certain owners of properties within a given distance of the lot line of the subject property. The same notice must be served upon members of the General Assembly from the legislative district in which the proposed facility is located, and must appear in a newspaper of general circulation published in the county in which the facility is proposed to be located. The prefiling notice must include information such as the name and address of the applicant, the location of the site, the nature and size of the development, and a description of the right of persons to comment on such request. If issuance and service of the prefiling notice does not comport in all respects to the requirements of law, the Village Board may not have jurisdiction over the applicant's request. The Siting Ordinance specifies that only the Village Board may determine issues of jurisdiction. See, Section 6(f).

The record in this matter shows that at least fourteen (14) days prior to filing the Application, the Applicant served written notice of its intention to file the Application, in person

and by registered mail, return receipt requested, on the owners of all property within 400 feet of each direction of the lot line of the subject property line, the members of the Illinois General Assembly from the Legislative District in which the property is located, and certain other individuals and entities as a matter of courtesy. (Appendix B of Application, Ex. 1). The Applicant entered into the record the originals of proof of registered mail service in compliance with the notification requirements set forth in the Act and the Siting Ordinance. (Ex. 4). The Applicant also submitted proof of publication in a newspaper of general circulation published in Cook County of the Applicant's notice of intent to request siting approval from the Village. (Ex. 3).

The Applicant filed its Application for Local Siting Approval with the Village of Maywood on March 19, 2004 (Ex. 1), in accordance with the Applicant's notice of intent to file such application, along with a filing fee in the amount of \$50,000 (Ex. 2) pursuant to Section 4(a)(iv) of the Siting Ordinance and Section 4.22 of the Host Agreement. Review of the pre-filing notice and related exhibits shows that the Applicant's notice of intent to file was timely and properly served and published, thus evidencing compliance with Section 39.2(b). In addition, no party objected to or otherwise raised any issue regarding the pre-filing notice.

The second notice required by Section 39.2(d) of the Act and the Siting Ordinance concerns notice of hearing. Section 39.2(d) provides in part that such hearing notice shall be published in a newspaper of general circulation published in the county of the proposed site, and delivered by certified mail to all members of the General Assembly from the district in which the proposed site is located, as well as to the governing authority of every municipality contiguous to the proposed site or contiguous to the municipality in which the proposed site is to be located, to the county board of the county where the proposed site is to be located, if the proposed site is



located within the boundaries of a municipality, and to the Illinois Environmental Protection Agency ("IEPA"). The Siting Ordinance requires the Applicant's cooperation with the Village in the proper issuance of the notice of hearing.

In cooperation with the Village, the Applicant caused the Notice of Public Hearing on the Application to be published in a newspaper of general circulation in Cook County more than fourteen (14) days prior to the June 28, 2004, initial hearing date, and submitted the original proof of such publication into the record. (Ex. 7). In addition, at least fourteen (14) days prior to the hearing, the Applicant delivered the Notice of Public Hearing by certified mail as well as in person to all members of the Illinois General Assembly from the Legislative District in which the proposed site is located, to the Director of the Illinois Environmental Protection Agency, to the Chairman of the Cook County Board of Commissioners, and to all municipalities that are contiguous to the Village of Maywood. (Ex. 5). At hearing, the Applicant entered into the record the originals of proof of certified mail service in compliance with the notice of hearing requirements set forth in the Act and the Siting Ordinance. (Ex. 6).

In addition to the notices of hearing served and published by the Applicant in cooperation with the Village, the Village also published supplemental notices of the public hearing in the June/July edition of the Maywood News (Maywood Ex. 1) and on the Village's website (Maywood Ex. 2).

Based upon the record established in this matter, the undersigned asserts that the Applicant has satisfied the notice and service requirements of the Act and the Siting Ordinance. Accordingly, it is recommended that the Village Board find that Section 39.2 and the notice requirements of the Siting Ordinance were met (and exceeded) and that the Village has

jurisdiction over the Applicant and Application so as to enable the Village Trustees to render a decision on the siting criteria.

### The Proposed Facility

The Applicant is requesting siting approval to develop a solid waste transfer station on property located at 1201 Greenwood Avenue in Maywood, which would be owned by Roy Strom Building Corporation, Inc. ("Strom") and operated by Greenwood Transfer, LLC. (App. Ex. 1 at 1). The proposed facility which is the subject of this siting request would occupy approximately 1.99 acres of an overall 5.64 acre property, situated 170 feet east of Greenwood Avenue, north of Wilcox Street in Maywood, Cook County, Illinois. (App. Ex. 1 at 10.).

The proposed facility "expects to process" and is designed to accept 1,000 tons per day ("tpd") of municipal and non-hazardous solid waste, based upon a daily waste acceptance rate of 1,000 tpd. (App. Ex. 1 at 10). The size of this transfer station is relatively small based on this volume (Tr. 252).

The proposed design calls for an approximately 1,405 square foot addition and several modifications to an existing 10,080 square foot building formerly used for recycling. (App. Ex. 1 at 10). The primary modifications to the building includes to the tipping floor and the addition of a recessed transfer trailer loading bay. (App. Ex. 1 at 62). The facility will be improved with paved access drives, internal circulation drives, stacking lanes and parking lots. (App. Ex. 1 at 62). Facility access and the facility entrance from Wilcox Street is described in the Application and includes paving, widening to accommodate not only single unit waste collection vehicles such as 32-foot long packer trucks and roll-off trucks, but also articulated transfer trailer vehicles which are 14-foot long tractors in tandem with a 48-foot long trailer.

Access roads will be designed and constructed to meet local and state requirements. (App. Ex. 1 at 65). While all vehicles entering the facility will utilize the Wilcox Street entrance, emergency access will also be provided when necessary through a gated opening at the termination of Legion Street. (App. Ex. 1 at 62).

The transfer building will comply with all building ordinances. Doorways will be located to minimize view of operations from and to direct any potential pathways for odor away from surrounding properties. (App. Ex. 1 at 62).

The transfer building will be equipped with a fire-control system designed in accordance with local requirements and national standards. A misting system designed to control dust and odors will also be installed within the transfer building and will include a neutralizer to counteract odors emanating from waste. The transfer facility will be fenced. (App. Ex. 1 at 65).

Stacking space for incoming vehicles will be provided and the Application includes a stacking analysis documenting the adequacy of the vehicle queuing areas. (App. Ex. 1 at 66).

Waste operations will be conducted between 6:00 a.m. and 6:00 p.m. Monday through Saturday, although maintenance and cleaning may be conducted at other times. (App. Ex. 1 at 70). A load check program, along with random inspections of incoming loads to detect unauthorized or unpermitted wastes will be in place to help restrict regulated hazardous wastes, regulated and manifested special wastes, regulated PCB material, potentially infectious medical wastes, liquid wastes, regulated asbestos containing material, radioactive wastes, lead acid (automotive) batteries, white goods and tires. (App. Ex. 1 at 70-71).

Incoming vehicles will be weighed then proceed to the transfer building, where they will back into the tipping floor area as directed by facility personnel and unload the waste. Waste transfer activities will only occur inside the transfer building. A front-end loader will stockpile

waste materials against pushwalls, then scoop the waste into a waiting transfer trailer within the recessed loading bay. (App. Ex. 1 at 71). After unloading their waste, collection vehicles will drive out of the building and proceed south towards the exit. When fully loaded the transfer trailer will be tarped and will drive directly out of the loading bay to the exit. (App. Ex. 1 at 72).

All waste will be removed from the tipping floor at the end of each operating day. If a transfer trailer is then only partially full, it may be tarped and parked inside until the next operating day when it will be filled and then depart. (App. Ex. 1 at 72).

The tip floor and loading bay will be cleaned, at a minimum, of once at the end of each operating day. If necessary to control odors, a pressure washer and disinfectant may also be used. (App. Ex. 1 at 75).

Litter control measures include transfer only within the building; waste vehicles will be containerized or covered and will be required to have devices in place to prevent moisture from dripping onto roadways. (App. Ex. 1 at 76). The facility fence and berm will aid in litter from blowing off-site; at least one (1) employee will be charged with patrolling the facility throughout the operating day to collect litter that escapes from the building or vehicles using the facility. (App. Ex. at 76). A total of four (4) daily or up to six (6) employees are projected to run the facility. (App. Ex. at 76).

Vector, dust and odor control are further detailed in the Application at pages 77-78 and includes the transfer of waste on a "first in, first out" basis. Personnel training will also be required toward this end.

The following is a summary of the evidence in the Application and the hearing record on each criterion, with commentary on the evidence. The summary of the evidence which follows

is just that, only a highlight of the evidence on each criterion. It is not intended to supplant or supplement the post-hearing filing, the transcripts or exhibits.

**CRITERION #1: NEED**

**Whether the facility is necessary to accommodate the waste needs of the area it is intended to serve.**

Whether this criterion has been met often hinges on the service area that the Applicant intends for the proposed facility to serve. The service area identified by this Applicant includes eight (8) townships in Cook County and four (4) townships in eastern DuPage County. (App. Ex. 1 at 23). Defining the service area is the Applicant's choice or prerogative under the siting law.

The Applicant's case on criterion #1 was presented and prepared by Phil Kowalski, a solid waste planner with Shaw EMCON/OWT, Inc. ("Shaw"), who was offered and accepted as an expert in the field of solid waste planning at hearing. (Tr. 194, 197). Mr. Kowalski authored the needs report in Section 1 of the Application; his analysis was based on receipt at the proposed facility of 1,000 tons per day of total waste. (App. Ex. 1 at 22, 24).

Mr. Kowalski identified the service area defined by the Applicant, summarized disposal trends within the service area, calculated the overall waste disposed by the service area (an average daily annual quantity of slightly more than 5,100 tpd), and calculated the disposal capacity reasonably available to the service area. (Tr. 221).

In his report and in his testimony, Mr. Kowalski concluded that the proposed service area is currently experiencing a disposal capacity deficit, that this deficit is increased during seasonal fluctuations (Tr. 221, 224), and that this deficit will increase during the next several years due to the increase in demand for disposal capacity compared to the anticipated supply of disposal

capacity within the designated service area. His analysis includes economic factors (Tr. 223), the history of Strom's family business at this general location (App. Ex. 1 at 22), the location of the facility as it relates to the population center (Tr. 226) and the transportation network (Tr. at 265) as well as the local benefits promised by the Applicant to Maywood in the Host Agreement and as discussed with the Village and staff prior to the filing of the Application. (Tr. 228-230; App. Ex. 1 appendix B). He opined that the proposed facility is necessary to accommodate the waste needs of the area it is intended to serve. (Tr. 231).

Mr. Kowalski testified that he has prepared need assessments such as the one prepared here reports for other transfer stations; need analyses uses accepted methodologies and using such methods, he finds an immediate waste capacity deficit.

No expert countered Kowalski's testimony or identified any flaws in his methodology. A question raised by public comment was how a need for this facility exists when the proposed facility is not deemed necessary to serve Maywood, and when an even larger transfer station is located nearby in Melrose Park, within five (5) miles of the proposed site. As to the transfer station in Melrose Park, Kowalski testified that it is already nearing capacity; further that he is aware of other transfer stations which have a five (5) mile service area and thus, this one, too is within range.

Acknowledged throughout the needs analyses in the Application and testimony is that Kowalski's assessment is premised on the transfer facility's receipt of 1,000 tpd of waste. Kowalski demonstrated no need for a transfer station accepting more than 1,000 tpd of solid waste. Accordingly, it is recommended that the Village Board condition siting approval on a maximum receipt at the proposed transfer facility of an annual average of 1,000 tpd of waste. In addition, the Village Board should consider conditioning its approval on this criterion on the

Applicant's compliance with the Host Agreement and terms of appendix B of the Application, which Kowalski used as factors in finding a need for this transfer station.

**CRITERION #2: HEALTH, SAFETY AND WELFARE**

**Whether the facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.**

Devin Moose of Shaw, the lead engineer for the Applicant on this project, testified for criterion #2. He was offered and accepted as an expert in the field of solid waste planning and solid waste facility design. (Tr. 419-420). Mr. Moose described the existing site plan of the Roy Strom operations as well as the proposed site plan, which involves the expansion of an already existing industrial building that has been used for sorting of recyclable materials. In particular, he described the floor plan, building elevations, building cross sections, and traffic flow patterns within the site for the proposed operation.

Referring to the more detailed plans contained in the Application at pages 60-75 and as described above, Devin Moose also summarized the facility's plans for dust control, odor control, noise control, fire control, litter control, and vector control. For example, he described how the plans to modify the building by installation of the doors to the north will help control potential odors to the surrounding properties. He described the load check program for the detection of unpermitted and unauthorized wastes as well as the random inspection procedure, to better insure that only non-hazardous solid wastes are accepted for transfer at the proposed facility. He also described the permit procedures of the Illinois Environmental Protection Agency ("IEPA") that would apply to the proposed facility hereafter, if local siting approval is granted. On the basis of the plans and other detailed information contained in the Application,

Mr. Moose gave his expert opinion that the proposed facility is designed, located and proposed to be operated in a manner that will protect public health, safety and welfare. (Tr. 420-421).

In addition to the Applicant's testimony, a letter was submitted into the public record from Tom Minett of Ecosorb, representing and describing the type of odor control misting system that the Applicant will install and use to minimize odors at the facility.

While the proposed facility plans for the control of litter, dust, odor and vectors was detailed in the Application, public comment emphasized concern with these daily operational issues and the adequacy of these proposals. Therefore, the Village Board should consider conditioning siting approval on each procedure or control measure identified in the Application for the management of litter, dust, odor, noise and vectors such as on the following points regarding health, safety, welfare and as more fully set out in the proposed Resolution:

- removal of waste from and cleaning of the tip floor daily as described in the Application;
- utilization of the misting system described in the application including neutralizers when necessary;
- modification of the building to install the doors on the north of the building as described in the Application;
- daily patrol of the facility by an employee to collect litter from the facility or vehicles using the facility as described in the Application;
- tarping, covering and containerizing vehicles as described in the Application; and
- utilizing the Neighborhood Relations Program as described in Appendix U of the Application.

Note, also, the discussion under criterion #6 regarding traffic and roadway conditions that may also bear on the decision of the Village Board under this criterion #2.



### CRITERION #3: REAL ESTATE

**Whether the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of surrounding property.**

Christopher Lannert, principal of the Lannert Group, was offered and accepted as an expert in the field of land use and land planning. (Tr. 62-63). Mr. Lannert reviewed the comprehensive plan and zoning ordinance for Maywood showing the area encompassing the facility to be designated as industrial, and also reviewed zoning in the municipalities and unincorporated portion of Cook County surrounding the site. (Tr. 63-64, 72-73, 76). In compliance with the Siting Ordinance, Mr. Lannert described the surrounding land uses within a one-mile study area of the proposed facility, as well as the land uses of the property immediately surrounding the proposed facility (Tr. 64-68).

#### Section 22.14 Discussion

Lannert's report in Section 3 of the Application finds that there are no residential zoned properties located within the 800 foot set back requirement of Section 22.14 of the Act. (App. Ex. 1 at 89). It is this setback provision which is the subject of the letter and oral public comment of counsel on behalf of an undisclosed client, previously referenced above.

One person presenting oral public comment, John Nocita, identified himself as an attorney appearing on behalf of himself and a client. He had not registered as counsel for any participant. He refused to identify his client, or whether the client was a resident of the Village, or whether the client was a person or a corporate entity, but was nevertheless allowed the opportunity to make an oral public comment. (Tr. 189-192).

Upon questioning whether he planned on submitting a statement in writing to make it part of the public record, Mr. Nocita stated that he planned "to stand on [his] oral statement."

(Tr. 192). During the 30-day written public comment period, on July 27, 2004, the Hearing Officer received a copy of a one-page letter addressed to the Village Clerk, sent by John Nocita dated July 22, 2004, which the Village Clerk also confirmed he received.

Mr. Nocita's letter stated his "belief that the proposed project does not meet the minimum setback requirements from properties zoned for residential use as established by the Illinois Environmental Protection Act, Section 22.14." However, Mr. Nocita admitted during oral public comment that he had not reviewed the residential setback documentation contained in Appendix G of the Application. (Tr. 191).

In his letter, Mr. Nocita claimed that "within 800 feet of the proposed project, please note that several lots on the north bank of the Des Plaines River east of the proposed project are zoned R-1." However, he did not include a copy of any zoning map or other documentation in the record to support his claim, or to rebut the evidence of the Applicant's compliance with the residential setback requirement contained in Appendix G of the Application, or the zoning aerial map presented by Christopher Lannert. (Tr. 72-73; Ex. 9, p. 12).

Counsel for the Applicant submitted a timely written public comment letter dated July 29, 2004, containing information and supporting documentation to directly refute the claim by Mr. Nocita that there is any property "zoned for primarily residential uses" within 800 feet of the boundaries of the proposed facility, within the meaning of Section 22.14(a) of the Act, 415 ILCS 22.14(a). Section 22.14(a) of the Act states as follows:

(a) No person may establish any pollution control facility for use as a garbage transfer station, which is located less than 1000 feet from the nearest property zoned for primarily residential uses or within 1000 feet of any dwelling, except in counties of at least 3,000,000 inhabitants. In counties of at least 3,000,000 inhabitants, no person may establish any pollution control facility for use as a garbage transfer station which is located less than 1000 feet from the nearest property zoned for primarily residential uses, provided, however, a station which is located in an industrial area of 10 or more contiguous acres may be located

within 1000 feet but no closer than 800 feet from the nearest property zoned for primarily residential uses. However, in a county with over 300,000 and less than 350,000 inhabitants, a station used for the transfer or separation of waste for recycling or disposal in a sanitary landfill that is located in an industrial area of 10 or more acres may be located within 1000 feet but no closer than 800 feet from the nearest property zoned for primarily residential uses.

415 ILCS § 22.14(a) (2004).

Although neither Mr. Nocita nor anyone else included in the record any specific information indicating that the facility will not meet the residential zoning setback requirement of Section 22.14, the Applicant investigated this claim independently and found that the only possible basis for such a claim may be due to a current error appearing on the zoning map of the Village of Forest Park, which is the municipality located across the Des Plaines River just east of the proposed facility. As identified in the Applicant's written comment letter, the Forest Park zoning map identifies portions of a few parcels as partially located on the east side of the Des Plaines River, in the area of what is considered Concordia Cemetery's property. According to the Applicant's written comment letter and supporting documentation submitted therewith, a rezoning of Concordia property in 2001, the historical records recorded with the Cook County Recorder's Office, and the acknowledgement of the Cook County Clerk, Concordia's property is found to extend to the eastern edge of the Des Plaines River and is zoned B-1 in Forest Park. In addition, the parcels identified as partially crossing the river are not, in fact, within the jurisdiction of the Village of Forest Park and therefore not zoned residential, but rather zoned M-1 industrial within the Village of Maywood.

Section 39.2(g) of the Act states: "The siting approval procedures, criteria and appeal procedures provided for in this Act for new pollution control facilities shall be the exclusive siting procedures and rules and appeal procedures for facilities subject to such procedures. Local zoning or other local land use requirements shall not be applicable to such siting decisions."

Further, the determination of compliance with Section 22.14 of the Act is within the jurisdiction of the IEPA during its permit review, should siting be approved. Counsel for the Applicant suggests that whether or not Mr. Nocita has standing as a participant in this proceeding, either on his own or as an attorney for a client he refused to identify and for whom he did not file an appearance, is a question of law to be decided in this proceeding. Given the documentation that the Applicant filed in support of its position on this issue, and the lack of supporting documentation from Mr. Nocita, if the Village Board decides Section 22.14 compliance, the undersigned recommends that the Applicant's posthearing comment should be given greater weight than that of Mr. Nocita.

#### **Real Estate Discussion Continued**

Lannert described the site visually from all major vantage points (Tr. 68-71), and described the facility as a "facility within a facility," screened from view from Greenwood Avenue by the administrative building and other operations of the Roy Strom businesses that have existed at this location for more than 42 years (Tr. 75-76). Mr. Lannert opined that the proposed facility is located so as to minimize incompatibility with the character of the surrounding area.

Michael McCann, President of William McCann & Associates, was offered and accepted as an expert in the field of real estate appraisal (Tr. 124-126). Mr. McCann summarized the results of impact studies he conducted for property surrounding several other transfer station locations, both industrial and residential study areas, and found that property within the control areas of each study did not appreciate in value more than the property within the target area.

For example, McCann studied the Onyx Melrose Park transfer station, considered by McCann to reflect comparable circumstances to the proposed facility, in light of both being

located in west suburban Cook County, in established areas where housing has similar price levels and market appeal; the Onyx facility, however, has greater capacity than the 1,000 tpd proposal here. McCann found that the Onyx transfer station has not had a detrimental effect on the use, occupancy, marketability or resale value of neighboring residential properties. (App. Ex. 1 at 139).

In observing that there has been existing truck traffic to and from the various Roy Strom businesses on the Strom site, and that trucks in and out of the proposed facility also will only use Wilcox and not the residential side streets, Mr. McCann described the proposed operation as essentially an adjunct to or expansion of the type of use historically already existing in that area. (Tr. 143-144). McCann stated that his opinion is premised on limiting access to the facility from Wilcox Street. (Tr. at 152-153). On the basis of his impact studies and evaluation in other cases, Mr. McCann opined that the proposed facility is located so as to minimize the impact on surrounding property values (Tr. 143-144). Given that McCann's report is dependant on the use of Wilcox Street for access, the Village Board should condition siting approval upon this restriction.

#### CRITERION #4: FLOOD PLAIN

**Whether the facility is located outside the boundary of the 100-year flood plain or the site is flood-proofed.**

Devin Moose testified that the proposed site boundaries are located completely outside the 100-year flood plain (Tr. 421), according to the Federal Emergency Management Agency map and the Flood Insurance Rate Map for Cook County (Appendix H of Application). No person testified in opposition to the Applicant concerning criterion #4 and no public comment raised this criterion as an issue.

## CRITERION #5: OPERATIONAL PLAN

**Whether the plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents.**

Devin Moose summarized the facility's plans for fire control and spill control, referring to the more detailed plans contained in the Application. Mr. Moose gave his expert opinion that the overall plan of operations for the proposed facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents. (Tr. 421).

Section 5 of the Application contains the plan of operations for fire, spills and other operational accidents, along with Appendix Q, which is a copy of the Health and Safety Plan for the proposed facility. Section 5 sets forth the personnel training to be conducted, the protective equipment for personnel, emergency and fire response plans and procedures, as well as fire prevention measures. (App. Ex. 1 at 173-175).

An extensive spill prevention and response plan is set forth. For example, while no liquid waste will be accepted, in case there is a spill, the slope of the tip floor is designed toward the pushwall rather than the doors of the building to better enable containment or the spill leaving the transfer building. (App. Ex. 1 at 179). The plan also references the 3-point load check procedure of all incoming loads, the weekly random inspection program and the ultimate ban of those haulers who repeatedly attempt to deliver unacceptable waste. (App. Ex. 1 at 181).

The safety plan references that select employees "may" be required to complete 40 hours of training in accordance with OSHA Standards to better enable identification of hazardous materials. The Village Board should consider a condition requiring such training for select personnel to better identify hazardous materials at the facility. In addition, the Village Board should consider requiring the Applicant to meet with the Maywood Fire Department to

determine appropriate features, including fire hydrants if the Department deems necessary, as the Applicant suggest it will do. (App. Ex. 1 at 175). It may also consider a condition requiring the Applicant to contract with a hazardous material management firm to provide emergency response services, as the Applicant proposes. (App. Ex. 1 at 178). Finally, the Village Board may also wish to require the weekly random inspection as referenced in the Application as condition.

#### **CRITERION #6: TRAFFIC PATTERNS**

**Whether the traffic patterns to, or from, the facility are designed so as to minimize the impact on existing traffic flows.**

Robert Hamilton, principal of Gewalt-Hamilton, Inc., who is a professional engineer and a professional traffic operations engineer, and has served as traffic engineer for 15 municipalities, was offered and accepted as an expert in the field of traffic engineering and evaluation. (Tr. 281-285). Mr. Hamilton prepared the traffic impact report contained in Section 6 of the Application and testified for the Applicant for this criterion. In support of this criterion, he testified that the facility is located conveniently to area roadways, including less than one-half mile from I-290/Eisenhower Expressway; that the facility's site traffic peak periods are offset from the peak periods of the area's overall traffic movement; that site-generated traffic volumes are very low relative to existing traffic on area roadways, and that there is no expected change in Level of Service on nearby intersections due to site-generated traffic. (Tr. 287-308; App. Ex. 1 at 188).

Mr. Hamilton made the following recommendations to help minimize the facility's impact on traffic flows: an intersection improvement at 1st Avenue and Wilcox Street to widen the turning radius for incoming trucks (R. 301-303); a restriction of site-generated traffic to use

Wilcox Street and not use the surrounding residential streets (R. 304); a prohibition of parking along Wilcox Street within 100 feet of the intersection with 1st Avenue, and also along the north side of Wilcox to the site entrance (R. 305); and traffic control signs on 1st Avenue prohibiting vehicles from blocking the intersection at Wilcox (R. 306).

Mr. Hamilton gave his expert opinion that the traffic patterns to and from the facility are designed so as to minimize the impact on existing traffic flows, particularly considering the Applicant's willingness to undertake the recommended traffic improvement. (Tr. 308-309).

The Applicant also agreed to make certain repairs along Wilcox Street and contribute toward the cost of future maintenance and repair of Wilcox, as detailed in the Applicant's letter to the Mayor and Village Board of Trustees dated March 10, 2004 (Appendix V of Application, "Additional Benefits Offered to the Village of Maywood", Ex. 1; *see also* Tr. 305).

Traffic concerns were clearly a primary issue in public comments. More than one resident raised traffic-related issues. Regarding whether Wilcox was adequate and was so designed for the weight of the transfer-trailers, Hamilton explained his study in the Application and the exception in state law to the weight restriction as referenced in the Application at page 195. Hamilton testified extensively that the peak hours of the existing traffic and of the facility did not coincide. (Tr. 289). Whether a signal would not improve traffic flow, Hamilton explained that a signal can only be installed if required by state law and approved by the Illinois Department of Transportation. Based on general public comments regarding traffic, it appeared residents questioned whether the finding of what was described as a minimal increase in traffic and overall vehicle delay was credible.

It should be noted that this criterion does not require the Applicant to demonstrate that its facility will have no impact on existing traffic flow, only that it demonstrate that "the traffic



patterns to or from the facility are so designed as to minimize the impact on existing traffic flows." One element supporting this criterion is the directional issue, that waste vehicles are expected to and from the south, *i.e.* I-290. However, it is also clear that Hamilton's opinion is dependant upon his recommended improvements, and thus, it is recommended that the Village Board, if siting approval is granted, condition the approval on his recommendations.

Precedent under the siting law authorizes the decision-maker to hold an Applicant to standards more stringent than state regulations require, at least under criterion #2. *See, e.g., McHenry County Landfill, Inc. v. IPCB*, 154 Ill. App. 3d 89, 506 N.E.2d 372 (2d Dist. 1987). It is not known whether this same analyses would apply in the context of traffic. For example, Hamilton and the Applicant rely on an exception in the Illinois Vehicle Code to suggest that the weight limits on Wilcox and Madison are adequate for the transfer trailers, even though they have a restriction of 73,280 pounds, because the distance from I-290 is less than one mile. (App. Ex. 1 at 195). The Illinois Vehicle Code states:

(f-2) A vehicle and load greater than 73,280 pounds in weight but not exceeding 80,000 pounds is allowed access as follows:

(1) From a Class I highway onto any street or highway for a distance of one highway mile for the purpose of loading, unloading, food, fuel, repairs, and rest, provided there is no sign prohibiting that access.

625 ILCS § 5/15-111(f-2)(1) (2004).

No precedent was found applying this exception to the loading or unloading of waste to and from a transfer station. Note, too, that where the sufficiency of roads is a concern, rather than traffic patterns, the local decision-maker may determine that road conditions are relevant to criterion #2 on health, safety and welfare. Land & Lakes Company v. Randolph County Board of Commissioners, PCB 99-69 (Sept. 21, 2000).

Accordingly, the Village Board may determine that this criterion has not been met if, for example, it chooses to raise a legal question whether the exception in the Illinois Vehicle Code applies to the facts here. Its determination as to the sufficiency of the road conditions may also impact its finding whether the Applicant has met criterion #2 as to health, safety and welfare.

#### **CRITERION #7: NON HAZARDOUS WASTE**

**If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release.**

Devin Moose of Shaw testified that the proposed facility will not accept any hazardous waste, nor will it accept special waste, PCBs (polychlorinated biphenyls), potentially infectious medical waste, liquid waste, asbestos containing material, radioactive waste, lead acid batteries, white goods, or old tires. (Tr. 380-381, 423).

Because the proposed facility will not treat, store or dispose of hazardous waste, criterion #7 is not applicable to this Application. Although criterion #7 is inapplicable, in Sections 2.4 and 5 of the Applications the Applicant identifies a load-checking program, including a screening program and random inspections of incoming loads, to prevent hazardous waste from entering the facility and to isolate any unacceptable hazardous waste for proper disposal.

#### **CRITERION #8: PLAN CONSISTENCY**

**If the facility is to be located in a county where the County Board has adopted a solid waste management plan consistent with the planning requirements of the Local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan.**

Phil Kowalski, a solid waste planner with Shaw, was offered and accepted as an expert in the field of solid waste planning. (Tr. 194, 197). Mr. Kowalski summarized the Cook County

planning process, including the plans adopted by Cook County and the West Cook Solid Waste Agency, and testified that the increasing use of transfer stations to handle waste disposal from Cook County to distant landfills is both a trend and goal of the Cook County and West Cook County solid waste plans. (Tr. 200-203).

Mr. Kowalski gave his opinion that the proposed facility is consistent with the solid waste management plan adopted by Cook County, including the sub-plan adopted by the West Cook County Solid Waste Agency. (Tr. 204-205).

Donald Storino, Executive Director of the West Cook Solid Waste Agency, also offered public comment and submitted a written comment, concluding that the proposed facility is consistent with the West Cook agency's current solid waste management plan, and that the proposed facility will provide needed transfer capacity to both residents and businesses in the west Cook County region and beyond. (Tr. 49-55). No public comment addressed criterion #8.

#### **CRITERION #9: REGULATED RECHARGE**

**If the facility will be located within a regulated recharge area, any applicable requirements specified by the Pollution Control Board for such areas have been met.**

Devin Moose testified that this criterion is inapplicable because there is only one regulated recharge area in the State of Illinois, located in Peoria County (Tr. 423; *see also* Appendix L of Application). No public comment addressed this criterion #9 or regulated recharge areas.

#### **Operator Experience**

What is sometimes referred to as the 10th siting criteria allows the decision-maker to consider the applicant's experience in solid waste management and its compliance record in deciding whether criteria 2 and 5 have been met.

Roy Strom, principal of the Applicant as well the other Roy Strom businesses, testified concerning the prior operating experience of himself and Roy Strom Refuse Removal Service in the field of solid waste management, including the 42-year history of the family businesses at this location in Maywood. (Tr. 31-34).

Dale Brooks, the Manager of Greenwood Transfer LLC, also testified that Roy Strom Refuse Removal Service, with which the Applicant's principals are also affiliated, has operated a recycling facility for the past 12 years at the same location as the proposed facility, and testified that the owners and principals of the Applicant and the other Roy Strom businesses will continue to be located on location to help make sure that the proposed facility is operated efficiently, safely and cleanly. (Tr. 34-37).

Neither the Applicant nor any of the Roy Strom businesses has any past record of convictions or admissions of liability in the field of solid waste management, as documented in the Application. (Tr. 390; Appendix N.3 of Application, Ex. 1).


Devin Moose testified that, as the primary consultant on the Applicant's project, he has more than 20 years experience in the field of solid waste management, has been the lead engineer for siting 15 and permitting 20 transfer stations in Illinois, and has been the reviewing engineer on behalf of local governments evaluating siting for eight (8) other transfer stations in Illinois. (Tr. 374, 378). Mr. Moose also testified that experience of the Roy Strom businesses in operating a materials recycling facility is similar to and probably more difficult than the Applicant's proposed operation of a solid waste transfer station. (Tr. 390). He noted that the June 2004 edition of Waste Age Magazine identified Roy Strom Refuse Removal Service, Inc. as one of the top 100 businesses in the solid waste industry. (Tr. 391-392, 509; Ex. 15).

Public comment suggested that the Applicant's existing business at this location has not created noxious odors, and other such nuisance conditions (Tr. 500-502). Accordingly, the operator's experience bears favorably on criteria 2 and 5.

### RECOMMENDATION

Based on the contents of the entire Application submitted by the Applicant, the testimony presented at the public hearing, the exhibits admitted into the record, the oral and written public comments received into the record, and the Applicant's Proposed Findings, the undersigned respectfully recommends that the Village of Maywood Board of Trustees grant local siting approval for a new non-hazardous municipal solid waste transfer station with an annual average of 1,000 tpd, as proposed by the Applicant, subject to the conditions recommended in the Report and Draft Resolution, as the Village Board deems reasonable and necessary and supported by the record. An alternative Draft Resolution denying siting approval is also attached for your consideration.

Respectfully Submitted,

By:   
Christine G. Zeman  
Hearing Officer

**JOHN F. NOCITA  
ATTORNEY AT LAW  
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July 22, 2004

Mr. Ralph McNabb  
Village Clerk  
Village of Maywood  
40 East Madison Street  
Maywood, IL. 60153

RE: Greenwood Transfer, LLC

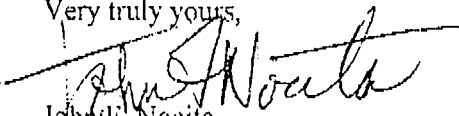
Dear Mr. McNabb:

I am writing this letter as a follow up to my public comments made at the June 28, 2004, Local Siting Approval Hearing for the Greenwood Transfer, LLC project. After reviewing the Application for Local Siting Approval submitted by Greenwood Transfer, LLC, it is my belief that the proposed project does not meet the minimum setback requirements from properties zoned for residential use as established by the Illinois Environmental Protection Act, Section 22.14.

Although the zoning map seems to reflect real estate zoned B-1, within 800 feet of the proposed project, please note that several lots on the north bank of the Des Plaines River east of the proposed project are zoned R-1. By law, this zoning designation precludes the Greenwood Transfer, LLC site from being granted Local Siting Approval for the development of a transfer station.

Your attention and consideration of these facts is appreciated.

Very truly yours,

  
John F. Nocita

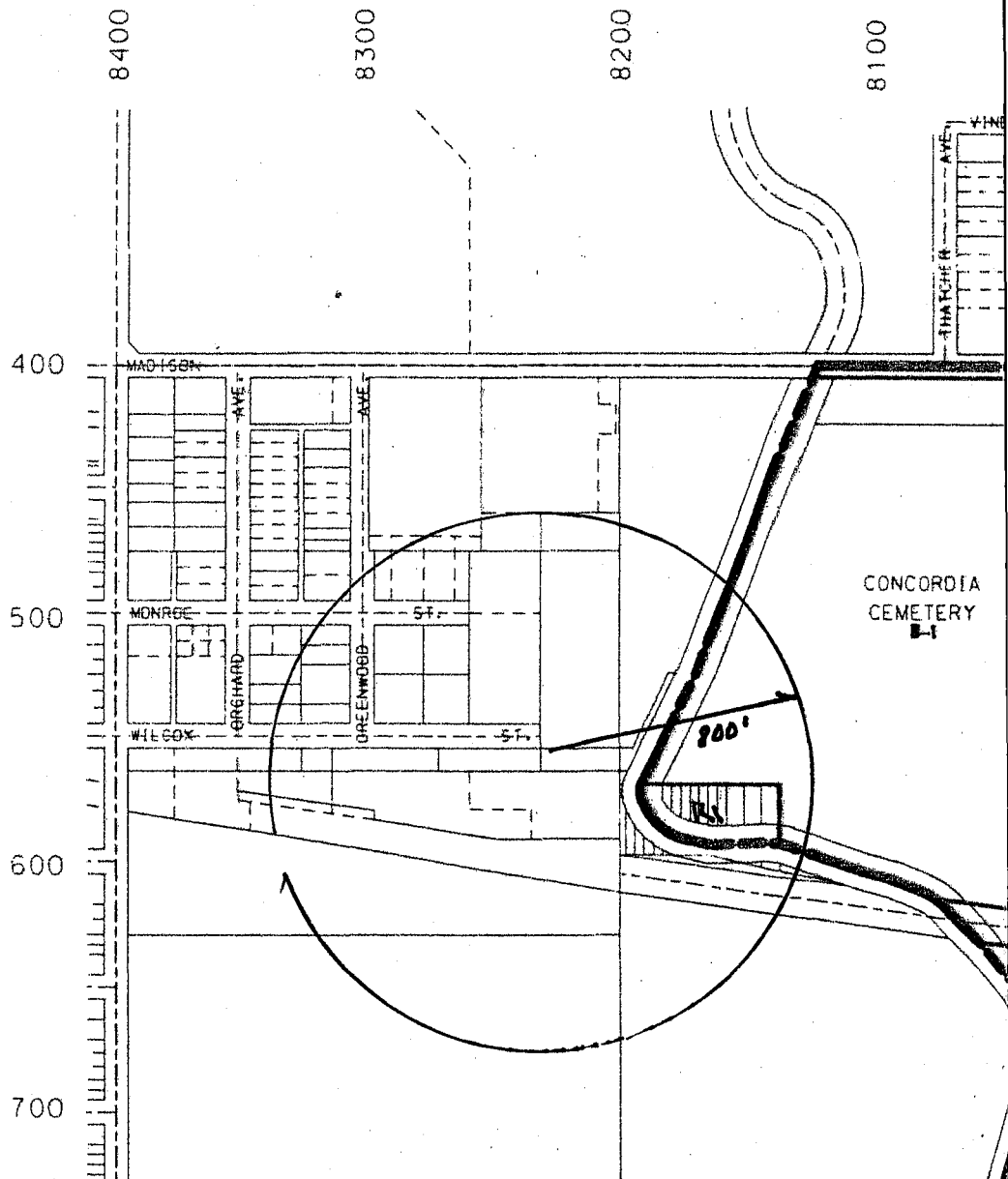
Cc: Hearing Officer, P.O. Box 5776, Springfield, IL 62705-5576

EXHIBIT C

# VILLAGE OF FOR

# OFFICIAL ZONING

AMENDED TO INCLUDE ALL P  
THRU DECEMBER 31, 2



0 100' 500' 1000'

## LEGEND

- R-1 LOW DENSITY RESIDENTIAL DISTRICT
- R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT



# WEST PARK ZONING MAP

REVISIONS  
003

