

COPY

IN THE COURT OF COMMON PLEAS OF NORTHAMPTON, PENNSYLVANIA
CIVIL DIVISION

ST. LUKE'S HOSPITAL – ANDERSON
CAMPUS

Appellant

v.

LOWER SAUCON TOWNSHIP

Appellee

No. C-48-CV-2024-

00093

LAND USE APPEAL

NOTICE OF LAND USE APPEAL

AND NOW comes, Appellant, St. Luke's Hospital – Anderson Campus, by and through its counsel, Fitzpatrick Lentz & Bubba, P.C., and it hereby files the following Notice of Land Use Appeal and in support thereof it avers as follows:

1. This is an appeal of the decision of Lower Saucon Township pursuant to Article X-A of the Pennsylvania Municipalities Code, 53 P.S. §11001-A et. seq. (the "MPC"); this appeal pertains to the approval of an application for that plan entitled Plan set entitled "Phase V Preliminary Land Development & Lot Consolidation Plan" (the "Application") and certain waivers as reflected in the December 6, 2023, correspondence sent to the Bethlehem Landfill Company (the "Decision"). See Exhibit "A".

2. Appellant is St. Luke's Hospital – Anderson Campus (hereinafter referred to as "St. Luke's"), a domestic non-profit corporation with a business address at 1872 Riverside Circle, Easton, PA 18045.

3. St. Luke's operates a hospital campus including a hospital with Emergency Room, Cancer Center, Level II Trauma Center, Organic Farm, Medical Office Building, Maternity Ward, and

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NORTHAMPTON CIVIL DIVISION
NORTHAMPTON COUNTY, PA

Neonatal Intensive Care Unit in Bethlehem Township known as St. Luke’s – Anderson Campus (hereinafter the “**Anderson Campus**”), which is located at 1872 Riverside Cir., Easton, PA 18045.

4. Appellee is Lower Saucon Township (hereinafter referred to as the “**Township**”), a Second-Class Township organized and existing pursuant to the Second-Class Township Code, 53 P.S. §65101 *et. seq.* and an Optional Plan of Government in accordance with the Home Rule Charter and Optional Plans Law, 53 Pa.C.S. §2901 *et seq.*, with an address at 3700 Old Philadelphia Pike, Bethlehem, PA 18015.

5. On May 8, 2023, this Honorable Court entered a decision, in a prior action between the parties (*Petrie v. Lower Saucon Township*, Docket #48-CV-2023-0035), holding procedurally invalid Lower Saucon Township Ordinance 2022-02 (the “**Prior Zoning Amendment**”). The Prior Zoning Amendment rezoned approximately 275 acres from Rural Agricultural to Light Industrial with landfills or waste disposal facilities designated as conditional uses.

6. On August 30, 2023, the Township, upon request from the Bethlehem Landfill Company (the “**Landfill**”), adopted Ordinance No. 2023-05 (the “**Ordinance**”).

7. The Ordinance rezoned approximately 275.7 acres of land (the “**Property**”) owned by the Landfill from the Rural Agricultural (RA) zoning designation to the Light Industrial (LI) zoning designation and reclassified landfills and waste disposal facilities from uses permitted by conditional use to uses permitted by-right.

8. The Property consists of the following seven (7) Northampton County Tax Map Parcels:

Parcel Identifier	Size (Acres)
N8-14-1-0719E	61.4
N8-14-1A-0719	.33
N8-14-1B-0719	.36
N8-14-1B-0719	.45
N8-14-2-0719E	140.3
N8-14-15-0719	89.37
P7-5-33-0719 ¹	224.03

¹ Only 5.8 acres of this parcel was proposed to undergo a zoning change.

9. The Property is adjacent to the Anderson Campus and in clear view of the Anderson Campus.

10. The majority of the Property is encumbered by a pair of substantively identical Scenic and Conservation Easements (collectively the “**Conservation Easements**”) which serve to preserve approximately 208 acres of the Property for scenic and conservation purposes, and which specifically preclude landfill activities. The Conservation Easements are recorded in the Northampton County Recorder of Deeds at Vol. 1994-6, Pg. 102081 (“**Easement 1**”) and Vol. 1994-6 Pg. 102074 (“**Easement 2**”).

11. Approximately eight (8) acres of the Property along the Southern boundary are also subject to a 100’ Woodlands Protection Easement (the “**Woodland Easement**”), incorporated into Easement 1, which is intended to preserve undisturbed woodlands except for the limited purposes of culling dead trees and promoting healthy tree growth.

12. The Conservation Easements and Woodland Easement are applicable to the Property as follows:

Parcel Identifier	Size (Acres)	Easements
N8-14-1-0719E	61.4	Entire Parcel [Easement 1] 8 Acres [Woodlands Easement]
N8-14-1A-0719	.33	Entire Parcel [Easement 1]
N8-14-1B-0719	.36	Entire Parcel [Easement 1]
N8-14-1B-0719	.45	Entire Parcel [Easement 1]
N8-14-2-0719E	140.3	Entire Parcel [Easement 2]
N8-14-15-0719	89.37	None.
P7-5-33-0719	224.03	None.

13. On August 14, 2023, in anticipation of the release of the Conservation Easements, certain parties filed a complaint in the nature of declaratory and equitable relief seeking, *inter alia*, the Court's declaration that the Property is subject to the Donated and Dedicated Property Act and that the Property may not be used for any purpose inconsistent with the Conservation Easements without approval of the Orphans' Court (the "**Conservation Easement Litigation**").

14. On August 30, 2023, the Township also approved Resolution No. 58-2023 adopting and approving an Amended and Restated Host Community Agreement with the Landfill (the "**Amended Host Agreement**"). The Amended Host Agreement provided for host fees and financial benefits to the Township and provided for cooperation between the Township and the Landfill in connection with the expansion thereof.

15. Moreover, on August 30, 2023, the Township released or waived the Conservation Easements over the Property to allow the Landfill to expand the landfill use to the Property.

16. On September 11, 2023, the Landfill filed the Application which proposed a lot consolidation increasing the footprint of the Landfill from 421.47 acres to 503.46 acres while simultaneously increasing the disposal footprint of the landfill by 86 acres on unlined and unpermitted portions of the Property.

17. On October 13, 2023, the Lehigh Valley Planning Commission ("**LVPC**") issued a review letter regarding the Application to the Township. See Exhibit "B".

18. On or about September 18, 2023, certain parties filed with this honorable Court a challenge to the procedural validity of the Ordinance and remains pending (the "**Procedural Challenge**"). See Northampton County Docket No. C0048-CV-2023-7174

19. On or about September 19, 2023 certain parties filed a challenge to the substantive validity of the Ordinance (the "**Substantive Challenge**"). On October 23, 2023 the Lower Saucon

Township Zoning Hearing Board, after declining not to take any evidence, the Zoning Hearing Board determined that the Substantive Challenge was deemed denied. The deemed denial of the Substantive Challenge was appealed to this Court and remains pending. See Northampton County Docket No. C0048-CV-2023-09455.

20. On October 19, 2023, Hanover Engineering, the Township Engineer, issued a review letter regarding the Application to the Township. See Exhibit "C".

21. Despite the significance of the project that is the subject of the Application and considerable public opposition, the Application was the subject of a single Planning Commission meeting at which a quorum was present and limited proceedings before the Lower Saucon Township Board of Commissioners. At such meetings Appellants were denied the opportunity to make statements or present evidence in opposition to the Application.

22. On December 6, 2023, the Application was approved by a 3-2 vote of the Township, and the Decision was issued to the Landfill and signed by the Landfill on December 13, 2023.

23. The Township also granted twenty-three (23) waivers from the requirements of the Township Subdivision and Land Development Ordinance ("**SALDO**") and Stormwater Management Ordinance ("**SWMO**") (the "**Waivers**").

24. Appellant believes and therefore avers that the Township abused its discretion and/or erred as a matter of law in approving the Application and/or granting the Waivers for the following reasons:

- a. The approval of the Application and granting of the Waivers was not based on substantial evidence.
- b. The approval of the Application and granting of the Waivers was arbitrary, capricious, and contrary to the law.

- c. The approval of the Application and the Waivers was in violation of Pennsylvania Law as it relied on the Ordinance which is procedurally invalid for the reasons as set forth in the Procedural Challenge.
- d. The approval of the Application and the Waivers was in violation of Pennsylvania Law as it relied on the Ordinance which is substantively invalid for the reasons as set forth in the Substantive Challenge.
- e. The approval of the Application and the Waivers was granted despite the existence of the Conservation Easements and Woodland Easement encumbering relevant portions of the Property and prohibiting the same from use for landfill activities.
- f. The approval of the Application and the Waivers was granted despite the Township failing to receive approval of the Orphans' Court to assent to the change of use of land dedicated to the public trust in violation of the common law public trust doctrine and the Donated or Dedicated Property Act, 53 P.S. §3383, *et seq.*
- g. The Township did not have substantial evidence to support granting the Waivers because the Landfill did not prove unreasonableness, hardship, or the sufficiency of alternative means which would provide equal or better results to the Waivers as required by 53 P.S. §10503(8) and/or §10512.1 and the Decision lacks adequate determinations, findings or documentation of the same.
- h. The approval of the Application was granted despite the Application not being in compliance with the Municipalities Planning Code, Lower Saucon Township Zoning Ordinance, Subdivision and Land Development Ordinance, Stormwater Management Ordinance, and all other applicable ordinance provisions.
- i. The approval of the Application and the granting of the Waivers was accomplished despite contrary recommendations of the Lehigh Valley Planning Commission and Township Engineer.
- j. Appellants, and the public in general, were denied their right to participate in the public hearing related to the Application and the Waivers as an affected landowner in violation of the Municipalities Planning Code §53 P.S. 10508 *et seq.*
- k. The approval of the Application and the granting of the Waivers violated due process in derogation of the 14th Amendment of the United States Constitution and the Environmental Protection Clause of the Pennsylvania State Constitution.
- l. The Township failed to hold a public hearing upon request of interested parties.
- m. The approval of the Application and the granting of the Waivers violated the Township's obligation to safeguard the general welfare of the residents of Lower Saucon Township.

- n. As an affected party, St. Luke's was denied its right to participate in the entitlement process, including the hearing related to the Application or the Waivers, including providing expert witness testimony providing evidence of the detrimental affects the Application will have on the surrounding environment, as well as St. Luke's individually.
- o. The Township abrogated its duty to protect the public welfare and ignored its obligation to provide meaningful review of the Application in order to ensure the Application would be approved.
- p. The approval of the Application and the granting of the Waivers was contrary to the Comprehensive Plan of the Township, entitled Our Resources, Our Valley Multi-Municipal Comprehensive Planning in Pennsylvania's Saucon Valley.
- q. The Waivers have the potential to cause damage to the environment, existing Conservation Easements, and the public waterways of the Commonwealth of Pennsylvania.
- r. The approval of the Application and the Waivers violate the Natural Resources Plan of FutureLV and the Bull Run Natural Heritage Inventory Core Habitat by threatening deforestation of existing woodlands and causing environmental stress to a Regional High Preservation Priority Area and a natural Heritage Core Habitat of State Significance.
- s. The approval of the Application and the Waivers was granted despite the LVPC determining that the Application was not consistent with Act 167 requirements including, but not limited to, consistency with the Saucon Creek Watershed Act 167 Storm Water Management Ordinance, April 1991, and the Delaware River Sub-Basin 2 and Lehigh River Sub-Basin 5 (Fry's Run) Act 167 Stormwater Management Ordinance, February 1999.
- t. The approval of the Application and the Waivers was granted despite the Township Engineer opining that the Application was inconsistent with the following fifteen (15) discrete Lower Saucon Township Ordinance provisions:
 - i. §180-22
 - ii. §180-23
 - iii. §180-78
 - iv. §180-93.D
 - v. §180-95.(A)(2)(a)
 - vi. §180-95.B.(17)
 - vii. §180-96.C
 - viii. §180-97.C.(2)(b)
 - ix. §180-97.C.(3)(a)
 - x. §180-97.C.(4)(a)
 - xi. §180-98

- xii. §180-98.B
- xiii. §180-98.B.(4)
- xiv. §180-109.F.(3)(a)
- xv. §180-109.C.(2)
- xvi. §180-109.F.(3)(a)
- xvii. §180-109.F.(3)(h)
- xviii. §180-109.G

- u. The approval of the Application and the Waivers was granted despite §180-109.F(3)(a) establishing that the Landfill may not conduct landfill activities within 100' of the bank of any stream, which the Application proposed without any necessary zoning relief.
- v. The Township and the Landfill acted in concert to ensure approval of the Application, including entering into an agreement to privately share information, thereby abrogating its duty to the public and thwarting public participation.
- w. The approval of the Application and the Waivers was granted despite the proposed expansion of the landfill being incompatible with surrounding uses.

WHEREFORE, Appellant, St. Luke's Hospital – Anderson Campus, hereby requests judgment in its favor, and against Appellee, Lower Saucon Township, and respectfully requests this Honorable Court to overrule the decision of Lower Saucon Township granting conditional Preliminary Plan Approval of the Application for Lot Consolidation and Land Development and to grant the waivers requested by the Bethlehem Landfill and remand the matter to Lower Saucon Township to take evidence related to the above deficiencies.

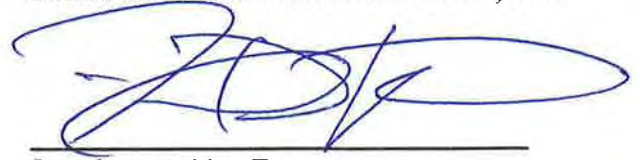
Respectfully submitted,

FITZPATRICK LENTZ & BUBBA, P.C.

Date:

1/4/23

By:



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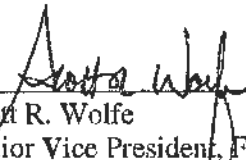
(610) 797-9000

Attorneys for Appellant

VERIFICATION

I am Scott R. Wolfe, Senior Vice President, Finance & Chief Financial Officer. I affirm that I have authority to make this verification on behalf of St. Luke's Hospital – Anderson Campus. I hereby acknowledge and affirm that the statements made in the instant document are true and correct based on my knowledge, information, and belief, and that such statements are made subject to the provisions of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: January 3, 2024

By: 

Scott R. Wolfe
Senior Vice President, Finance &
Chief Financial Officer

EXHIBIT "A"

**BETHLEHEM LANDFILL COMPANY – PHASE V PRELIMINARY LAND DEVELOPMENT & LOT
CONSOLIDATION PLAN
TAX MAP PARCELS P7-5-33-0719, AND OTHERS
FOR THE DECEMBER 6, 2023 LOWER SAUCON TOWNSHIP COUNCIL MEETING**

Date of Application:	September 11, 2023
90 – Day MPC Deadline:	December 27, 2023
Plan Date:	September 11, 2023
LSPC Approval Recommendation	October 26, 2023
LVPC Review Letter:	October 13, 2023
Plan Prepared by:	Martin and Martin, Inc.

Project Background:

The Applicant proposes a lot consolidation/subdivision and lateral expansion land development at the existing Bethlehem Landfill Company property located at 2335 Applebutter Road. The proposed consolidation includes merging Parcels B, C, D, & E (Sheet 2) with the "existing" (approved with the Northern Realignment plans) 421.47 acre landfill property. Parcel A is proposed to be subdivided from the landfill property and added to the landfill owned parcel to the west (DBY 2002-1-023852). This results in a 503.46 acre parcel containing the existing and the proposed expansion to the landfill.

The proposed waste disposal expansion area will be located beyond the current PaDEP Permit Boundary and consists of 86 acres of new disposal footprint and 27.28 acres of disposal footprint atop previously permitted lined disposal area. This project will require DEP approval for the expansion. The proposed landfill expansion will have a total disturbance of 171 acres, with approximately 27 acres of disturbance proposed within the existing approved landfill disposal footprint. The waste stream anticipated for the proposed facility will be similar to those currently accepted. The landfill is served with both public water and sanitary sewer services.

According to the Zoning Map, the landfill property is located in the Light Industrial (LI), Light Manufacturing (LM) and Rural Agricultural (RA) Districts, with a portion of the property located in the Carbonate Geology (CG) Overlay District. All proposed landfill activities are within the Light Industrial (LI) District

Action Needed:

The Applicant is requesting conditional Preliminary Lot Consolidation and Land Development approval.

**Staff Recommendation
for Consideration:**

- A. Preliminary Lot Consolidation and Land Development approval, subject to the following conditions:
 - 1. The Applicant shall address the review comments contained in the letter dated October 19, 2023 from Hanover Engineering Associates, Inc. to the satisfaction of the Township Council.
 - 2. The Applicant shall comply with the Lehigh Valley Planning Commission stormwater management review letter, dated October 13, 2023.

3 The following Note shall be added to Sheet 11 of 29 of the Phase V Preliminary Land Development and Lot Consolidation Plan:

"The only required improvement associated with the proposed Phase V Expansion project is the proposed landscaping depicted on Sheet 11 of 29 of the Phase V Preliminary Land Development and Lot Consolidation Plan ("Preliminary Land Development Plan"). That landscaping shall be installed in accordance with the following schedule:

- The landscaping proposed along the eastern boundaries of Cell 5-B, Cell 5-C, and Basin #7 as depicted on Sheet 11 of 29 of the Preliminary Land Development Plan dated September 11, 2023 shall be installed within one (1) year of PADEP approval of the Form 37 Certification for the construction of Cell 5-B or Cell 5C, whichever is later.
 - The landscaping proposed north of the two proposed leachate storage tanks as depicted on Sheet 11 of 29 of the Preliminary Land Development Plan dated September 11, 2023 shall be installed within one (1) year of PADEP approval of the Form 37 Certification for the construction of said tanks.
 - The landscaping proposed along the southern boundary of Cell 5-J as depicted on Sheet 11 of 29 of the Preliminary Land Development Plan dated September 11, 2023 shall be installed within one (1) year of PADEP approval of the Form 37 Certification for the construction of Cell 5-J.
 - The landscaping proposed along the west/northwest boundary of Cell 5-I as depicted on Sheet 11 of 29 of the Preliminary Land Development Plan dated September 11, 2023 shall be installed within one (1) year of PADEP approval of the Form 37 Certification for the construction of Cell 5-I."
4. Any granted waivers, deferrals, and variances, with any conditions, shall be denoted on the Plan in a manner satisfactory to the Township Solicitor.
 5. The Applicant shall comply with the regulations of all municipal and governmental agencies having jurisdiction.
 6. The Applicant shall comply with the provisions of the Amended and Restated Host Community Agreement.
 7. The Applicant shall provide four (4) paper prints of the Preliminary Land Development and Lot Consolidation and the Post Construction Stormwater Management Plan that are consistent with the Conditions of the approval.
 8. The Applicant shall provide two (2) flash drives of the Preliminary Land Development and Lot Consolidation and the Post Construction Stormwater Management Plan that are consistent with the Conditions of the approval, in both a functional AutoCAD format (e.g. .dwg) as well as a static image format (e.g. .jpeg or .pdf).
 9. The Applicant shall pay any outstanding escrow balance due to the Township for review of the Plans and preparation of legal documents.
 10. The Applicant shall satisfy all these conditions within five (5) years of the date of the conditional approval unless an extension is granted by the Township Council.

B. The granting of the following Subdivision and Land Development Ordinance (SALDO), and Stormwater Management Ordinance (SMO) waivers:

1. SALDO Section 145-30 – A waiver regarding certificate of insurance naming the Township and Township Engineer.
2. SALDO Section 145-33.B.(1) – A waiver regarding for the plan layout, the horizontal scale shall be a minimum of one inch equals 100 feet for lots greater than one (1) acre.
3. SALDO Section 145-33.C.(1) – A waiver regarding the location of all existing features within 500 feet of any part of the land to be developed.
4. SALDO Section 145-33.C.(2) – A waiver regarding the location of all existing contour lines on or within 500 feet of any part of the land to be developed shall be identified on the Plan.
5. SALDO Section 145-33.C.(3) – A waiver regarding to show approximate age of existing buildings except to show ultimate use or removal of existing residential buildings.
6. SALDO Section 145-33.F.(1)(a) and Appendix B-7 – A waiver regarding the Township standard notices for drainage facilities and easements shall be listed on the Plan.
7. SALDO Sections 145-41.B.(4) and 145-45.B.(3), (4) and (9) – A waiver regarding when existing roads (Applebutter Road, Skyline Drive and Riverside Drive) adjacent to the property being developed do not meet the construction standards (right-of-way width, curbing, and sidewalk) of this chapter and its Appendix A, then in that case, the Developer shall provide those improvements.
8. SALDO Section 145-45.G.(2)(a) – A waiver regarding the minimum width of the access roads shall be 24 feet for two-way traffic and 16 feet for one-way traffic.
9. SALDO Section 145-46.B.(3) – A waiver regarding storm drainage easements
10. SMO Section 137-18.E. – A waiver regarding the minimum circular orifice diameter for controlling discharge rates from detention facilities shall be three inches.
11. SMO Section 137-18.G – A waiver regarding An access ramp of 10 to 1, 10 feet wide, shall be provided to allow maintenance equipment to reach the detention basins floor.
12. SMO Section 137-18.H – A waiver regarding A fence, with locking gate, shall be provided around the basins, and the fence shall be at least three (3) feet from the inside edge of the berm (or top of slope) and five (5) feet from the outside top of the berm.
13. SMO Section 137-18.K – A waiver regarding the detention basins' outside slope of a berm shall not be steeper than a ratio of 3:1, horizontal to vertical.
14. SMO Section 137-18.L – A waiver is regarding the detention basins shall meet the maximum depth, interior slope, drawdown times, and fencing requirements of this Section.
15. SMO Section 137-18.N – A waiver regarding the minimum slope of the bottom of the detention basins shall be 1% towards the outlet structure.
16. SMO Section 137-19.F.(2) – A waiver regarding slopes for swale banks shall not be steeper than one (1) vertical to three (3) horizontal.
17. SMO Section 137-19.G.(8) – A waiver regarding Inlet and manhole castings and concrete construction shall be equivalent to Pennsylvania Department of Transportation Design Standards.
18. SMO Section 137-19.G.(10) – A waiver regarding Concrete end walls or wing walls in accordance with PennDOT standards and with 30-inch concrete footings shall be provided. Additionally, flared end sections are not permitted on open-ended pipes.
19. SMO Section 137-19.G.(14) – A waiver regarding fixed pipe conveyance of stormwater must be to the same destination as stormwater would be conveyed overland if the fixed pipe conveyance system were to fail.
20. SMO Section 137-23.M – A waiver regarding no ground may be proposed or altered to exceed a slope steeper than one (1) vertical for three (3) horizontal.
21. SMO Section 137-26.D and E, -34, -36, -37, and -38 – A waiver regarding The BMP operations and management plan.

22. SMO Section 137-37.B and C – A waiver regarding Easement shall be provided around any proposed stormwater management facilities.
23. SMO Appendix I – A waiver regarding The Storm Drainage Maintenance and Easement Notes shall be provided on the Plans.

The Township recognizes that the Applicant is in the process of obtaining other permits for the proposed Phase V Expansion, including but not limited to a Major Permit Modification of the facility's Solid Waste Permit from PADEP, which may result in changes/revisions to the site layout and/or site development details depicted on the Preliminary Land Development and Lot Consolidation Plan approved herein. In the event such changes/revisions are necessary, a new Preliminary Land Development application and approval shall not be required, provided that:


- The plan submitted for Final Land Development Plan approval does not propose any of the following: a disposal footprint that is any larger than the disposal footprint depicted in the Preliminary Land Development and Lot Consolidation Plan dated September 11, 2023; a peak elevation higher than 725 feet; points of access to the site from public roadways that are new or different from those depicted in the Preliminary Land Development and Lot Consolidation Plan dated September 11, 2023; changes to the days or hours of operation or the volume or type of waste permitted to be accepted under the facility's current PADEP Solid Waste Permit; or other changes that represent an entirely new planning concept that significantly changes the nature of the proposed facility as depicted on the Preliminary Land Development and Lot Consolidation Plan dated September 11, 2023.
- The Plan submitted for Final Land Development and Lot Consolidation Plan approval meets all applicable Lower Saucon Township ordinance provisions in effect as of the date of this Preliminary Land Development and Lot Consolidation Plan approval.

With the granting of this approval, Council has determined that the existing features at the property are an acceptable substitute for the perimeter earthen berm required per Section 180-109.F(3)(a) of the Zoning Ordinance, because the existing established vegetation provides more effective screening/buffering than an earthen berm would, and construction of such a berm would require the removal of that existing established vegetation. This determination requested of Council is authorized by Section 180-109.F(3)(a).

Applicant's Approval of Conditions

We hereby represent and certify that we are the Owners and Applicants of the Phase V Preliminary Land Development and Lot Consolidation Plan described herein. We have read the above list of conditions for the approval being considered for this application and we hereby accept and approve these conditions for granting the approval in accordance with Article V of the Pennsylvania Municipalities Planning Code.

12/13/2023
Date


Signature

Astor A. Lawson
Print Name

EXHIBIT "B"



Lehigh Valley Planning Commission

STEVEN GLICKMAN
Chair

CHRISTOPHER AMATO
Vice Chair

KEVIN SCHMIDT
Treasurer

BECKY A. BRADLEY, AICP
Executive Director

October 13, 2023

Mr. Mark Hudson, Manager
Lower Saucon Township
3700 Old Philadelphia Pike
Bethlehem, PA 18015

**Re: Bethlehem Landfill Phase V Expansion – Land Use of Regional Significance
Lower Saucon Township
Northampton County**

Dear Mr. Hudson:

The subject application is considered a Land Use of Regional Significance under *FutureLV: The Regional Plan* in the Landfills and other Solid Waste Facilities category. The Lehigh Valley Planning Commission (LVPC) will consider the application at its Comprehensive Planning Committee and Full Commission meetings, pursuant to the requirements of the Pennsylvania Municipalities Planning Code (MPC). Discussion on agenda items largely happens during the Committee meeting and we encourage your virtual participation. The LVPC will issue a follow-up letter after the Commission meeting if Commission members have any additional comments. Meeting participation details are below:

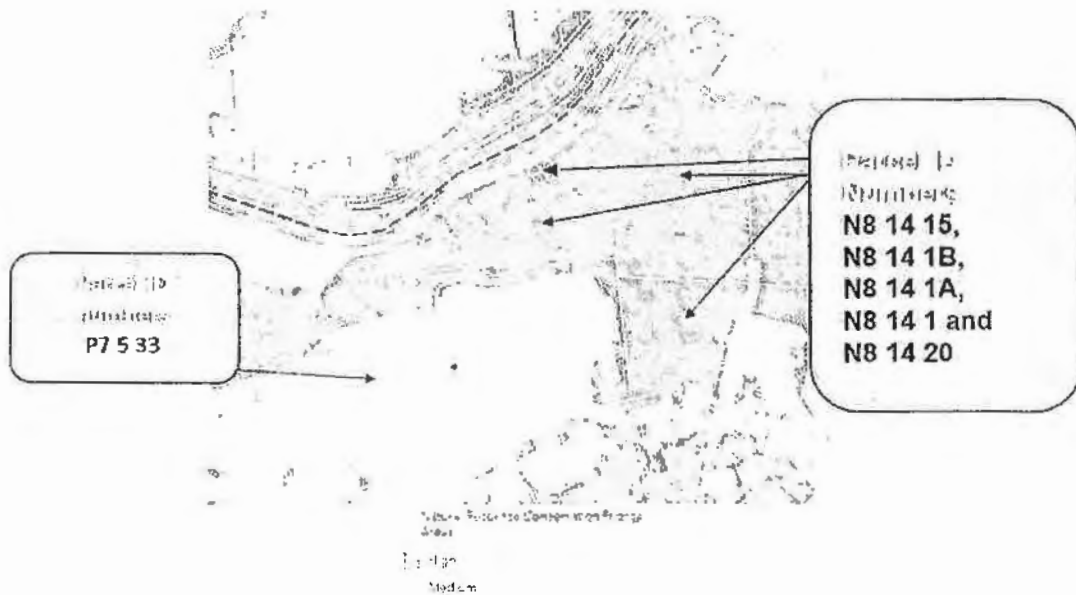
- LVPC Comprehensive Planning Committee Meeting
 - o October 24, 2023 at 11:00 AM
 - o <https://lvpc.org/meetings.html>
- LVPC Full Commission Meeting
 - o October 26, 2023 at 5:30 PM
 - o <https://lvpc.org/meetings.html>

The subject applicant proposes an 86-acre expansion of the existing landfill located at 2335 Applebutter Road (parcel numbers P7 5 33, N8 14 15, N8 14 1B, N8 14 1A, N8 14 1 and N8 14 20). A lot consolidation is also proposed to facilitate the expansion. Landfills and Waste Disposal Facilities are high intensity land uses that have significant social and environmental impacts. Impacts to residents and/or the environment resulting from expanding and increasing operation must be cautiously scrutinized and mitigated to 'reduce greenhouse gas emissions' (of *FutureLV* Policy 3.4), 'provide environmentally responsible and economical solid waste disposal and recycling', 'protect the quality and quantity of surface water and groundwater' and 'improve regional air quality' (of *FutureLV* Policy 3.2) and promote safe, healthy, inclusive and livable communities (*FutureLV* Goal 5).

While the area of the landfill currently in operation is located within the Development area of the General Land Use Plan of *FutureLV: The Regional Plan*, the proposal conflicts with *FutureLV* because most of the area proposed for expansion of the landfill to the northeast is within a Character-Defining area of the General Land Use Plan, representing the natural and scenic character of the Lehigh Valley.

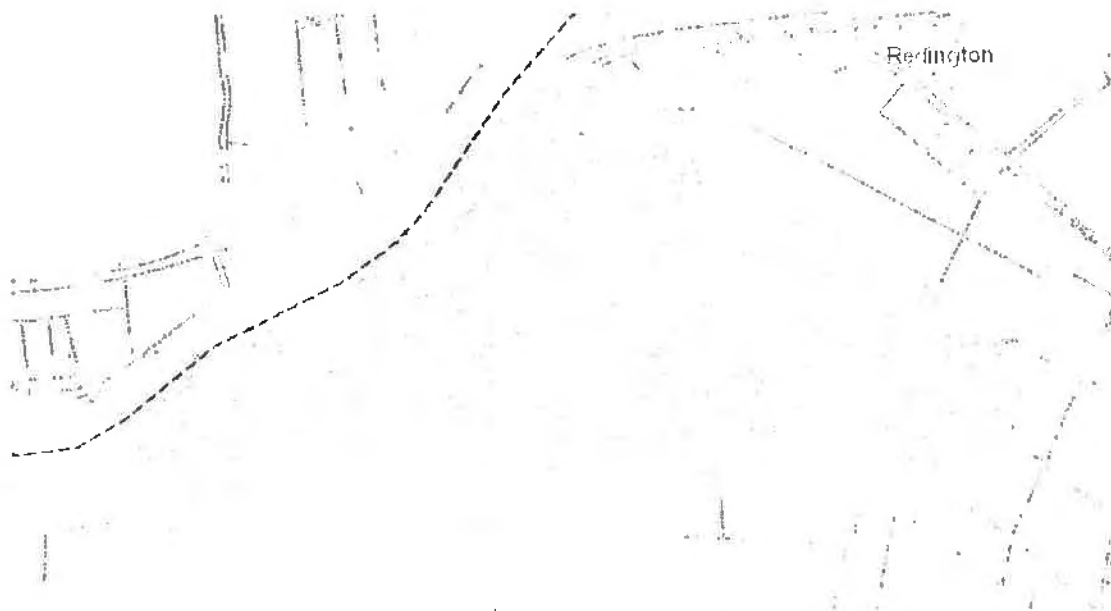
Natural Resource Conservation

The Natural Resources Plan of *FutureLV* identifies natural features for preservation within the proposed expansion area, including woodlands, steep slopes of 15-25% grade and the Bull Run Natural Heritage Inventory Core Habitat:



The Bull Run Natural Heritage Inventory Core Habitat is shown below in purple and is a Natural Heritage Core Habitat of State significance. The area includes a relatively diverse and richly forested habitat along the Lehigh River. According to the Natural Heritage Inventory (NHI) of Lehigh and Northampton Counties (2013), maintaining the current hydrologic regime is critical to the persistence of the community and rare species at this site. Additionally, fragmenting the existing forested areas should be avoided. Landfill expansion in this area is strongly discouraged to 'preserve natural, recreational, and scenic assets' (of Policy 3.1). The existing woodlands in this area further mitigate environmental stress by reducing stormwater runoff, filtering groundwater recharge, controlling erosion and sedimentation, moderating local microclimates and purifying air.

The types of uses recommended in High Preservation Priority areas are parks and open space, woodlands, agriculture, and low-intensity, limited scale development that preserves natural and scenic resources.



Bull Run Natural Heritage Inventory Core Habitat

Conservation Easements

The submitted plans depict an existing conservation easement to the north and east the proposed landfill expansion. The National Conservation Easement Database also identifies a conservation easement to the northeast of the proposed project site. In 2001, the Pennsylvania Conservation and Preservation Easements Act (P.L. 390, No. 29) was created to enable conservation easements, which are legal agreements between a landowner and a land trust or government agency that permanently limit land uses in order to protect its conservation values. In addition to conserving natural resources for the purposes mentioned above, the LVPC strongly recommends confirmation that the proposal does not infringe upon any legal agreements in the interest of the fiscal health and sustainability of the Township (of Policy 4.6).

Landscaping and existing tree line is proposed between the area of the proposed landfill expansion and the conservation easement area. The submitted plans do not depict woodlands in the Existing Features plan sheets, however aerial imagery dated May 2023 shows existing tree cover in those areas. The LVPC strongly recommends retention of existing woodland areas rather than tree removal and landscaping plantings to better serve as a buffer between development and the conservation easement area, and to 'maximize preservation of woodlands and critical habitats' (of Policy 3.1).

Federal Emergency Management Agency (FEMA) Flood Zone

A FEMA flood zone, with a 1% annual chance of flooding, runs through the northernmost parcel (N8 14 1). The existing riparian corridor buffer should continue to be maintained as a hazard mitigation step which supports 'safe and secure community design and emergency management' (of Policy 5.1).

Traffic Impact Study

A Transportation Impact Study (TIS) was included with the proposal, dated December 2022. The trip generation calculations estimate a daily total of 102 trips.

There is currently only one access to the site from Applebutter Road. Another driveway is proposed with the submitted plan to the east of the original driveway, which opens onto Applebutter Road. The addition of the proposed second driveway would improve this emergency vehicle access, which would 'promote safe and secure community design and emergency management' (of Policy 5.1). The addition of a second access point would also allow emergency response to access the site if the primary entrance point was obstructed. As the proposed expansion will not substantially increase the number of vehicles entering and leaving the location, the additional driveway could be utilized strictly for emergency access.

It should be taken into consideration that Freemansburg Bridge, which spans the Lehigh River, is currently in the development stage of a bridge preservation improvement project as listed in the Long-Range Transportation Plan of *Future LV: The Regional Plan*.

Township Comprehensive Plan

Additionally, the proposed development conflicts with the Township's recently updated comprehensive plan, *Our Resources, Our Valley* Multi-Municipal Comprehensive Planning in Pennsylvania's Saucon Valley (pages 1-12). The Plan identifies the Township's natural resources, along with its other cultural and historic assets, as significant components of the region's future economic development. The proposal further conflicts with the Plan's stated goals to:

- 'Balance development and conservation initiatives in order to maintain the ambiance and quality of Saucon Valley's distinct cultural landscapes: small town, suburban and rural';
- 'Enhance the continuity, visibility and inter-connectivity of the Valley's cultural, natural and historical resources'.

Stormwater Review

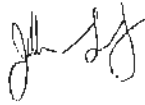
The project site is located within both the Saucon Creek and Fry's Run watershed. This watershed has a fully implemented Act 167 Stormwater Management Ordinance. Comments related to our review of the project's stormwater management plan are included as attachment 1.

Municipalities, when considering subdivision/land developments, should reasonably attempt to be consistent with *FutureLV: The Regional Plan*, as required by the Pennsylvania Municipalities Planning Code (MPC) [Article 1§105, Article III§303, §304 & §306(a), Article VI§603(j)]. The LVPC review does not include an in-depth examination of plans relative to subdivision design standards or ordinance requirements since these items are covered in the municipal review.

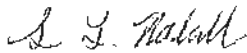
The LVPC has copied appropriate representatives from all adjacent municipalities in order to further 'coordinate land use decisions across municipal boundaries' (of Policy 1.4).

Feel free to call me if you have any questions about this review.

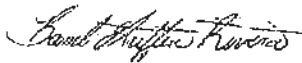
Sincerely,



Jillian Seitz
Senior Community Planner



Susan Rockwell
Senior Environmental Planner



Bambi Griffin Rivera
Senior Community and Regional Planner



Evan Gardi
Transportation Planner

cc: Bethlehem Landfill Company, Applicant;
Martin & Martin, Inc. Joseph McDowell, PE, Project Engineer/Surveyor;
Brien Kocher, Township Engineer;
Denjam Khadka, LVPC Senior Civil/Environmental Engineer;
Geoffrey A. Reese, PE, LVPC Master Planner and Engineer
Cathy Hartranft, Hefertown Borough Manger;
Darlene Helfer, City of Bethlehem Planning Director;
Trisha Lang, Upper Saucon Township Planning Director;
Amanda Jensen, Bethlehem Township Planning Director
Mikal Sabatine, Williams Township Manager;
Jonathan Iiterly, Freemansburg Borough Manager

ATTACHMENT 1

Act 167 Drainage Plan Review

October 13, 2023

Re: Bethlehem Landfill – Phase V Expansion
Plans Dated September 11, 2023
Lower Saucon Township
Northampton County

The proposed storm drainage concept presented in the plans and storm drainage calculations dated September 11 2023 has been reviewed for consistency with the *Saucon Creek Watershed Act 167 Storm Water Management Ordinance*, April 1991 and the *Delaware River Sub-Basin 2 and Lehigh River Sub-Basin 5 (Fry's Run) Act 167 Storm Water Management Ordinance*, February 1999. Checklists of the Act 167 review items for both watersheds are attached for your information. As indicated on the checklists, each item of the Drainage Plan has been reviewed for consistency with the Act 167 Ordinances. A brief narrative of the review findings is as follows:

The proposed development is located within drainage districts 188, 189 and 196 of the Saucon Creek Watershed and districts 50, 51 and 52 of the Lehigh River Sub-Basin 5 Watershed as delineated in each Act 167 Plan. As such, the runoff control criteria for district 188 are a 30% Release Rate for the 2-year storm and a 50% Release Rate for the 10-, 25- and 100-year return period storms. The runoff control criterion for districts 189 and 196 is a 100% Release Rate. The runoff control criteria for district 50 are a 30% Release Rate for the 2-year storm and a 100% Release Rate for the 10-, 25- and 100-year return period storms. District 51 is Conditional No Detention I, and district 52 is Conditional No Detention II. Based on review of the plans and calculations, the following deficiencies are noted. Downstream capacity for the flows from the basin 7 and basin 8 spillways should be demonstrated. The outfall from Basin 7 creates a new concentrated discharge point. The pre-development boundaries between drainage areas 4 and 6 and between drainage areas 6 and 2 do not seem justified by the contours. The post-development boundary between drainage areas 8B and 12B does not seem justified by the contours. The plans should demonstrate where the meadow and open space cover will be located in drainage areas 9, 10 and 12. The pre-development time of concentration for drainage area 11 does not seem to begin at the high point of the drainage area. The path does not break out areas of different slope within the concentrated flow. The pre-development time of concentration path for drainage area 12 does not break out areas of different slope within the concentrated flow. The post-development time of concentration paths are not shown on the drainage area map for drainage area 8B and 12B. The web soil survey identifies UfB as hydrologic soils group B not C as used in the calculations. A minimum detention basin outlet orifice of 3 inches should be provided. The outlet control structure data for basins 2 and 6 are not included in the calculations or on the plans. The calculations provided do not include freeboard calculations. Basins 7 and 8 appear to not meet the 100-yr requirement for 0.5 feet from the water surface to the spillway invert. Basin 8 has flow out of the spillway for the 100-year routed storm and therefore does not meet the freeboard requirement. Therefore, the Drainage Plan has been found to be inconsistent with the Act 167 requirements.

Note that only those details of the Drainage Plan included on the checklists have been covered by this review. Therefore, notable portions of the Drainage Plan not reviewed include any aspect of the post-construction storm water management plan concerning water quality, the details and design of any proposed water quality

BMPs, the Erosion and Sedimentation Control Plan and the details of the runoff collection system (piping). These items are reviewed by the municipal engineer and/or others, as applicable.

Once the outlined issues have been addressed, the revised plans and calculations will need to be resubmitted to our office. Please call with any questions regarding these comments.

Sincerely yours,

A handwritten signature in black ink that reads "Geoffrey A. Reese". The signature is written in a cursive style with a large initial 'G'.

Geoffrey A. Reese, PE
Master Planner and Engineer

A handwritten signature in black ink that reads "Denjam Khadka". The signature is written in a cursive style with a large initial 'D'.

Denjam Khadka
Senior Civil/Environmental Engineer

Attachment

LVPC ACT 167 REVIEW CHECKLIST

Development Name: Bethlehem Landfill – Phase V Expansion Watershed: Saucon Creek
 Municipality: Lower Saucon Township Reviewer: Dejan Khadka and Geoffrey A. Reese, PE
 Date: October 13, 2023 Checked by _____

Ordinance Reference Item Consistency w/Ordinance Yes No N/A Comment

301.A-G. General storm water management requirements / X / See Attachment 1 for details.

H. Consideration of volume controls... / X / Consideration preferred not required.

302 A,B. Applicable Storm Water Management Provisions

Subarea(s)	188	189	196	
Criteria	30%/50% RR	100% RR	100% RR	

Criteria Key: RR = release rate; PMD = provisional no detention

303 A. Design consistency with applicable management provisions from 302.A and B. / X / See Attachment 1 for details.
 B. Mapping of Storm Water Management District Boundaries X / /
 C. Downstream capacity analysis / X / See Attachment 1 for details.
 D. Multiple discharge points within a single subarea / / X
 E,F. Multiple discharge points within multiple subareas / X / See Attachment 1 for details.
 G. Documentation of "no harm" downstream / / X
 H. Regional or subregional detention analysis / / X
 I. Capacity Improvements analysis / / X

304 A. Computation method (rational or soil-cover-complex) X / / Soil-cover-complex method used.
 B. Verification of detention design by routing X / /
 Check rational method detention volume vs TR55 / / X
 C. Minimum detention pond freeboard specifications / X / See Attachment 1 for details.
 D. Soil-cover-complex method design rainfall X / /
 E. Rainfall intensities for rational method / / X
 F. Curve Numbers for soil-cover-complex method / X / See Attachment 1 for details.
 G. Runoff coefficients for the rational method / / X
 H. Manning equation to calculate watercourse capacity X / /

403 Drainage Plan Contents / X / See Attachment 1 for details.

LVPC ACT 167 REVIEW CHECKLIST

Development Name: Bellevue Landfill - Phase V Expansion Watershed: Fry's Run and Lehigh River Sub-Basin 5
 Municipality: Lower Saucon Township Reviewer: Benjam Knadka and Geoffrey A. Reese PE
 Date: October 13, 2023 Checked by: _____

Ordinance Reference	Item	Consistency w/Ordinance			Comment
		Yes	No	N/A	
301.A-G.	General storm water management requirements	/	X	/	See Attachment 1 for details
H.	Consideration of volume controls	/	X	/	Consideration preferred, not required

302.A.B Applicable Storm Water Management Provisions

Subarea(s)	50	51	52	
Criteria	30%/100% RR	CND I	CND II	

Criteria Key: RR = release rate; CND I = conditional no detention | CND II = conditional no detention II

303 A.	Design consistency with applicable management provisions from 302 A. and 8.	/	X	/	See Attachment 1 for details
B.	Mapping of Storm Water Management District Boundaries	X	/	/	
C.	Downstream capacity analysis	/	X	/	See Attachment 1 for details
D.	Multiple discharge points within a single subarea.	/	/	X	
E,F	Multiple discharge points within multiple subareas.	/	X	/	See Attachment 1 for details
J.	Documentation of no increase in peak or volume.	/	/	X	
L.	Documentation of "no harm" downstream	/	/	X	
M.	Regional or subregional detention analysis	/	/	X	
N.	Capacity improvements analysis	/	/	X	
304 A.	Computation method (rational or soil-cover-complex)	X	/	/	Soil-cover-complex method used
B.	Verification of detention design by routing	X	/	/	
C.	Minimum detention pond freeboard specifications	/	X	/	See Attachment 1 for details
D.	Minimum size orifice or greater proposed	/	X	/	See Attachment 1 for details
E.	Soil-cover-complex method design rainfall	X	/	/	
F.	Rainfall Intensities for rational method.	X	/	/	
G.	Curve Numbers for soil-cover-complex method	/	X	/	See Attachment 1 for details
H.	Runoff coefficients for the rational method	X	/	/	
I.	Volume control storage volume	/	/	X	
J.	Common time of concentration	/	/	X	
K.	Manning equation to calculate watercourse capacity	X	/	/	
403.	Drainage Plan Contents	/	X	/	See Attachment 1 for details

EXHIBIT "C"



HanoverEngineering

252 Brodhead Road • Suite 100 • Bethlehem, PA 18017-8944
Phone: 610.691.5644 • Fax: 610.691.6968 • HanoverEng.com

October 19, 2023

Mr. Mark Hudson, Manager
Lower Saucon Township
3700 Old Philadelphia Pike
Bethlehem, PA 18015-5426

RE: Bethlehem Landfill Company
Phase V Preliminary Land Development & Lot
Consolidation Plan
LST Project #LD 01-23
Hanover Project LS23-34

Dear Mr. Hudson:

We have reviewed the first submission of the following above-referenced Plan and supporting documentation, prepared by Martin and Martin, Inc.:

1. Preliminary Land Development & Lot Consolidation Plan for Bethlehem Landfill Company, Sheets 1 through 29 of 29, dated September 11, 2023.
2. Post Construction Stormwater Management Plan, Sheets 1 through 13 of 13, dated September 11, 2023
3. Land Development and Lot Consolidation Plan Supporting Documents, Volumes 1 & 2, dated September 11, 2023.
4. Cover letter, dated September 11, 2023.

The Applicant proposes a lot consolidation/subdivision and lateral expansion land development at the existing Bethlehem Landfill Company property located at 2335 Applebutter Road. The proposed consolidation includes merging Parcels B, C, D, & E (Sheet 2) with the "existing" (approved with the Northern Realignment plans) 421.47 acre landfill property. Parcel A is proposed to be subdivided from the landfill property and added to the landfill owned parcel to the west (DBY 2002-1-023852). This results in a 503.46 acre parcel containing the existing and the proposed expansion to the landfill.

The proposed waste disposal expansion area will be located beyond the current PaDEP Permit Boundary and consists of 86 acres of new disposal footprint and 27.28 acres of disposal footprint atop previously permitted lined disposal area. This project will require DEP approval for the expansion. The proposed landfill expansion will have a total disturbance of 171 acres, with approximately 27 acres of disturbance proposed within the existing approved landfill disposal footprint. The waste stream anticipated for the proposed facility will be similar to those currently accepted. The landfill is served with both public water and sanitary sewer services.

According to the Zoning Map, the landfill property is located in the Light Industrial (LI), Light Manufacturing (LM) and Rural Agricultural (RA) Districts, with a portion of the property located in the Carbonate Geology (CG) Overlay District. All proposed landfill activities are within the Light Industrial (LI) District.

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE COMMENTS

1. Section 145-9 and SMO Section 137-30 – The Approved Waivers note on Sheet 1 shall be revised accordingly based on action by the Township Council. Additionally, all waivers referencing final plan shall be removed, as the applicant has only submitted the preliminary plans.
2. Section 145-21.B.(d)[7] – Reports from the Township Police Chief and appropriate Fire Chief should be reviewed. Please note that the City of Bethlehem provides fire service to the current landfill. Also, the appropriate Fire Chief should review the access provisions for emergency response into the expansion area, as well as any fire hydrant issues.
3. Section 145-30 – A certificate of insurance naming the Township and Township Engineer shall be provided. **The Applicant has requested a waiver of these requirements.**
4. Section 145-33.B.(1) – For the plan layout, the horizontal scale shall be a minimum of one inch equals 100 feet for lots greater than one (1) acre. Several overall plan views are drawn at a scale of one inch equals 300 feet. **The Applicant has requested a waiver of this requirement.**
5. Section 145-33.B.(1) – The access road profile on sheet 25 shall provide a vertical and horizontal scale.
6. Section 145-33.C.(1) – The location of all existing features within 500 feet of any part of the land to be developed shall be identified on the plan. **The Applicant has requested a waiver of this requirement.**
7. Section 145-33.C.(2) – The location of all existing contour lines on or within 500 feet of any part of the land to be developed shall be identified on the Plan. **The Applicant has requested a waiver of this requirement.**
8. Section 145-33.C.(3) – The applicant shall provide the approximate age of the existing single family detached dwellings and the existing storage buildings. Additionally, clarify the proposed uses for the existing single family homes whose parcels are to be consolidated as part of this plan.
9. Section 145-33.D.(9) and Section 145-44.G – The plans shall provide a profile for the entirety of the proposed access road and existing access roads with proposed grade changes.
10. Section 145-33.E.(6) – A soil erosion control plan and narrative shall be provided in accordance with this section.
11. Section 145-33.E.(7) – It appears that lighting is proposed in the vicinity of the proposed tanks. A lighting plan shall be provided in accordance with this section.

12. Section 145-33.F.(1)(a) and Appendix B-7 – The Township standard notices for drainage facilities and easements shall be listed on the Plan. **The Applicant has requested a waiver of this requirement.**
13. Section 145-41.B.(4) and Section 145-45.B.(3), (4) and (9) – When the existing roads (Applebutter Road, Skyline Drive and Riverside Drive) adjacent to the property being developed do not meet the construction standards (right-of-way width, cartway width, curbing, and sidewalk) of this chapter and its Appendix A, then in that case, the Developer shall provide those improvements. **The Applicant has requested a waiver of these requirements.**
14. Sections 145-44.B – The Applicant shall provide documentation from PennDOT that both existing driveways to Applebutter Road are adequate to service the proposed landfill addition.
15. Section 145-44.D.(1) – The width and slope depicted on the Typical Access Road Section Detail appears to be inconsistent with the Phase V Disposal Boundary Typical Section on Sheet 25.

The contours in the area of the MSF wall, downstream of the wall, and the roadside channel shall be clarified.
16. Section 145-45.G.(2)(a) – The minimum width of the access roads shall be 24 feet for two-way traffic and 16 feet for one-way traffic. The applicant shall clearly define access roads to be utilized for one-way traffic versus two-way traffic. Additionally, the proposed access road along the northern phase V disposal boundary shall be revised to be the minimum width in accordance with this section. **The Applicant has requested a waiver to permit driveways that do not meet the required pavement widths and thicknesses.**
17. Section 145-46.B.(3) – Storm drainage easements shall be provided. **The Applicant has requested a waiver of this requirement.**
18. Section 145-49 – Following comments on sanitary sewer shall be addressed:
 - a. Flow projections shall be provided.
 - b. A DEP Planning Module shall be provided or a determination from DEP should be provided that a Planning Module is not required.
 - c. No sewer lines are shown on the plan to be extended into the proposed new cell areas.
 - d. The host agreement provides that the landfill is a direct sewer customer of the City of Bethlehem. The agreement also provides for a maximum flow amount in the existing sewer line in Applebutter Road and a provision for Township use for the sewer line. The flow projections should be compared to the flow amounts listed in the agreement.

Please note that the site data on Sheet 11 lists the sewer provider as Lower Saucon Authority.

- e. The plan proposes a leachate storage tank system. A letter should be provided by the City of Bethlehem that approves of the use of the system and demonstrates compliance with the industrial waste provisions in Chapter 130-48.
 - f. Certification of capacity for treatment from the City shall be provided.
19. Section 145-50 – Plans do not show an extension of the water line or fire hydrants into the proposed expansion area.
20. Section 145-51 – The Township shall determine whether the Applicant shall meet the Township Open Space and Recreation requirements for non residential development.

STORMWATER MANAGEMENT ORDINANCE COMMENTS

1. Sections 137-6.D and 137-29 – Please note that our Stormwater Management Ordinance Review was limited to only those features which have been added/revised and does not comment on the current Ordinance compliance of existing facilities (pipes, swales, basins, etc.) that were previously analyzed for drainage areas that have not been revised.
2. Sections 137-11.J. and 137-15.A – No earth disturbance activities associated with any regulated activities shall commence until approval by the Township of a plan which demonstrates compliance with the requirements of this Chapter.
3. Section 137-13.B – The pre-development release rate for DP009 in the pre-development release rate table (Sheet SW-1) does not appear to be reduced by 50%.
4. Section 137-13.C – The exact location of the stormwater management district boundaries and their applicable release rates shall be provided on the drainage plans for clarity.
5. Section 137-14.2.A – It appears the Water Quality Volume controls are not adequate for the difference in runoff volume from the pre-development to post-development for the 24-hour, 2-year return period storm. Revise the design to meet the Water Quality Volume for each watershed.
6. Section 137-14.D.(2) – Since the detention facilities are proposed without lining, the engineer must sign and seal the following note which shall be attached to all drainage plans, subdivision plans, and land development plans:” I, [name], certify that the proposed facilities are not underlain by carbonate geology.”
7. Section 137-14.N – The time of concentration flow path shall be shown for the post development drainage areas. Additionally, the longest time of concentration flow path shall be shown on the pre-development drainage area boundary 2, as it appears that multiple flow paths are depicted. The calculations shall be revised to be consistent with these changes.

8. Section 137-18.E – The minimum circular orifice diameter for controlling discharge rates from detention facilities shall be three inches. **The Applicant has requested a waiver of this requirement to allow a 1-inch and 2-inch orifice.**
9. Section 137-18.G – An access ramp of 10 to 1, 10 feet wide, shall be provided to allow maintenance equipment to reach the detention basins floor. **The Applicant has requested a waiver of this requirement.**
10. Section 137-18.H – A fence, with locking gate, shall be provided around the basins, and the fence shall be at least three (3) feet from the inside edge of the berm (or top of slope) and five (5) feet from the outside top of the berm. **The Applicant has requested a waiver to allow the outside perimeter fencing to serve as the basin fencing.**
11. Section 137-18.K – The detention basins' outside slope of a berm shall not be steeper than a ratio of 3:1, horizontal to vertical. **The Applicant has requested a waiver of this requirement.**
12. Section 137-18.L – The detention basins shall meet the maximum depth, interior slope, drawdown times, and fencing requirements of this Section. **The Applicant has requested a waiver of these requirements.**
13. Section 137-18.N – The minimum slope of the bottom of the detention basins shall be 1% towards the outlet structure. **The Applicant has requested a waiver of this requirement.**
14. Section 137-18.O – Basin 7 and Basin 8 shall be revised to provide the required freeboard in accordance with this section.

Additionally, an emergency spillway for each basin shall be designed to pass the one-hundred-year storm peak basin inflow rate, as if the basin were full prior to the storm, with a minimum 0.5 foot freeboard measured to the top of basin. Provide emergency spillway calculations to show compliance with this section.
15. Section 137-18.P – The detention basins' one-hundred year water storage surface elevation perimeter shall be shown on all plans.
16. Section 137-19.D.(1) – Since a level spreader is proposed, the post development peak rate of discharge across the width of the level spreader shall not exceed the predevelopment peak flow across the same width at the same location. Provide calculations to show compliance with this section.
17. Section 137-19.F.(2) – Slopes for swale banks shall not be steeper than one (1) vertical to three (3) horizontal. **The Applicant has requested a waiver of this requirement.**
18. Section 137-19.G.(8) – Inlet and manhole castings and concrete construction shall be equivalent to Pennsylvania Department of Transportation Design Standards. **The Applicant has requested a waiver of this requirement.**

19. Section 137-19.G.(10) – Concrete end walls or wing walls in accordance with PennDOT standards and with 30-inch concrete footings shall be provided. Additionally, flared end sections are not permitted on open-ended pipes. **The Applicant has requested a waiver of these requirements.**
20. Section 137-19.G.(13) – The maximum permissible storm sewer pipe velocity shall be 15 feet per second. Calculations documenting the pipe velocities shall be provided.
21. Section 137-19.G.(14) – Fixed pipe conveyance of stormwater must be to the same destination as stormwater would be conveyed overland if the fixed pipe conveyance system were to fail. **The Applicant has requested a waiver of this requirement.**
22. Section 137-19.G.(17) – Provide capacity calculations for all sections of the storm water collection system to show adequate collection and conveyance of the design flows. Provide inlet capacity calculations for all inlets in the proposed collection system.
23. Section 137-21.A and D and 137-22.A(1) – No regulated earth disturbance activities within the Township shall commence until approval by the Township of an erosion and sediment control plan for construction activities. Written approval by DEP or the Northampton County Conservation District shall satisfy this requirement.
24. Section 137-21.B – A soil erosion control plan and narrative shall be provided.
25. Section 137-21.C – A copy of any required NPDES Permit or Permit Modification shall be provided to the Township.
26. Section 137-22.B – A copy of all plans, with supporting calculations, which have received a government agency permit, including the revised DEP Solid Waste Permits for the landfill expansion and the DEP Chapter 105 Permits for the removal of the streams and wetlands, shall be provided to the Township and Township Engineer. If the stream and wetland removals are approved, the corresponding easements should be noted to be removed.
27. Section 137-23.M – No ground may be proposed or altered to exceed a slope steeper than one (1) vertical for three (3) horizontal. **The Applicant has requested a waiver of this requirement to allow a proposed slope of one (1) vertical for two (2) horizontal.**
28. Section 137-26.B.(14) – The pre development drainage area boundaries between Drainage Area 4 and Drainage Area 6, as well as the boundaries between Drainage Area 6 and Drainage Area 2, appear to be inconsistent with the contours. Additionally, the post development drainage area boundaries between Drainage Area 8B and Drainage Area 12B shall be revised to be consistent with the contours presented.
29. Section 137-26.D and E, -34, -36, -37, and -38 – The BMP operations and management plan, describing how each permanent stormwater BMP will be operated and maintained and the identity of the person(s) responsible for operations and maintenance, and a statement, signed by the owner, acknowledging that the stormwater BMPs are fixtures that cannot be altered or removed without approval by the Township, shall be provided. **The Applicant is requesting**

a waiver from the requirement to provide a legal agreement between the Owner and Township describing the owner's responsibility for stormwater management facility ownership, maintenance, repair, and replacement.

30. Section 137-28.B – Lehigh Valley Planning Commission consistency review shall be provided.
31. Section 137-37.B and C – Easement shall be provided around any proposed stormwater management facilities. The Applicant has requested a waiver of this requirement.
32. Appendix I – The Storm Drainage Maintenance and Easement Notes shall be provided on the Plans. The Applicant has requested a waiver of this requirement.

ZONING ORDINANCE COMMENTS

1. Section 180-22 and Section 180-23– Provide the lot requirements and yard requirements for the RA District in the Site Data.
2. Section 180-78 and 180-93.D – Provide the proposed use of the existing dwellings in the Site Data.
3. Section 180-95.A(2)(a) – Provide aerial photo showing features within 1,000 ft of the parcel.
4. Section 180-95.B.(17) – The following comments regarding the Carbonate Geology Area Investigation shall be satisfactorily addressed:
 - a. The report contains references to “Drawing ME-1”. No drawing labeled as such is found in this submission.
 - b. The report does not address the presence or absence of sinkholes and previously filled sinkholes as required by Zoning Ordinance Section 180-95.B.(17)(c){10}[a][vi].
 - c. The report states that the carbonate Leithsville Formation normally overlies the older, non-carbonate Hardyston Formation in the stratigraphic sequence. However, on this site, the Hardyston Formation is on top due to the Hellertown Thrust Fault. The consultant should clarify and justify the placement of the carbonate boundary line based on the results of the exploratory drilling. Numerous drilling locations that encountered the dolomite of the Leithsville Formation at depths of 53.5 feet to 122 feet are situated on the non-carbonate side of the boundary line. However, several drilling locations that encountered dolomite at similar depths (22 feet to 91 feet) are situated on the carbonate side of the boundary line. The consultant shall justify considering an area as non-carbonate when carbonate bedrock exists in that area, albeit at depth below an intervening non-carbonate formation.
5. Section 180-96.C – It appears lighting is proposed on the eastern side of the site. Provide lighting plans and details to show compliance with this section.


6. Section 180-97.C.(2)(b) – Provide the height and details for the proposed litter control fence shown on the Typical Section Detail.
7. Section 180-97.C.(3)(a) – Provide the proposed fence material and finishing type in accordance with this section.
8. Section 180-97.C.(4)(a) – Provide all locations of the litter control fence in plan view.
9. Section 180-98 – Traffic impact; driveways; off-street parking and loading; drive-in facilities; required rights-of-way. The applicant shall address the following comments pertaining to the undated Traffic Impact Evaluation and the Transportation Impact Analysis (TIA), prepared by Pennoni Associates, Inc., dated December 2022.
 - a. Provide copies of the existing HOP permit and plans referenced in the April 16, 2023 correspondence.
 - b. Provide HOP permit for the proposed driveway access to the leachate tanks or confirm with PennDOT an HOP is not required.
 - c. Provide evidence, including turning templates, the existing/proposed access to the leachate tanks is adequate for the largest anticipated vehicle.
 - d. Expand/augment the narrative of the TIA to clarify the various references to trip generation referencing “no change” and/or “new” trips.
 - e. Document adequate sight distance for all three scenarios on the PennDOT M-950S for the existing and proposed driveways in the Sight Distance narrative/chart.
 - f. Verify Table 5 Trip Generation matches the narrative, figures and analyses.
 - g. Provide Signal Warrant analyses for all study time frames and Warrant Criteria.
 - h. Provide clarification in the narrative whether the Peak Hour analyses were based on peak site generation observations or typical adjacent street peak hours.
 - i. Expand the “Roadway Condition Review” to evaluate the adequacy of the roadway and shoulder areas for the largest anticipated vehicles, particularly in the areas of roadway curvature and make recommendations for mitigation of any observations. It is noted the report identifies shoulder, signage and pavement marking observations which could be incorporated into recommendations for improvements.
10. Section 180-98.B. – The applicant shall meet the requirements of this Section for all driveways.
11. Section 180-98.B.(4) – Regardless of frontage, a development may be restricted to a single entrance/exit driveway. It appears there are 2 driveways onto Applebutter Road. Clarify the usage of the second driveway from the southeast portion of the site onto Applebutter Road.

12. Section 180-109.F.(3)(a) and 180-109.C.(2) – An earthen berm shall be placed no closer than 50 feet to all adjacent uses around the perimeter of a landfill or waste disposal facility and buffer yards and screening shall be provided. The Applicant requests that Township Council determine that the existing features serve as an acceptable substitute for the required berms, screening, and buffers.
13. Section 180-109.F.(3)(a) – No landfill or waste disposal facility activities shall be conducted within 100 feet of the bank of any stream. Two (2) existing streams are located within the Phase V Expansion limit of disposal and are proposed to be eliminated.
14. Section 180-109.F.(3)(h) – Upon cessation of waste disposal operations for a period of more than 18 month, the site shall be reclaimed to a condition that is non hazardous and does not result in environmental or neighborhood degradation.
15. Section 180-109.G – The Applicant shall dedicate 92.99 acres to the Township for preservation of land to account for the proposed Excess Resource Utilization. In the event that the Applicant demonstrates to the satisfaction of the Township Council, that it was unable to obtain any or enough property for dedication pursuant to this Section, the Applicant may meet the requirements of this Section by submitting a fee-in-lieu of dedication in accordance with the calculations in the Lower Saucon Township Subdivision and Land Development Ordinance, Section 145-51.F.

If you have any questions concerning this review, please contact the undersigned.

Respectfully,

HANOVER ENGINEERING



Brian R. Kocher, PE
Township Engineer

brk:avy/jlw2

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cc: Mr. James Young, Zoning Officer (by e-mail)
Ms. Molly Bender, Zoning Clerk (by e-mail)
Ms. Rachelle Markovic, Receptionist (by e-mail)
B. Lincoln Treadwell Jr., Esquire (by e-mail)
Maryanne Garber, Esquire (by e-mail)
Joe McDowell, PE (by e-mail)