



Urban Research & Development Corporation

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October 18, 2022

TO: Attorney Maryanne Starr Garber
FROM: URDC, Charlie Schmehl (cschmehl@urdc.com)

SUBJECT: **Review of Proposed Zoning Ordinance Amendments for the Bethlehem Landfill**



The Bethlehem Landfill Company has requested zoning amendments involving a zoning map change and a text revision to the Lower Saucon Township Zoning Ordinance. These amendments would allow an expansion over a number of years of the existing Bethlehem Landfill to the northeast and east.

Proposed Zoning Map Amendment

The zoning map amendment would change an area northeast and east of the current landfill to the LI Light Industrial zoning district from the RA Rural Agricultural district.¹ The current landfill is within the LI district, which allows landfills as a special exception use. A six acre elongated area west of the current landfill is also proposed to be included in the zoning map amendment. This elongated area is needed to allow for proper regrading next to an existing disposal area. If that elongated area is not included, 300,000 cubic yards of previously placed waste would need to be excavated and relocated. Other than that elongated area, the landfill is not proposed to include any expansion to the west or the northwest of the current landfill.

The proposed map amendment is primarily intended to allow the Landfill to continue its current approximate level of operations into future years. The Pennsylvania Department of Environmental Protection (DEP) permit will limit the amount of land area that can be opened for active landfill operations at one time, and will require that previously landfilled areas be re-vegetated in phases.

The area proposed for rezoning to Light Industrial includes 275.7 acres. The Bethlehem Landfill Company's maximum additional disposal area that would result from this zoning change is 117.4 acres, which is much smaller in acreage than the total zoning map change. The land area included in the proposed LI district expansion results from a standard practice to have the zoning boundaries follow lot lines and natural boundaries, and the need to include land for regrading, erosion control and stormwater facilities.

¹ Certain of these lands that are currently proposed to be rezoned to the Light Industrial district are subject to a covenant that is held by Lower Saucon Township that does not permit a landfill on those properties. The requested zoning map amendment is independent of that covenant. Any landfill expansion onto these parcels would require the Township to release this restriction.

ROUTING

- ☒ Council
- ☒ Manager
- ☐ Asst. Mgr.
- ☐ Zoning
- ☐ Finance
- ☐ Police
- ☐ P. Works
- ☐ P/C
- ☐ P & R
- ☐ EAC
- ☐ Engineer
- ☐ Solicitor
- ☐ Planner
- ☐ Landfill
- ☐ EMC
- ☐ Other

The 117.4 acre area that is shown on the applicant's submittal is the maximum footprint for the disposal area. A smaller disposal area and/or a slightly different configuration may result from the required DEP and Township reviews and approvals.

A landfill is an essential service that needs to be accommodated somewhere in the area. It is sound planning to extend an existing landfill, as opposed to attempting to establish an entirely new landfill. The Township's only industrially zoned areas are within the Landfill and immediately adjacent areas. In total, the Township's current industrially zoned areas comprise less than five percent of the land area of the Township, and the majority of those industrially zoned areas have been developed.

This proposed eastern and northeastern expansion of the LI district is appropriate because the lands in that vicinity involve very few nearby homes. Furthermore, there are likely to be few new homes in the areas adjacent to the proposed expansion because of the steep slopes in the vicinity, the lack of central water and sewage service, and the current zoning regulations that are in place in the vicinity, which typically require 2 to 4 acre lot sizes per home.

According to National Weather Service data that was aggregated and published online by www.weatherspark.com, during 11 months of the year, the wind in the Bethlehem area is most often prevailing from the west. Therefore, the proposed landfill expansion would be downwind from Steel City and Skyline Drive residents, based upon the most common wind patterns.

The Landfill area has connecting roads to reach the Route 412 interchange of I-78, without the truck traffic passing through highly residential streets.

The areas proposed for the expanded landfill are owned by the Bethlehem Landfill Company. A former quarry area northeast of the proposed rezoned area has been leased to the City of Bethlehem for police and fire training.

The proposed Landfill expansion area to the east of the current Landfill is adjacent to two existing tanks (which were used by the former owner of the property) and two major Columbia Gas Transmission Corporation natural gas transmission lines. The natural gas rights-of-ways help to create a logical transition to mostly undeveloped properties to the east, because the rights-of-way are required to be kept open.

Within the Light Industrial district, a landfill expansion would require special exception approval from the Township Zoning Hearing Board. Under that process, there are public hearings and the Zoning Hearing Board has the ability to place reasonable conditions upon an approval.

LVPC Plan - The Lehigh Valley Planning Commission prepared the Lehigh Valley Comprehensive Plan. The Plan categorizes the Landfill and many adjacent lands as a "Development" Area. A Development Area means that land has "most or all of the factors to support growth..." These areas are recommended as being "appropriate for a variety of uses, including major commercial, residential and industrial development." The portion of the land that includes steeply sloped areas northeast of the current landfill is categorized as a "Character Defining" Area. These areas include natural and scenic characteristics and are recommended for "low-intensity, limited scale development." Other adjacent lands to the east of the Landfill are classified as "Exurban" Areas. These areas are intended to mainly remain in rural uses.

Landfills are categorized by LVPC as a type of “Land Use of Regional Significance,” which justifies more extensive reviews by LVPC than for less intensive uses. In my professional opinion, the areas proposed for rezoning are generally consistent with the LVPC’s Development Area category, considering the limited areas proposed to be used for waste disposal. The maximum land areas proposed to be used for waste disposal are shown on the applicant’s map sheet labeled “Conceptual Disposal Footprint (Maximum)”.

Lower Saucon-Hellertown Joint Comprehensive Plan - In 2022, Lower Saucon adopted an updated version of the Joint Comprehensive Plan. The revised Plan did not change any recommendations for the area surrounding the Landfill, compared to the previous Comprehensive Plan. The Landfill is only mentioned twice in the Plan, including as an example of an industrial use on page 21. On page 20, the Plan notes that the Landfill “generates a significant portion of the community’s non-resident tax income” and that if an expansion is not approved, alternative sources of tax revenue would need to be found.

The proposed map amendment is generally consistent with the Joint Comprehensive Plan because the Comprehensive Plan Map designates the current Landfill and almost all lands proposed for the landfill expansion to the east and northeast as “Industrial.” The Industrial category in the Plan includes certain lands up to Riverside Drive and lands running east to include the existing tanks that are east of the proposed landfill expansion. The Industrial category in the Plan is intended to provide for “generally larger-scale local and/or industrially-oriented industrial, industrial-office and/or service uses.”

The land along the Bull Run creek is designated by the Comprehensive Plan as “Open Space” because it is part of the Bull Run Natural Heritage Area. Given the location of the land areas that are proposed to be used for the disposal areas (based upon the applicant’s map as described above) which are proposed to be set back significantly from Bull Run Creek, the Comprehensive Plan provision will be generally consistent with the proposed rezoning. In addition, areas north of the Bull Run Creek are not part of the proposed zoning map change. Setbacks from certain natural features (including the Bull Run Creek) will need review and approval under DEP regulations.

Proposed Zoning Text Amendment

The current Zoning Ordinance states that the purposes of the LI district include but are not limited to providing for the Bethlehem Landfill and other lands used for industrial uses in the past.

The current zoning ordinance regulates the amounts of various natural features that can be disturbed, including woodlands and steep slopes. For the purposes of meeting natural feature requirements, the draft zoning amendment would include a “Natural Resource Mitigation Alternative.” This proposed text amendment would provide the Township Council with the ability to allow natural areas that are disturbed by an industrial development (such as the landfill expansion) to be offset by permanent preservation of other natural lands in the Township. The new draft amendment also would include a provision that allows Township Council to approve payment of fees by an applicant in-lieu-of dedicating land for new natural feature preservation. In that case, the Township could use the fees to preserve other important natural areas in the Township to offset the impacts.

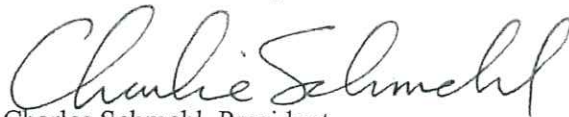
This proposed Natural Resource Mitigation process is similar to many zoning provisions that are commonly espoused by community planners. For example, many ordinances work to cluster homes on the most suitable portion of the tract, so that the concentrations of natural areas can be permanently preserved.

This Natural Resource Mitigation process is proposed to be only available for industrial uses in an industrial district. This process is valuable for an industrial use because it is difficult to preserve isolated areas of a natural feature in the middle of an industrial development that needs a contiguous footprint. The Township's current natural feature preservation regulations function best with single family detached houses, which can be more easily laid out to avoid natural features. In my professional opinion, the proposed Natural Resource Mitigation alternative involves sound land use planning.

It should be noted that an expansion of the Landfill would be subjected to extensive reviews and regulations by State and Federal agencies, most notably DEP. DEP has many pages of regulations that address impacts upon protection of groundwater quality, protection of the quality of creeks and rivers, stormwater management, erosion control, litter, odor, habitats of rare or endangered species of plants or animals, wetlands, crossings of watercourses and many other matters.

There currently is a process for Planning Commission and Township Council site plan review of certain uses under the zoning ordinance. The draft zoning amendment would not require this site plan review process if an application will need extensive review and approval as a land development under the Township Subdivision and Land Development Ordinance and will also need a DEP permit. That proposed change is very appropriate to avoid duplicative reviews and duplicative meetings for a landfill application. URDC has written many ordinances that provided that a site plan review under the zoning ordinance was not required when a detailed land development approval will be required.

Please find attached my curriculum vitae.

A handwritten signature in cursive script that reads "Charlie Schmehl".

Charles Schmehl, President

Urban Research and Development Corporation



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Urban Research and Development Corporation (URDC) is a consulting firm that specializes in community planning, landscape architecture, grants administration and downtown revitalization projects. URDC was founded in 1968.

CHARLIE SCHMEHL

Principal

Mr. Schmehl directs URDC's projects involving comprehensive planning and preparation of development regulations. Mr. Schmehl's work with URDC since 1985 has included the preparation of comprehensive plans and development ordinances for almost 100 communities throughout eastern and central Pennsylvania and Maryland.

Mr. Schmehl recently completed new zoning ordinances for Ephrata, Coopersburg, Jessup, Lebanon and East Hanover Township (north of Hershey). He previously prepared the bulk of the zoning ordinances of the cities of Allentown, Reading, Bethlehem, Chester and Scranton, and assisted with three major updates of Lancaster's zoning ordinance.

He also prepared a draft new Subdivision and Land Development Ordinance for the City of Bethlehem, which is pending adoption.

Mr. Schmehl wrote a new Schuylkill County Zoning Ordinance and assisted in updating the Zoning Maps for 32 municipalities that are under the jurisdiction of that Ordinance.

He was one of two URDC's staff-members who wrote a new Comprehensive Plan for Sussex County, which covers the southern one-third of the state of Delaware, and also wrote zoning amendments for Sussex County.

Mr. Schmehl was the primary author of the following comprehensive plans:

- Lower Paxton Township (which is one of the most populated municipalities in the Harrisburg area).
- Southwestern Lehigh Region (6 municipalities in Lehigh, west of Allentown),
- Governor Mifflin Region (5 municipalities in Berks, south of Reading),
- Suburban Berks West Region (5 municipalities in Berks, west of Reading),
- City of Bethlehem (Northampton),
- Forks Township (Northampton),
- Mount Joy Township (Adams),
- Bonneauville Borough and Mt. Pleasant Township (Adams),
- Manchester Township and North York Borough (York),
- City of Scranton (Lackawanna), and

- Greenwich Township and Lenhartsville (Berks)

He has prepared the bulk of the zoning ordinance for each of the following municipalities:

- City of Bethlehem (Northampton)
- City of Allentown (Lehigh)
- City of Reading (Berks)
- Myerstown (Lebanon)
- Fairview Township (Luzerne)
- East Petersburg Borough (Lancaster)
- Swatara Township (Dauphin)
- Camp Hill Borough (Cumberland)
- Lower Paxton Township (Dauphin)
- West Lampeter Township (Lancaster)
- Westfall Township (Pike)
- Macungie Borough (Lehigh)
- Mount Pleasant Township (Adams)
- Bonneauville Borough (Adams)
- North York Borough (York)
- Palmer Township (Northampton)
- Upper Macungie Township (Lehigh)
- Lower Nazareth Township (Northampton)
- Bethlehem Township (Northampton)
- Upper Milford Township (Lehigh)
- City of Scranton (Lackawanna)
- Emmaus Borough (Lehigh)
- Columbia Borough (Lancaster)
- Mount Joy Township (Lancaster)
- Beaver Meadows Borough (Carbon)
- Mount Joy Borough (Lancaster)
- Bridgeport Borough (Montgomery)
- North Codorus Township (York)
- Palmerton Borough (Carbon)
- Bowmanstown Borough (Carbon)
- Western Berks Region (Joint zoning ordinance for 4 municipalities in Berks, west of Reading)
- Boyertown/Colebrookdale Township/Pike Township (Joint zoning ordinance.)
- Yoe Borough (York)
- Lehman Township (Pike)
- Ross Township (Monroe)
- Chestnuthill Township (Monroe)
- Tatamy Borough (Northampton)
- Upper Nazareth Township (Northampton)
- Jacobus Borough (York)

Mr. Schmehl prepared substantial revisions of the zoning ordinances for the following municipalities:

- Stroudsburg Borough (Monroe)
- East Stroudsburg Borough (Monroe)

- Plainfield Township (Northampton)
- Manchester Township (York)

Mr. Schmehl has developed new Subdivision and Land Development Ordinances for:

- Upper Milford Township (Lehigh)
- Palmer Township (Northampton)
- Williams Township (Northampton)
- Bushkill Township (Northampton)
- Bethlehem Township (Northampton)
- Tatamy Borough (Northampton)
- Fountain Hill Borough (Lehigh)
- Spring Township (Berks)
- Chestnuthill Township (Monroe)
- Ross Township (Monroe)
- Bridgeport Borough (Montgomery)
- the Countywide Subdivision Ordinance for Garrett County, Maryland.

Mr. Schmehl has been recognized as an expert in community planning and zoning through testimony he provided in approximately 40 cases in Pennsylvania. The following are examples of where he has provided officially recognized expert testimony:

- Before the Northampton Township Zoning Hearing Board concerning an interpretation, which resulted in the Board overturning their Zoning Officer's permit denial.
- Before the Newtown Township Zoning Hearing Board concerning variances for a commercial development.
- Before the Hatboro Zoning Hearing Board concerning variances and interpretation for a commercial development.
- Before the Guilford Township Zoning Hearing Board involving a substantive challenge of regulations for a proposed wind farm.
- Before the Greene Township Zoning Hearing Board to defend a zoning amendment as it applied to a proposed distribution center.
- Before the Plumstead Township Zoning Hearing Board concerning variances and interpretation for a commercial development.
- Before the Upper Gwynedd Township Zoning Hearing Board concerning variances and interpretation for a commercial development.
- Before the Lower Milford Township Zoning Hearing Board on behalf of the Board of Supervisors to oppose a quarry, concrete plant and asphalt plant complex.
- Before the Hatboro Zoning Hearing Board to seek approval of a proposed commercial use.
- Before the Plumstead Township Zoning Hearing Board to seek approval of a proposed commercial use.
- Before the Easton Zoning Hearing Board concerning a proposed sign variance.
- Before the Forks Township Zoning Hearing Board to defend the Township against a substantive challenge of Farmland Protection zoning on 600 acres of farmland.
- Before the Forks Township Zoning Hearing Board to defend the Township against a procedural challenge of a new zoning ordinance.
- Before the Forks Township Zoning Hearing Board to defend the Township against a challenge of a zoning amendment to allow a new grocery store.

- Before the Schuylkill County Court of Common Pleas on behalf of the Schuylkill County Planning Office, in defense of regulations on adult live entertainment uses.
- Before the Schuylkill County Zoning Hearing Board on behalf of the Schuylkill County Planning Office, in defense of the County's regulations on group homes.
- Before the Summit Hill Zoning Hearing Board concerning a group home.
- Before the Middle Smithfield Township Zoning Hearing Board on behalf of residents, concerning a proposed adult live entertainment use.
- Before the Butler Township Zoning Hearing Board concerning a proposed wind farm.
- Before the Mahanoy Township Zoning Hearing Board concerning a proposed wind farm.
- Before the West Mahanoy Township Zoning Hearing Board concerning a proposed wind farm.
- Before the Maxatawny Township Board of Supervisors regarding a conditional use for a large retail complex.
- Before the Allentown Zoning Hearing Board on behalf of Muhlenberg College for a use variance.
- Before the Allentown Zoning Hearing Board on behalf of St. Luke's Hospital for dimensional variances.
- Before a public hearing of the Board of Supervisors of Plumstead Township (Bucks County) in a critique of a proposed Planned Residential Development on behalf of neighbors.
- Before the Franklin Township (Carbon County) Zoning Hearing Board regarding an enforcement and interpretation matter.
- Before the Schuylkill County Zoning Hearing Board concerning two proposed Wind Farms.
- Before the West Penn Township (Schuylkill County) Zoning Hearing Board in support of an appeal to allow a hunting camp in an agricultural district.
- Before the Penn Forest Township (Carbon County) Zoning Hearing Board to provide testimony concerning ordinance interpretation for a 500 acre outdoor recreation use.
- Before the Penn Forest Township (Carbon County) Zoning Hearing Board to seek a zoning variance for a new home.
- Before the Foster Township (Luzerne County) Zoning Hearing Board opposing a use variance in a residential district.
- Before the Kingston Borough (Luzerne County) Zoning Hearing Board seeking zoning approval for a conversion of a former school into residences.
- Before the Orwigsburg Borough (Schuylkill County) Zoning Hearing Board seeking special exception zoning approval for a townhouse development.
- Before the North Manheim Township Zoning Hearing Board concerning a use variance for an expansion by one of Schuylkill County's largest manufacturers.
- Before the Upper Mount Bethel Township Board of Supervisors regarding a curative amendment challenge concerning a density provision.
- Before the Court of Common Pleas of Northampton County regarding a nuisance court action against a business in Roseto Borough on behalf of neighbors.
- Before the Lower Macungie Township Zoning Hearing Board defending a zoning ordinance change against a challenge of spot zoning.
- Before the Upper Mount Bethel Township Zoning Hearing Board challenging whether a set of commercial recreation uses were permitted under the Zoning Ordinance.

Mr. Schmehl earned a Bachelor of Urban and Environmental Planning degree from the University of Virginia and a Master of City and Regional Planning degree from the University of Pennsylvania. While studying community planning in college, he worked full-time during two summers for the Lehigh Valley Planning Commission.

Mr. Schmehl regularly presents educational programs for local government officials through the Pennsylvania Planning Association. He has made multiple presentations at the Statewide Community Planning Conferences. These have included presentations about the City of Reading Zoning Update, Innovative Zoning Techniques, Comprehensive Planning, Downtown Parking and "Ask the Zoning Experts."

He also spoke at a Penn State University Wind Energy Conference, on the topic of Zoning for Wind Energy. He has also provided two presentations for the Zoning Officers Association of the Pennsylvania State Association of Township Officials, a presentation at a State Borough Associations convention, and a presentation for municipal managers for the Pennsylvania League of Cities and Municipalities.

Mr. Schmehl currently serves on the Legislative Committee of Pennsylvania Chapter of the American Planning Association (PA-APA). For twelve years, Mr. Schmehl served on two statewide committees of the PA-APA that recommended a series of improvements to the State's Municipalities Planning Code, and that provided comments on proposed bills to amend the law. He also served on a Statewide PA-APA Committee that provided a report recommending policies to manage impacts from the natural gas industry. He also is serving as a member of the Mobile Workshop Committee for the 2023 National Planning Conference of American Planning Association, which is organizing 40 walking and bus tours around the Philadelphia area for conference attendees.