



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** March 13, 2014

**TO:** Planning Commission

**FROM:** Barbara C. Berlin, Director, AICP

**SUBJECT:** Staff Response to Planning Commission Questions

Prior to and subsequent to the February 27, 2014, Planning Commission public hearing on SEA 80-L/V-061-02 and PCA 2013-MV-034, Furnace Associates, Inc., staff received several emails from Planning Commissioners containing questions that may or may not be asked of staff or of the applicant during the public hearing. Staff has prepared the following response to the questions received.

1. *On the berm issue, I heard Frank McDermott talk about long term maintenance, and that the applicant is responsible. But I did not understand who regulates that and how it is monitored. Is it on the honor system, does DEQ visit annually or monthly, etc. I also did not see a development condition explicitly requiring them to maintain it. I understand about the rigorous GRB review of the design at the time of construction, but not what happens later, over the course of 20+ years, and how their compliance is measured. I believe I heard someone say they will periodically remove tree saplings for example from the face of the berm, but I do not see where that fits into the conditions. If they are going to do the maintenance, whatever that might entail, and if they are supposed to do it, it should be easy enough to say so, and might provide some reassurance.*
  - The landfill operations are reviewed and inspected regularly by DEQ for compliance with the applicable section of the Virginia Administrative Code for landfill operations. According to DPWES, the most recent compliance inspection was conducted on December 20, 2013, and the site was found to be in compliance with the permit and VAC requirements. In addition, a DPWES site inspector inspects the landfill twice a month or after major rain event for compliance with the approved site plan. Zoning Inspections inspects the landfill for compliance with applicable zoning related development conditions.
  - Staff revised the development conditions to clearly state that the applicant/owner will maintain the berm.
  - The applicant will address the maintenance that may be required for the berm.
2. *On the bird issue, again I did not understand whether they could commit to more bird friendly construction or operational techniques, or what the options might be, if any. The consultant talked about shutting things down at night to avoid bat injuries for example,*

*which might be a start. I thought there might be techniques they would commit to voluntarily which other jurisdictions might have found useful. I also did not understand whether the development condition would include subsequent fish and wildlife regulation updates, or we are frozen as of 2014, for example. Or whether the details could be revisited by administrative review or feature shown, at the time they get to the later phases, with the benefit of better technology or field experience.*

- The applicant will address construction or operation techniques for the proposed wind turbines.
- Staff has revised development condition #53 and proposed that the applicant shall be subject to the most current version of the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines.

3. *Nobody mentioned control or regulation of dust from the site operations, that I heard. Does DEQ monitor that, and are there any dust reducing techniques they might commit to? Or have already?*

The applicant will address dust from the site operations. With the SEA application, the applicant is requesting a waiver of the dustless surface requirement. Should the BOS approve this waiver, it is staff's understanding, that DPWES may impose conditions to the waiver at the time of site plan review. In addition, DPWES may impose a dustless surface maintenance agreement that is recorded in the County records and signed by the Director of DPWES or his designee.

4. *The development condition about the HOA parcel also was vague about when the HOA has to decide and how long they have, and if they do not decide quickly, can the applicant move to phase 2, for example, or is everything on hold. Also if the HOA has to get a supermajority vote, as opposed to just the board voting, I think that is doomed, or at least would take a long time. I thought some of that could be clarified, with a trigger [written notice to the HOA?] starting some sort of time clock running.*

Staff revised development condition #54 to provide a timeframe on when the HOA has to decide whether to accept the 5.2 acre recreational acre proposed by the applicant.

5. *How is the berm wall stability regulated over time, as opposed to the initial approval? Is there any monitoring and/or inspections? Is the applicant required to perpetually maintain the berm in conformance with some standards [as opposed to just complete construction of it initially]? Should there be language about that?*

- It is staff's understanding that DEQ would continue to monitor the stability of the berm as part of its inspection of the landfill.
  - It is staff's understanding that the applicant/owner would be required to maintain the berm in accordance with DEQ standards for the duration of its ownership.
  - Staff has revised the development conditions to provide that the applicant/owner shall maintain the berm in accordance with the DEQ standards and regulations for the duration of its ownership.
6. *Is there any applicable federal regulation germane to the wind turbines and bird safety, other than the voluntary Fish & Wildlife Service standards? Is there any additional regulation expected before 2019?*
- DPZ staff is unaware of other federal regulations and additional regulations expected before 2019 that area germane to wind turbines and bird safety.
  - During this legislative session, Virginia Senate Bill 123 was defeated on January 22, 2014. This Bill would have directed the Virginia Game and Inland Fisheries to adopt regulations establishing mitigation measures to reduce the adverse effects of wind turbines on wildlife.
7. *Are other jurisdictions doing anything else [beyond for example something like Development Condition 53] with respect to requiring particular construction or operation techniques or methodologies to minimize any potential bird impacts from wind turbines?*
- A fact sheet that summarizes what is known about bird and bat interactions with land-based wind power is provided on the U.S. Department of Energy's website at [http://energy.gov/sites/prod/files/2013/12/f5/birds\\_and\\_bats\\_fact\\_sheet.pdf](http://energy.gov/sites/prod/files/2013/12/f5/birds_and_bats_fact_sheet.pdf)
  - Rockingham County, Virginia has a Zoning Ordinance provision to address wind energy conversion systems  
[http://library.municode.com/HTML/12196/level3/SUHITA\\_CH17ZO\\_ARTXIIWIENCOSY.html](http://library.municode.com/HTML/12196/level3/SUHITA_CH17ZO_ARTXIIWIENCOSY.html)
  - A report on Local Ordinances to Regulate Wind Energy Projects was prepared for the Shenandoah Valley Network and Rockingham Community Alliance for Preservation, which includes a review of proposed wind projects (as of 2009) and zoning options adopted by some localities. [http://www.svnva.org/wp-content/uploads/svn\\_windenergy\\_ordinance\\_report2009.pdf](http://www.svnva.org/wp-content/uploads/svn_windenergy_ordinance_report2009.pdf)
8. *Are there types of turbines that are more dangerous than others? Is that sort of detail something that could be reviewed later with some sort of feature shown or administrative review, perhaps with benefit of a few years more knowledge?*

A feature shown or an administrative review would not be needed if wind turbine technology changes. The concurrent 2232-V13-18 application is not specific to a type of wind turbine.

9. *If the feds change the rules before 2019 or whenever, do they kick in here or have we given the applicant a pass?*

Staff has revised development condition #53 to address changes, revisions, or amendments to the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines.

10. *Are the birds that get injured elsewhere feeding on something nearby that could be minimized, or are they just flying by?*

Staff is unaware of birds that are being injured in the area.

11. *Is dust control from the landfill operations regulated in any way by DEQ or some other agency, and is there any other operational technique to minimize dust from leaving the site?*

The applicant will address dust from the site operations. With the SEA application, the applicant is requesting a waiver of the dustless surface requirement. Should the BOS approve this waiver, it is staff's understanding, that DPWES may impose conditions to the waiver. In addition, DPWES may impose a dustless surface maintenance agreement that is recorded in the County records. In addition, development condition #44 states that "effective dust and gravel control measures shall be installed and maintained by the operator of the landfill. At a minimum, these measures shall include the full-time availability of a water tank truck and sweeper vehicle on-site."

12. *With respect to the potential Lorton Valley HOA parcel, and development condition 54, it seemed a little vague to me [other than just during Phase 1] how and when the HOA would make a decision about whether they wanted to accept the parcel or not. Is there any time limit or time frame for the HOA to decide, and is there some procedural trigger to notify them to act? I assume that there may be similar liability concerns as the FCPA had but I don't know. I wondered what would happen if they had trouble making a decision quickly, and does that prevent the applicant from moving to Phase 2 for example.*

Staff revised development condition #54 to provide a timeframe on when the HOA has to decide whether to accept the 5.2 acre recreational acre proposed by the applicant.

13. *Also does that transfer require the whole subdivision or some supermajority of the residents to vote to add additional land [which as a practical matter may take more time], or is it just*

*the HOA Board doing it? And can they accept the parcel without doing a PCA for their own site?*

The Lorton Valley subdivision could accept the proposed recreation area without a PCA for their site. Whether a vote by the Lorton Valley HOA Board or by its residents to accept such land conveyance would be subject to the HOA by-laws.

*14. Development Conditions #5. and 6. Why does the review of the electrical generating facilities in these conditions refer to the GRB and DPWES when #45 refers to "all necessary Federal, Virginia and Fairfax County approvals?"*

- Condition #5 provides the condition specific to the GRB review. Before the applicant can receive site plan approval, they are required to receive GRB approval. GRB would review the landfill expansion, electrical generating facilities proposed in Phases 1, 4, and 5, and for the active recreational uses in Phases 5 and 6.
- Condition #45 includes approvals beyond the GRB to include federal, state, and county approvals that may be applicable specific to the electrical generating facilities.

*15. Development Condition #12. "All landfill disposal activities shall cease when the final debris elevation of 412 feet above sea level is reached on December 31, 2040, whichever occurs first." Define "landfill disposal activities"- December 31, 2040 is 26 years from now?*

Landfill disposal activities are those activities related to the disposal of CDD waste, to include the landfill operational facilities such as the scale house and scales, maintenance building, and operations trailer.

*16. Development Condition #17. Please clarify the relationship of SEA 80-L/V-061 to the 062 as both are referenced in this condition.*

This conditions has been revised to delete 290 feet above sea level, which is no longer applicable since the current SEA was approved for a final debris elevation of 412 feet above sea level. Condition #17 references the previous SEA and provides that before any new landfill beyond those that are allowed under the previous SEA, sediment basins shall be provided in the phase shown on the currently pending SEA plat under consideration and maintained.

*17. Development Condition #20. What is the duration for providing adequate potable water in the event of adverse effects to an off-site private well?*

The applicant shall provide adequate potable water until the off-site private well is no longer affected.

18. *Development Condition #26. Hours of operation: The condition includes Saturday hours of operation between 7:00 a.m and 3:00 p.m. What about Saturday activities adjacent to the Lorton Valley HOA?*

The development condition does not prohibit landfill activities adjacent to Lorton Valley. Lorton Valley is approximately 429-489 feet from the landfill activity area on the north slope. The applicant also will elaborate on this question.

19. *Development Condition #32. This condition calls for a 50-foot wide continuous transitional screening buffer of existing trees along northern boundary. Is this still accurate, given the identification of the second gas pipeline easement?*

The 50 foot transitional screening area is outside of the second gas pipeline easement and will not be impacted by this easement.

20. *Development Condition #45 F Can the County determine the status of the variance request to exceed height limitation prior to Phase 5?*

A variance request has not been filed by the applicant. The establishment of the proposed 12 wind turbines would not be deemed an accessory use to the closed landfill operation, but would be an electrical generating facility and would be required to meet the bulk regulations of the zoning district including the maximum building height. Currently, the Zoning Ordinance does not provide for a modification or waiver to the bulk regulations for Category 2 Heavy Public Utility Uses; a variance approval by the Board of Zoning Appeals (BZA) would be needed to permit the Phase 5 wind turbines at the proposed height on the subject property. However, with renewable energy sources such as wind turbines becoming more prevalent, the Zoning Administrator has indicated that an amendment to the Zoning Ordinance to allow the Board of Supervisors to consider an increase in building height for Category 2 Heavy Public Utility Uses as part of the special exception approval process rather than through a variance application would be a more appropriate mechanism to address similar requests going forward. Therefore, staff has drafted a proposed development condition that allows the 12 wind turbines proposed after closure of the landfill to be permitted based on a future amendment to the Zoning Ordinance or in the absence of such an amendment, a variance application would need to be submitted and approved by the BZA prior to installation of the 12 wind turbines.

21. *Could the Park Authority provide a simple explanation of why they will not accept it as a park? In my quick review of what happened in 2006, it does appear Parks had already "voted to approve" the project. Yes, I know about the liability issue, but can the County prepare a simple explanation for the press and public?*

The following is a simple explanation provided by the Park Authority.

At the time of the Park Authority Board approved the idea of accepting ownership of the landfill and the Board approved of SEA 80-LV-061, neither the Park Authority nor the Board knew that accepting the dedication of the landfill property meant that the Park Authority would be assuming the current owner's liability for having used the site as a landfill. The Park Authority Board did not create the hazards that are present at the landfill site that may create problems at any time in the future. If the Park Authority owned the site at the time any problems were to occur then it would have to use public funds to correct those problems or compensate those that were injured. The Park Authority has always been willing to accept the same degree of responsibility for a park built on top of a landfill that it has in any other park it owns. The Park Authority does not believe, however, that public funds should be used for any reason to relieve the current owner from any liability as a result of the landfill hazards it created including methane recovery, integrity of the landfill cap, or treatment of leachate. The Park Authority believes that Furnace should be responsible for these hazards because it created all of them by using the property as a landfill.

Background:

On July 12, 2006, the Fairfax County Park Authority Board approved Administrative Item 2, which requested that the applicant in SEA 80-LV-061, Furnace Associates, Inc., dedicate the entire 250 acres of the property that was the subject of the application (known as the Lorton Debris Landfill) to the Park Authority for public park purposes when the landfill is completely closed and capped, the owner's responsibility for the site is released by the Virginia Department of Environmental Quality (DEQ), and the site condition is acceptable to the Park Authority.

The underscored language is problematic as explained below, and similar language appears in the SEA 80-L/V-061 application, as Development Condition 53, and approved by the Board of Supervisors (Board) on January 8, 2007:

(53.) Written notice shall be given to FCPA, DPWES, and the Department of Planning and Zoning (DPZ) when formal release of the landfill property owner from liability is granted by DEQ. The entire site shall be dedicated in fee simple to the FCPA within 30

days following the formal release of the landfill property owner from liability by DEQ. Prior to the site becoming a public park, a 2232 shall be submitted by FCPA for the review and approval of the Planning Commission.

At the time of the approval of the Administrative Item by the Park Authority and the approval of SEA 80-LV-061 by the Board, neither the Park Authority nor the Board knew that accepting the dedication of the landfill property meant that the Park Authority would be assuming the current owner's liability for having used the site as a landfill. That is, if the Park Authority had accepted the dedication of the landfill property, as the new owner, the Park Authority would then be responsible as that owner. This issue was raised by the County Attorney's Office when they were first consulted by the Park Authority in 2008 to prepare an interim public access agreement as provided by Development Condition 54, which was required to be executed prior to Furnace's site plan approval to allow its vertical expansion to 412 feet:

(54.) Interim public access easements shall be provided over all trails and those on-site park facilities intended for public access as depicted on the SEA Plat, prior to transfer of the entire site in fee simple to FCPA. Prior to site plan approval, an agreement shall be executed between FCPA and the applicant regarding issues such as liability and maintenance for areas subject to public access prior to dedication of the property to FCPA.

This was the first time that the County Attorney's Office had seen Development Condition 53. After consulting with staff in the County's Division of Solid Waste, Department of Public Works and Environmental Services, and DEQ, it was determined that the phrase "formal release of the landfill property owner from liability is granted by DEQ" was a condition that would never occur. That is, DEQ never releases a landfill owner from liability, formally or otherwise. Instead, DEQ regulations require that all landfills be monitored during a post-closure period, which, in the case of a debris landfill, is generally for a period of about ten years. Therefore, at least one of the conditions for the transfer of ownership of the entire landfill site to the Park Authority would never occur because DEQ would never "formal[ly] release the landfill property owner from liability." Whoever owns the property is responsible for the landfill and any hazards resulting from it.

In addition, the County Attorney's Office advised Park Authority staff that the transfer of the ownership of the landfill site would also result in the transfer of liability to the Park Authority for anything that occurred at the site, which would necessarily be paid from

public funds. Furnace Associates and the Park Authority spent several months negotiating a May 9, 2009, "Public Use and Access Agreement" in which in paragraph 5, both parties agreed that the Park Authority would decline the dedication of the landfill site:

5. FCPA Declines the Dedication of the Furnace Property.  
Although the Approved Development Conditions of SEA 80-L/V-061 contemplate that the Furnace Property be dedicated in fee simple to the FCPA within 30 days "following the formal release of the landfill property owner from liability by DEQ," and inasmuch as DEQ does not provide for "formal release of the landfill property owner from liability" and inasmuch as the FCPA is concerned about its potential liability after accepting such dedication, and inasmuch as the FCPA does not wish to become owner of the Landfill Property, the FCPA will not accept the dedication of the Furnace Property at any time.

It was anticipated at that time that the applicant would have to file a special exception amendment to remove the dedication of the landfill site to the Park Authority from its development conditions; however, this did not occur. The applicant's site plan was approved by the County on May 26, 2009, so the height expansion could proceed as approved from 290 feet to 412 feet. It should also be noted that the approved SEA 80-LV-061 did provide that the applicant would own the landfill during the approximately 10 year post-closure period while the Park Authority operated a public park on the portions of the landfill that were closed because they were no longer being used for landfill operations, however, this has not occurred.

22. *The applicant's supporters stated that 32% of the debris comes from either the State of Maryland or the District of Columbia, while the opponents stated 62 % of the debris comes from those two locations. I'll be asking on how these numbers were obtained in an effort to resolve the differences.*

The speaker who stated those percentages at the public hearing has since sent an email to the Planning Commission on March 9, 2014, to correct the stated percentages of waste that comes from Maryland and the District of Columbia. The correct percentage is 55%, which was obtained from ESI's reporting to DEQ on tons of landfill at the Lorton Landfill.

23. *Can ESI or Fairfax County restrict the use of the landfill to Fairfax County generated construction debris only?*

Since a special exception was approved in 1981 to permit a debris landfill, staff has not proposed a development condition to restrict the use of the landfill to Fairfax County. This question also has been forwarded to the County Attorney's office for review.

24. *In the previous agreement, I assume that the balance between (a) the private gain of the applicant in operating the landfill to the agreed closing date over against (b) the public benefits expected from the park and other items was acceptable, correct?*

Correct.

25. *When the FCPA decided not to go forward with the park atop the debris pile, the deal was rendered no longer viable, and the process allowed for a completely new application and agreement, correct?*

Correct.

26. *In the new proposal, the operation of the landfill is to be extended for nearly two decades. The impacts in terms of truck traffic, noise and dust will be the same, and will extend over the added period of operations. Correct?*

- Correct, staff proposed development condition #41 (from the revised conditions dated March 7, 2014) on truck traffic remains and states that "commercial truck traffic to and from the site shall enter the site only from the south. Commercial truck traffic shall be prohibited from making left turns into the and right turns out of the landfill."
- Staff proposed condition #44 (from the revised conditions dated March 7, 2014) on dust remains and states that "effective dust and gravel control measures shall be installed and maintained by the operator of the landfill. At a minimum, these measures shall include the full-time availability of a water tank truck and sweeper vehicle on-site." With the SEA application, the applicant is requesting a waiver of the dustless surface requirement. Should the BOS approve this waiver, it is staff's understanding, that DPWES may impose conditions to the waiver. In addition, DPWES may impose a dustless surface maintenance agreement that is recorded in the County records.
- The applicant is subject to the noise ordinance.

27. *The balance now to be struck is that between the operation of the landfill over this extended period and the mitigation of its impacts. The so-called "green energy park" and various cash and other offerings are now the proposed elements of that balance. Correct?*

Correct

28. *Has there been staff discussion of the economic aspect on the impacted community of the proposed extension of the Lorton landfill operation?*

An economic impact review is not typically part of the land use review of a zoning application. In addressing General Standard #3 of the SE Standards, the staff report stated that it is difficult to assess whether this application, specifically extending the landfill operation until December 31, 2040, will impair the value of appropriate development and use of adjacent or nearby land and/or buildings. Staff recognizes that surrounding landowners made financial decisions in and around 2007, and subsequent to the Board's 2007 approval of the special exception amendment, which provided January 1, 2019, as the end date for landfill operations. However, staff recognizes that prior to and since 2007, development around the landfill has occurred where property has been bought, sold, and leased. According to the County's Department of Tax Administration (DTA), the Residential Analysis for the 2013 Tax Assessment Year for the Lorton area indicates that there was a 5.02% increase from the 2012 mean residential tax assessment of \$332,476 to \$349,150 in 2013, (second largest tax increase in the County) and such analysis is included as Appendix 14. Further according to DTA, commercial properties showed an overall equalization increase of 0.14% in the 2013 tax assessment year. Changes in the commercial tax assessment by zip code was not available. As such, it does not appear that the landfill has hindered surrounding development and a continuation of landfill operations until 2040, does not appear to preclude reasonable use of land or impair its value. With the proposed development conditions, staff does not believe that the proposed changes to the operation of the landfill, the proposed electrical generating facilities, and private, limited access active recreational uses would hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

29. *As the county has developed, the Lorton area is no longer very remote from the more "built-up" areas of the county, and landfill operations at the Lorton site over the next decades may not be nearly so tolerable as in previous years, since they exert a downward pressure on land values. What plans and visions are there for growth and redevelopment near the Lorton landfill location?*

There is a pending rezoning application RZ 2011-MV-033 to the north, adjacent to Lorton Valley that is proposing 31 single family homes. Staff is unaware of any other pending zoning application adjacent or near the landfill.

30. *How will the extended operation of the landfill affect any current or future visioning efforts?*

Staff does not believe that extending the operation of the landfill will affect current or future visioning efforts in this area of the county. A review of the Comprehensive Plan language for the Lorton-Route 1 area is not anticipated until 2016, depending on the progress of other studies, and is not anticipated to propose land use changes, but instead editorial changes to the Plan.

*31. Is there a plan to terminate the landfill uses during the coming planning period?*

Staff is unaware of a plan to terminate the landfill use during the coming planning period.

*32. There is much discussion of a number of technologies for recoverable source energy generation in the proposal. However, the actual commitment to provide the technologies appears to be limited. For example, the actual number of wind turbines and the end user section of geothermal infrastructure are limited. Is this interpretation correct, and if so is staff satisfied that even given such limitations a “balance” is achieved?*

The applicant is proposing four electrical generating facilities: wind turbines, solar panels, methane gas, and geothermal. The applicant has only committed to providing the three wind turbines in Phase 1 and the methane gas and geothermal infrastructure in Phase 1. With the geothermal infrastructure, geothermal energy may be provided to Covanta or the Landfill Energy Systems facility for nearby County facility use.

*33. If the goal of the green energy park is to demonstrate the usefulness of the technologies discussed while at the same time mitigating the landfill operations impact on the community, a different approach might give better results. For example, the applicant’s feasibility study contains a discussion on providing geothermal energy output directly to nearby homes in the impacted community. In the same way, solar panels could be directly installed on nearby SFA and SFD buildings. If the landfill site had a small visitor complex with the equipment for showing the energy savings achieved, both the impacted population and the county at large could be benefited.*

The applicant has proposed the electrical generating facilities on the application properties only and has not proposed to install solar panels on nearby townhomes (SFA) or single family dwellings nor has the applicant proposed a small visitor complex with equipment to show the energy savings achieved.

*34. Another application of this approach could be done with the wind technology. The applicant’s feasibility study notes that the actual output of wind turbines at this site does not give confidence in a good return on investment (3.3.2, Wind Energy, p33). This supports the view that installing wind turbines accepts marginal, largely symbolic, gains at the very real*

*cost of assured (even if modest) risks to valuable natural wildlife resource; this does not seem to be a very good thing to demonstrate, for example, to our children.*

Page 4 of the applicant's Feasibility Study notes that "[t]he site is located outside of mapped areas of high wind power potential in Virginia but potentially within the zone of "good" wind availability associated with the Chesapeake Bay."

35. *It should also be noted that going forward with the on-site solar and wind technologies will require that they be installed atop very massive slab-and-piling support structures, to compensate for operational mechanical loadings. Two engineering "challenges" in piggyback landfills are (1) differential settling in the underlying debris pile and (2) outward stresses over time at the berms supporting the base of the pile. Both of these are related to the weight of the debris pile and any structures atop the pile. If there is a way to demonstrate the technologies to advantage without requiring their actual installation atop the Lorton landfill debris pile, it would seem prudent to pursue it?*

The applicant previously discussed installing anemometers on the landfill to measure the wind speed at an elevation on the landfill. However, it is staff's understanding that in lieu of the anemometers, the applicant is proposing three wind turbines purposed in Phase 1 as a demonstration project.

36. *The applicant argues that the Lorton CDD landfill site is essential to the county, to service the large-scale redevelopment projects such as Tysons. By the time the previous agreement was negotiated, the vision for Tysons was well formed – yet this same applicant agreed to a closing of this very landfill site. How are these two views consistent?*

In January 2007, when the SEA was approved, the applicant anticipated being able to fill and cap the landfill based on debris amounts at that time. However, subsequent to 2007, there was a downturn in the economy and fill volume decreased. With the adoption of the Comprehensive Plan language for Tysons, the CDD landfill would provide a service to large scale redevelopment projects, such as Tysons, if the landfill were to remain open beyond 2018.

37. *Why can't the county stick to the originally agreed closing date, with fewer on-site blandishments, rather than a whole new arrangement?*

The applicant is not proposing to close the landfill based on the original closing date.

38. *If a whole new arrangement is to be sought, why can't the county negotiate toward a hybrid approach, with some actual technology employed offsite as previously suggested, and a*

*Recoverable Energy Technology Center onsite, with a small theater for audiovisual information pieces on the latest work, a monitoring room with records of the green energy uses in the community, (and perhaps in the county as a whole), and exhibit rooms with models and miniatures to allow for visitors to have the workings of green energy technologies explained to them? Such an approach could provide, for instance, for information on the site addressing not only solar panel technology, but also solar mirror/steam power generation, wind and tidal motion energy generation and so forth. (By the way, this would permit a model of a nuclear generating station, without requiring any onsite installation!) If such an approach were applied, there would be no need for the installation pads. If desired, the model airplane field and the ball hitting facility could still be present. If appropriate the cash contributions could remain as part of the bargain.*

The methane gas and geothermal hook-ups are proposed off-site on the PCA site at 113-1 ((1)) 12 and 13; as well as, a solar panel farm on the PCA site. As the applicant stated in its request for off-site parking for the proposed Observation Point, the applicant is not proposing to have public parking on the landfill site because of ongoing, active landfill operations and issues of safety. For this reason, the applicant may not support a publicly accessible Recoverable Energy Technology Center on the landfill site, and if so, may require a liability waiver signed by visitors on the landfill site. However, the applicant proposed development condition #52 (from the March 7, 2014), to contribute \$200,000 to the Board of Supervisors toward an educational feature available to the public that describes the renewable energy activities on the applicant's properties; as well as, those renewable energy activities occurring on neighboring County land and provides information on renewable energy.

*39. Development Condition #47. Are the penalty payments in addition to other payments to the County/community?*

Yes.

*40. Development Condition #53. Wildlife conservation. Does this proffer include mitigation beyond the requirement to submit reports?*

Development condition #53 requires adherence to the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines, which may include additional action by the applicant beyond reports.

*41. How does the landfill, waste reclamation facility and LEED recycling facility at the landfill work?*

A CDD landfill has been operating at the current Lorton Landfill site since the 1970s and in accordance with SE 80-L/V-061, which was approved on October 21, 1981, and amended on January 8, 2007. CDD landfills accept inert materials, such as concrete, rock, asphalt and glass; as well as, scrap lumber, drywall and other debris from construction sites and land clearing activities, as approved in the site's DEQ waste permit. In addition to CDD waste, the Lorton Landfill accepts select volumes of dredged soils from lakes, ponds, and stormwater management facilities in the County that are either publicly or privately maintained.

The mixed waste reclamation facility was approved on January 8 2001, by the Board of Supervisors for sorting and separation of CDD waste for recycling. It is staff's understanding that the mixed waste reclamation facility accepts CDD waste currently accepted by the landfill and recycles that CDD waste. All other material delivered to the site is either transported out to end users or to CDD landfills.

The mixed waste reclamation facility (PCA site) is the subject of pending PCA 2000-MV-034, which proposes to replace the mixed waste reclamation facility use with solar electrical generating facilities (solar panels). The applicant has proffered to provide the solar panels/solar infrastructure on the site within 24 months of receipt of all local, state, and Federal approvals required to implement the landfill use, as requested in SEA 80-L/V-061-02.

The applicant has indicated that if the proposed SEA application for the CDD landfill is not approved and the closure date of the CDD landfill remains on January 1, 2019, then the applicant would withdraw the PCA application and would instead increase the recycling activities on the PCA site.

With the closure of the landfill, the trucks that would normally travel to the landfill to dispose of waste would instead come to the PCA site for waste to be sorted and recycled. All other waste would then be transferred to sites where it could be reused or disposed. The existing truck restriction from Lorton Road to southbound Furnace Road does not apply to the PCA site, as it does with the landfill site. As such, the applicant indicated that the closure of the landfill would mean an increase in truck traffic on southbound Furnace Road to the PCA site. With the proposed solar panel farm, the truck traffic anticipated would be from those used to deliver and to install the solar infrastructure/panels and to perform minimal maintenance associated with the use.

The applicant previously provided to staff the following information on the LEED recycling facility at the landfill:

LEED Capacity: Based upon our operating experience, average daily capacity of LEED loads is approximately 500 tons per day, using existing equipment and acreage.

LEED Volume: At this point in time, our average daily volume of LEED loads is approximately 200 tons per day and is anticipated to increase to approximately 300 tons per day within roughly 3 months.

LEED recyclable recovery rate: Based upon our operating experience, average recyclable recovery rate of LEED volume is approximately 50%

Non LEED recyclable volumes: Approximate average is 40,000-50,000 tons per year.

Non LEED recyclable volume recovery rate: Approximately 80-90%. Most of recovered material, including concrete and asphalt, is re-used on site for road base.

The following questions were directed to the applicant by a Planning Commissioner.

42. *Please explain the timeline of the twelve wind turbines compared to the recreation facilities. Will the radio controlled airplanes and baseball and driving ranges be built only if the turbines are NOT built, or after the turbines wear out or are otherwise torn down? Or will the twelve turbines and three recreation facilities all be in use at the same time?*
43. *About what percentage of construction debris comes from out of the County? From out of state? Would your business model still work without Maryland clients? Do you know if it is legal to discriminate against out-of-state clients?*
44. *Are the loads already covered? Is there any way to reduce further debris coming off the trucks and onto local roads?*
45. *If I followed all the numbers, you plan to remain within your current height limits and to expand beyond your current perimeter restrictions by less than two percent. Can you somehow stay within your current boundary restrictions so that there would be no "expansion"?*
46. *Several speakers argued that the applicant does not recycle "enough." Can you present any data that you are already recycling about 75%? Any anecdotal data that that is the economical limit at this time?*
47. *At the public hearing some mention was made that the threat of continuing to have trucks use local roads unless the extension of time is approved feels coercive. Can the applicant explain the road situation in simple terms? Something like unless the project is approved, the site will stay open and the applicant can't change the access point, but with the new project trucks will not be able the access the construction landfill from local roads.*
48. *Would the applicant be willing to install solar panels in lieu of the three wind turbines if in fact the wind turbines pose a threat to the bald eagle population in the area, providing the cost is revenue neutral to the applicant?*

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*49. Would the applicant be willing to post a bond to cover all the proffers and development conditions? This bond would be modeled after the road bonds that developers are required to post in case of a bankruptcy issue in the future?*