



## CITY OF TONTITOWN PLANNING OFFICE

201 E. Henri de Tonti Blvd.  
479-361-2700  
planning@tontitownar.gov

Meeting: **August 31, 2021**  
Project: **Eco Vista Landfill**  
Planner: Courtney McNair, Garver

### AGENDA ITEM

## 3

### PRELIMINARY LARGE SCALE DEVELOPMENT REQUEST

#### 2210 Waste Management Drive

**Parcel #s:** 830-38355-001, 830.38354-000, 830-38358-000, 830-38365-000, 830-38366-000, 830-38364-000, 830-38378-000, 830-38398-000, 830-38397-000, 830-38395-000, 830-38396-000, 830-38391-000, 830-38390-000, 830-38399-000, 830-38392-000, 830-38394-000, 830-38400-000, 830-38400-200, 830-38400-100, 830-38403-000

**SUMMARY:** Request to approve a Preliminary Large-Scale Development for an expansion to the existing Eco Vista landfill property. This property was rezoned to EU-L zoning in anticipation of this expansion, and to bring the existing into compliance in October 2020.

**CURRENT ZONING:** EU-L: Exclusive Use-Landfill

**CITY WARD:** 3-Don Doudna, Tim Burress

**INFRASTRUCTURE SERVICE AREAS** (not a guarantee of service availability):

**Water:** Washington Water Authority

**Electric:** Ozarks Electric

**Sewer/Septic:** Tontitown Sewer

**Phone:** AT&T

**Natural Gas:** Black Hills Energy

**Cable:** Cox Communications

#### PROJECT SYNOPSIS:

The owner/applicant for this project is Eco-Vista, LLC. The property is located at the south of Arbor Acres Ave. and at Waste Management Drive. There is an existing drive (Waste Management Drive), that connects to Arbor Acres Ave. No additional drives are proposed with this Preliminary LSD.

This request to approve a Preliminary Large-Scale Development for an expansion to the existing Eco Vista landfill property. This property was rezoned to Exclusive Use-Landfill (EU-L) zoning in anticipation of this expansion, and to bring the existing into compliance in October 2020.

The total property area of Eco Vista landfill is 609.23 acres, and 417.13 acres was zoned to EU-L. Associated landfill activities will be located within this area that was rezoned. This includes the expansion of the active Class 1 (household waste) and Class 4 (construction waste) landfill areas, soil borrow areas, detention/sedimentation basins, access drives, truck wash, grading for a future landfill gas facility (that will be reviewed when it is proposed to be constructed), and required buffering.

The proposed Class 1 expansion will include approximately ten (10) acres of land located in between the closed Class 1 landfill and the currently active Class 1 landfill area.

The proposed Class 4 expansion will be located to the north of the existing Class 4 landfill area. The Class 4 area is approximately 12.2 acres.

This expansion will add approximately twelve (12) years to the life of the landfill.

**TECHNICAL INFORMATION:**

**Utilities:**

**Water:** Washington Water Authority-There is an existing 4-inch and 6-inch water line along the south of Arbor Acres Ave. Street improvements are required along Arbor Acres Ave., WWA has stated they may require the developer to relocate the 4-inch water line that exists within the current street ROW. Any part of this line within the area of road to be improved may be required to be relocated.

The nearest hydrant is located at the intersection of Arbor Acres and Pianalto Road and has an approximate fire flow of 225 GPM.

**Electric:** Ozarks Electric- OECC required 30' utility easements for all existing power lines. These are shown on the LSD plans. Any additional coordination with OECC will be the developer's responsibility.

**Sewer:** This project has an existing connection to the City of Tontitown sewer system. The applicant states they have obtained necessary permits from Tontitown and Northwest Arkansas Conservation Authority (NACA). James Clark, Public Works Director provided a copy of the required Industrial Waste Discharge Permit. It is still in effect. New discharge limits are being discussed, and if approved, and new Industrial Waste Discharge Permit shall be required to be submitted. It was discussed that NACA will require pretreatment if the landfill use is extended, and Eco Vista will be responsible for constructing this pretreatment facility.

**Phone:** AT&T- No comments were received from ATT.

**Natural Gas:** Black Hills Energy- No comments were received from BHE.

**Cable:** Cox Communications- No comments were received from Cox.

It is the applicant's responsibility to coordinate any additional utility easements or connections as needed to service their property.

**School District:** Springdale school district.

**Police:**

No comments were submitted.

**Fire:**

The nearest hydrant is located at the intersection of Arbor Acres and Pianalto Road and has an approximate fire flow of 225 GPM.

According to the Emergency Action Plan provided by the applicant:

*"2.1 Fire Fighting Procedures*

*Daily spreading, compaction, and weekly cover of disposed solid waste shall be used as a means of fire prevention. In the event that a fire does occur, the Fire Department shall be contacted immediately. After notifying the fire department, the following procedures shall be followed as applicable:*

- *Cover the fire with soil or remove the fire and cover it with soil.*

- Use a fire extinguisher and/or water hose to combat fire; direct the discharge from the extinguisher at the base of the fire. Note: Never fight an electrical fire with water – use a carbon dioxide (CO2) or dry chemical extinguisher.
- Secure all electrical power to the facility at the main breaker, and station a guard at the gate to keep the access road clear for emergency vehicles.
- Remain on guard over the affected area after the fire is extinguished until the fire fighters arrive.
- If at any time the fire is out of control, immediately evacuate all personnel from the facility.

*Portable fire extinguishers shall be kept on all landfill operating equipment and at the landfill office. Personnel shall be trained in the use of these extinguishers and should become familiar with their locations. The extinguishers shall be inspected annually and maintained in a ready condition.”*

The Emergency Action Plan also details Hazardous Materials Procedures, Emergency Reporting, and provides Emergency Contact Numbers.

**Drainage:**

The applicant submitted a Drainage Report that has been reviewed by the City Engineer. The post-development conditions for this site consider all of the proposed site improvements even though they will be installed/utilized in phases. This was a request by staff to ensure that at maximum usage, the detention would be adequate.

Several existing Sediment Basins exist on site already. They are the North Basin, Edward’s Basin, South Basin and West Basin. A Northwest Basin was added to the plans as the existing North Basin was unable to be expanded due to site and utility conflicts, to accommodate additional stormwater runoff. The South and West Basins will also be modified to increase capacity.

Detailed information is provided in the Drainage Report.

**Streets:**

This project has access on to Arbor Acres Ave. There is an existing entrance for the Hauling Company office, maintenance building, and compressed natural gas (CNG) station. The Hauling company property is not included in this LSD. The landfill also has one (1) existing entrance. No additional entrances are proposed at this time.

Site visibility appears to be adequate from the existing entrance location. All interior drives must meet the required compaction rating to support emergency vehicles.

Updates: Street improvements will be required along Arbor Acres Ave. when all appropriate permits are approved. The city required that the full width (to Collector Standard) of Arbor Acres Ave. is improved from the landfill entrance to the intersection at Dowell Road, instead of half street improvements along the length of the landfill property. This is detailed in the Memorandum of Understanding (MOU) submitted by Eco Vista on 8.23.2021 for review by the City of Tontitown.

**Planning:**

All setbacks and required buffering are shown on the Preliminary LSD plans.

No additional signage is being proposed with this application, lighting that may be included with future buildings will be evaluated, and all Planning Checklist items have been addressed.

The applicant has submitted a REVISED phasing plan that has been reviewed and approved by staff. This is a general timeline, and it is expected that some items may be delayed or be moved to an earlier timeframe. The applicant shall inform the city when changes are proposed to this phasing plan.

Items added to this phasing plan include:

- Improvements to Arbor Acres Ave.
- Pretreatment facility for leachate discharge
- Updated landscaping installation schedule beginning in 2021, with full completion by 2022.
- Installation of fencing for adjacent property owners to resolve a safety concern.

PHASING NOTES:

SITE IMPROVEMENTS TO BE COMPLETED IN 2021

- PAVED EXISTING ENTRANCE ROAD (COMPLETED APRIL 2021)
- SUBMITTAL OF CLASS 1 AND CLASS 4 PERMIT MODIFICATION APPLICATIONS TO DEQ FOR EXPANSION (COMPLETED JULY 2021)
- INSTALLATION OF PERMANENT TRUCK WHEEL WASH ANTICIPATED IN AUGUST/SEPTEMBER 2021
- BORROW AREA EXCAVATION AND GRADING
- BEGIN CONSTRUCTION OF HIGH-BTU LANDFILL GAS PLANT
- BEGIN INSTALLATION OF LANDSCAPE / VISUAL SCREENING
- INSTALLATION OF RUSSELL PROPERTY FENCING

SITE IMPROVEMENTS TO BE COMPLETED IN 2022

- INSTALLATION OF LANDSCAPE / VISUAL SCREENING
- BORROW AREA EXCAVATION AND GRADING

SITE IMPROVEMENTS TO BE COMPLETED IN 2023

- UPON ISSUANCE OF DEQ PERMIT MODIFICATION, CONSTRUCTION OF FIRST CELL OF CLASS 1 EXPANSION AREA
- UPON ISSUANCE OF DEQ PERMIT MODIFICATION, CONSTRUCTION OF FIRST CELL OF CLASS 4 EXPANSION AREA
- UPON ISSUANCE OF DEQ PERMIT MODIFICATION, CONSTRUCTION OF STORMWATER IMPROVEMENTS FOR WEST BASIN AND SOUTH BASIN AND CONSTRUCTION OF NORTHWEST BASIN
- UPON ISSUANCE OF DEQ PERMIT MODIFICATION, DESIGN AND CONSTRUCTION OF LEACHATE PRETREATMENT SYSTEM
- UPON ISSUANCE OF DEQ PERMIT MODIFICATION, DESIGN AND CONSTRUCTION OF ARBOR ACRES AVENUE STREET IMPROVEMENTS
- BORROW AREA EXCAVATION AND GRADING

SITE IMPROVEMENTS TO BE COMPLETED IN 2024

- UPON ISSUANCE OF DEQ PERMIT MODIFICATION, CONSTRUCTION OF SECOND CELL OF CLASS 1 EXPANSION AREA
- UPON ISSUANCE OF DEQ PERMIT MODIFICATION, CONSTRUCTION OF SECOND CELL OF CLASS 4 EXPANSION AREA
- BORROW AREA EXCAVATION AND GRADING

SITE IMPROVEMENTS TO BE COMPLETED IN 2025

- BORROW AREA EXCAVATION AND GRADING

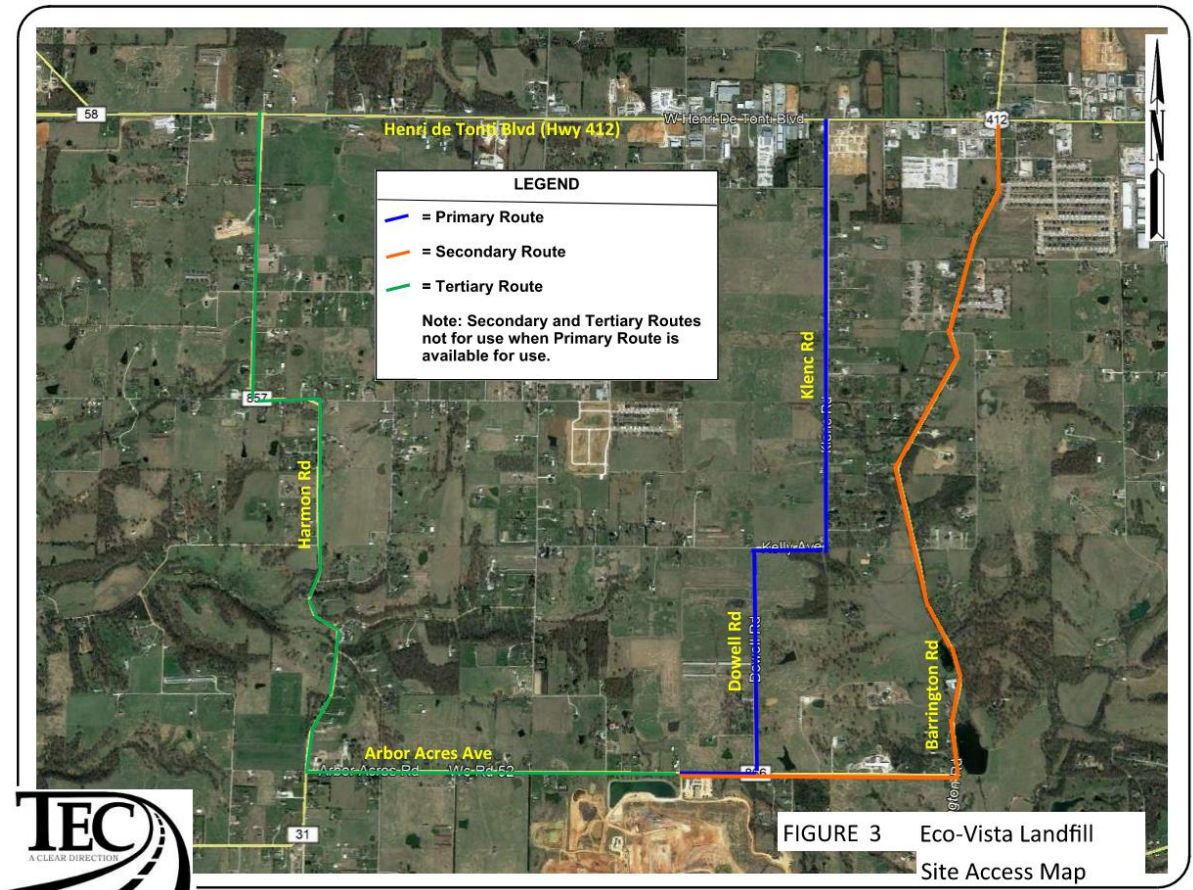
SITE IMPROVEMENTS TO BE COMPLETED IN 2026

- UPON ISSUANCE OF DEQ PERMIT MODIFICATION, CONSTRUCTION OF FINAL CELL OF CLASS 1 EXPANSION AREA
- BORROW AREA EXCAVATION AND GRADING

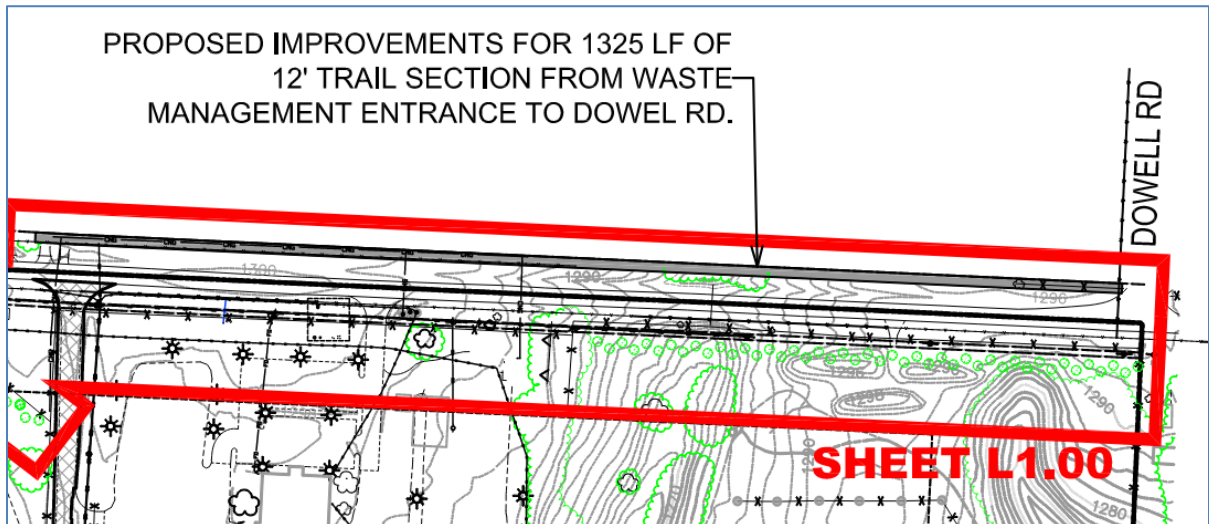
**SUMMARY OF MEMORANDUM OF UNDERSTANDING (MOU):**

Portions of the agreement are tied to DEQ approvals, including:

1. Eco Vista will contribute \$100,000.00 every four (4) years, for a total of \$400,000.00, to the City of Tontitown for maintenance related to the Primary Waste Vehicle Route (see below):



2. Arbor Acres Ave. will be improved from the Eco Vista entrance to the intersection at Dowell Road, on both sides of the street to Collector Street Standards and provide a 12-foot trail along one side of the street. It is currently shown on the north side, but the city may request this be placed on the south side instead.



3. Eco Vista will contribute \$45,000.00 to the stoplight installation at Klenc Road. The City will pay for the right-turn lane as part of that project.
4. Eco Vista will construct on-site leachate treatment so the impact to the sewer system is lessened.

**Portions of the agreement will be implemented regardless of DEQ approvals, including:**

1. All trees shall be installed per plan no later than December 31, 2022, with a minimum planted height of six (6) feet. The applicant has provided information that this installation will begin this year and completed as quickly as possible.
2. The tire wash will be constructed within 180 days of Large-Scale Development approval.
3. Areas between the required 250-foot setback and adjacent property lines, that were previously disturbed, will be graded so as to eliminate standing water, and seeded for cover. These areas will be maintained per applicable standards in Chapter 92 of the City of Tontitown Code of Ordinances.
4. Fencing will be installed related to a safety issue for an adjacent neighbor. Based on an email, dated 8.23.2021, from Mr. David Conrad, WM Engineer, this fencing should be complete in the next 30-60 days.

At the time of this report, Planning Staff has submitted a few items to Eco Vista for further clarification on the MOU. If any additional changes are needed once the City Attorney completes their review, staff will update the Planning Commission. Eco Vista is working to update the MOU per comments from staff, and if that is received prior to Planning Commission, staff will provide an updated copy.

**§ 153.086 Exclusive Use-Landfill**

**In addition to Large Scale Developments, Landfill uses must also comply with 153.086. This additional information can be found in the packet submitted by the applicant.**

*Items include:*

***Traffic Study to show impact.*** Based on this impact, the city may require the applicant to pay in whole or part of the cost to the city for necessary road improvements and maintenance. The MOU has the details associated with this requirement.

***Operations Site Plan.*** At Large Scale Development the applicant shall submit an Operations Site Plan and statement. The plan and statement shall indicate the following: Eco Vista has provided this information and it is included in the packet.

- Proposed fill area(s).
- Proposed borrow area(s).
- Access Roads
- On site drives
- Grading plan and cross-sections to identify landfill height.
- Location and height of fencing and buffering
- Existing and proposed structures on site.
- Existing natural areas to be preserved.

- Existing and proposed utilities.
- Conceptual timetable and sequence of phasing of landfill operations.
- Management of stormwater and drainage devices.
- Management of leachate.
- Management of landfill gas and odors.
- Planned hours of operation.
- Management of litter and vector control.
- Management of vehicular mud tracking onto public streets.
- Facility management and its employees are properly trained in landfill operations and an emergency response program is provided.

**Large Scale Development Site Plan.**

- In addition to all other requirements found in code regarding the LSD site plan, Planning Staff requested an exhibit to ensure that all proposed landfill areas will be a minimum of 300' from all residential structures per DEQ regulation 22.408. This is measured from the permitted edge of waste (active landfill). This exhibit has been added to the packet of information.

**Drainage Plan and Report that meets the standards set by the City of Tontitown by the adopted "Tontitown Drainage Criteria Standard" manual.**

**Conceptual Future Land Use Plan.** The written Landfill Future Land Use plan shall include the following:

- The applicant shall address how closure and post-closure care will be provided and affirm that it will be in compliance with applicable Arkansas Regulations.
- Future land uses shall comply with applicable City and State of Arkansas Regulations

**THESE ARE THE TECHNICAL STANDARDS APPLICABLE TO THE LARGE-SCALE DEVELOPMENT REQUEST:**

(F) *Standards of development.* These standards shall apply to all new landfill uses, new expansions of an existing landfill use, and accessory landfill uses.

(1) *Ownership control.* The land in a sanitary landfill shall be owned, leased, or otherwise controlled by a person, firm, group of individuals, partnership, corporation, or trust, provided assurances are given through the procedures contained herein that the landfill can be successfully operated and managed, and is properly permitted by the ADEQ. **WM meets these standards.**

(2) *Site structure requirements.*

(a) *Minimum lot area.* There shall be no minimum lot area requirement, except that a site must be of sufficient size to accommodate the amount of waste estimated for deposit during the current life or the future permitted life of the landfill. **WM meets these standards.**

(b) *Minimum lot width.* 100 feet. **WM meets these standards.**

(c) *Setback requirements.* The principal permitted use, including all activities related to operation of the principal permitted use, shall meet the following minimum setback requirements, unless adjacent to other property currently being used as sanitary landfill: **WM meets these standards.**

1. Front yard setback 100 feet
2. Rear yard setback 100 feet for nonresidential uses, 250 feet for residential uses (including residential and agricultural zoned properties)
3. Side yard setback 100 feet for nonresidential uses, 250 feet for residential uses (including residential and agricultural zoned properties)
4. Maximum building height 45 feet
5. Maximum structure height to comply with ADEQ standards.

(d) *Accessory uses, buildings and/or structures, or site modification beyond the approved boundaries of disturbance for the primary landfill use or existing approved expansion.* All accessory uses, buildings and/or structures, or site modification beyond the approved boundaries of disturbance

for the primary landfill use or existing approved expansion (including, but not limited to, parking lots, modification to detention ponds, etc.) except those as set forth in divisions (E)(5) and (E)(6) above, shall meet the same large scale development site and structure requirements as principal permitted uses and shall be set out in the application, and shall require large scale development review and approval. **Any accessory uses will be required to be submitted as a Large-Scale Development for review.**

(e) *Access.* In order to protect the public health, safety, welfare, and the surrounding environment, public access shall be controlled to prevent unauthorized entry or vehicular traffic by using artificial barriers, natural barriers, or both, as appropriate. An adequate fence with a gate that can be locked must be provided at the entrance to the facility. **WM meets these standards.**

(f) *Litter control.* Litter control provisions shall be maintained at all times. If daily or more frequent cover does not control on- and off-site litter, other methods may be required, such as, but not limited to litter fences and litter crews. Litter screening fences will be provided near the landfill working face to prevent the spread of paper and other litter. **WM addresses this in the Operations Site Plan document and is responsible for ongoing litter control. The Operations Site Plan is part of this Large-Scale Development application and shall be adhered to.**

(g) *Screening.* Screening shall be provided so that the landfill is minimally visible to any residential or commercial structure, or from any public street. Screening can include a combination of fencing, vegetation, or other provisions which shall accomplish the same. **WM is providing screening with two rows of evergreen trees in areas that are not already screened by existing vegetation. These plantings shall be installed at a minimum of six (6) feet in height. The Landscape Plan is part of this Large-Scale Development application and shall be adhered to.**

(h) *Sign and directions.* Necessary identification and directional signs shall be provided. A sign shall be posted at the entrances to inform the public of the hours of operation, charges for disposal, and rules and regulations regarding disposal. All new signage shall comply with regulations found in § [153.180](#). Modifications and additions to signage that are not considered regular maintenance shall conform to regulations found in § [153.180](#). Interior site signage shall be provided that directs users to the appropriate unloading area. **WM meets these standards. No new signage is proposed with this submittal, and existing signage is in place.**

(i) *Lighting.* Lighting at the landfill shall be provided in such a way so as not to interfere with roadway traffic, spill over unnecessarily onto adjacent properties, and/or pollute the night sky, except that lighting for temporary projects, such as construction, maintenance, or emergencies, may temporarily spill over onto adjacent properties or inhibit the night sky. All lighting shall comply with regulations found in § [152.150](#). **WM meets these standards. No new lighting is proposed with this submittal.**

(j) *Excessive noise.* No equipment that causes excessive noise (beeping, honking, banging, dumping, heavy engine sounds, or other) shall cause disturbance to residents of neighboring properties between the hours of 9:00 p.m. and 5:00 a.m. Monday-Saturday, except for emergencies may temporarily be allowed outside the above hours. No excessive noise shall be allowed on Sunday except for emergencies may temporarily be allowed outside the above hours. **WM shall adhere to this requirement. Any excessive noise outside of the listed hours shall be in violation of City of Tontitown code and should be reported to the Code Enforcement Officer for further action. Additionally, the Hauling Company (not part of this application) is zoned C2 as shall comply with the noise regulations found in Chapter 91.01.**

(k) *Parking.* One space per employee shall be required plus one space per 500 square feet of office space. **WM meets these standards.**

(l) *Buffer.* The landfill shall be adequately buffered on all sides between the footprint of the permitted or planned waste disposal area and the perimeter boundary of the property so as to offset fugitive dust, noise, vibration and visual impact to adjacent property. All screening and buffering shall be completed on site. The buffer areas shall be landscaped and graded consistent with the approved site plan. **WM Large Scale Development Plan shows that this requirement will be met. The Large-Scale Development Plan is part of this Large-Scale Development application and shall be adhered to.**

(3) *Large scale development requirements.* In addition to large scale development requirements found in §§ [152.095](#) et seq., the following shall be required with the large scale development application:

(a) *Traffic study; traffic patterns and roadway provisions.* At large scale development, a traffic



study shall be required when there will be an increase in traffic, a change in the traffic pattern, or in the case of an expansion, an extended time period in which traffic will impact public roads.

1. The site should be easily reached by asphalt or concrete paved city or county truck roads, state highways or federal interstates. All roads to the site should be of sufficient width and construction to safely handle the sizes of trucks that deliver waste to landfills when fully loaded during all weather conditions, excluding events of force majeure. **WM meets these standards.**

2. Problems such as narrow bridges, low underpasses, and steep grades on access routes must be avoided. The city may require the applicant to pay in whole or in part the cost to the city for providing roadway improvements necessary for the siting of a new landfill, or any new expansion of a landfill that extends the time period in which traffic will impact public roads. In addition, the following standards must be met:

a. The traffic patterns to and from the site have been designed to minimize the impact on existing traffic flows.

b. Safe design of entrances and exits, with provision for right turn deceleration lanes, protected left turn lanes, acceleration lanes and, if needed, signalization of intersections. **WM will be providing upgrades and financial contributions to update the primary route.**

c. The site should be accessible at all times. Several access routes are planned so that if one route is temporarily unusable, the site can still be reached. **Three (3) routes are shown on the access plan in case one route becomes temporarily unusable.**

d. The distance of driveway entrance or exit from any adjacent lot line should be at least 125 feet. The landfill access drive shall be paved, no less than 250 feet, up to 500 feet, to be determined at plan review, from the public street. **WM has paved the entrance road to meet this standard.**

e. The on-site roads to the unloading area should be of all-weather construction and wide enough to permit two-way truck travel. Road grades should be designed for the largest fully loaded trucks to travel at a reasonable rate.

f. Provide existing information regarding vehicle trips per day, and provide an estimate of increase in vehicle trips per day by type of vehicle. **Submitted in the traffic study.**

g. Current and anticipated daily traffic flows to the landfill by vehicle type. **Submitted in the traffic study.**

h. Assessment of expected impact on the routes proposed by the landfill and recommendations for those routes. **Submitted in the traffic study.**

i. The City of Tontitown shall have final jurisdiction regarding heavy truck traffic routes. **Please see the attached DRAFT Memorandum of Understanding (MOU). This document details the fee that WM will be responsible for in order to provide funding for maintenance of the Primary Truck Route as it relates to the landfill impact on these roads. Additionally, the MOU includes costs that WM is responsible to pay for the Klenc Road/Hwy. 412 stoplight based on the landfill impact at this intersection. WM will also upgrade Arbor Acres Ave. from the entrance of the landfill to Dowell Road per the MOU agreement, and reimburse the City for cost associated with right-of-way acquisition.**

(b) *Operations site plan.* At large scale development the applicant shall submit an operations site plan and statement. The plan and statement shall indicate the following: **WM has submitted this information and it is located in the packet of information.**

1. Proposed fill area(s).
2. Proposed borrow area(s).
3. Access roads.
4. On-site drives.
5. Grading plan and cross-sections to identify landfill height.
6. Location and height of fencing and buffering.
7. Existing and proposed structures on site.
8. Existing natural areas to be preserved.
9. Existing and proposed utilities.
10. Conceptual timetable and sequence of phasing of landfill operations.
11. Management of storm water and drainage devices.
12. Management of leachate.
13. Management of landfill gas and odors.
14. Planned hours of operation.

15. Management of litter and vector control.
16. Management of vehicular mud tracking onto public streets.
17. Facility management and its employees are properly trained in landfill operations and an emergency response program is provided.

(c) *Large scale development site plan.* In addition to large scale development requirements found elsewhere in this code, the following shall be shown on the large-scale development plan:

1. Large scale site development plans prepared by a licensed professional engineer in the State of Arkansas. **WM meets these standards.**
2. Haul routes to and from the landfill site with load limits or other restrictions. **Shown in the access plan.**
3. Existing and proposed zoning classification, use of property, number of employees per use (office staff/drivers/other). **Shown on the plans.**
4. Ownership and zoning of all adjoining properties. Applicant may obtain and rely upon property ownership information from the online property records published and maintained by the Washington County, Arkansas appraisal district. **Shown on the plans.**
5. Zoning within one mile. **This exhibit has been submitted.**
6. Residential structures and other buildings within one mile with use indicated, if use is known. The best available resources shall be used to help determine use. **This exhibit has been submitted.**
7. Existing and proposed property lines. **Shown on the plans.**
8. Existing and proposed rights-of-way, setbacks and buffer areas. **Shown on the plans.**
9. Watercourses, floodways, flood plains, and wetlands. **Notes on the plans.**
10. Location of all existing and proposed structures. All structures shall be delineated in square feet, and dimensions between structures and between property lines and the structures shall be provided. **Shown on the plans.**
11. Existing and proposed structures shall be labeled as to their use. **Shown on the plans.**
12. Existing and proposed parking spaces. Notation of the number of spaces provided. **No new parking is being proposed with this application.**
13. Existing on-site roads shall be shown. **Shown on the plans.**
14. Access to all public streets including radius of ingress/egress drives, and circulation patterns. **Shown on the plans.**
15. Location and size of existing or proposed signs. All proposed signs will be permitted separately. **No new signs are being proposed.**
16. A screening plan for the site. **Shown on the plans.**
17. All dumpster areas serving office or ancillary facilities shall be screened. **No dumpster areas for the office or other facilities exist at this time.**
18. Any other reasonable information deemed necessary by the Planning Official.

(d) *Drainage plan and report.* The drainage plan and report shall meet the standards set by the City of Tontitown by the adopted "Tontitown Drainage Criteria Standard" manual. **WM meets these standards, and is showing additional detention area to be created in order to comply with drainage standards.**

(e) *Conceptual future land use plan.* The written landfill future land use plan shall include the following: **Submitted.**

1. The applicant shall address how closure and post-closure care will be provided and affirm that it will be in compliance with applicable Arkansas Regulations.
2. Future land uses shall comply with applicable city and State of Arkansas regulations.

#### **NEIGHBOR COMMENTS AND PETITION:**

Large Scale Development Plans do not require additional notice to be sent to neighbors. Neighbors within 1000 feet of the project site included with this plan were notified during the rezoning request.

Staff has received additional comments and had many conversations with neighbors throughout this process. In addition to the petition, staff has received one "unopposed" comment, and four "opposed" comments.

Many of these concerns are out of the scope of what the City of Tontitown can regulate. Staff has made every attempt to notify the correct agency of the concerns submitted by neighbors so that concerns can be resolved, or more information regarding the nature of the concern can be gathered.

In the last staff report, staff attempted to address concerns listed on the petition that are within the control of the City of Tontitown. Additionally, staff notified DEQ and requested responses from several items (in a following section). Those responses are listed below:

1. The neighbors have asked for perimeter fencing. This is not required by code and is impractical. Screening is required and can be accomplished with a combination of fencing and vegetation. Large portions of the Eco Vista site are wooded and screened from view without requiring a fence. Eco Vista is installing additional trees in areas which lack screening. Fencing or other barriers are required to prevent unauthorized vehicular entry, and Eco Vista already has a fence and gate in place at the entrance.
2. The neighbors have asked for a buffer area. A buffer area is being proposed. All vegetation will be installed by the end of 2022. UPDATE-Eco Vista is beginning installation this year, 2021.
3. The neighbors have asked that all buffer areas be maintained per city code. Eco Vista will need to comply with Chapter 92 of Tontitown's Code of Ordinances.
4. The neighbors have stated that there are areas of standing water not within the basins. The City is requiring that areas within 250' of the property line that has been previously disturbed, be graded and reseeded.
5. The neighbors state that the noise ordinance is being violated. Eco Vista will need to comply with Chapter 153.086 of Tontitown's Code of Ordinances.
  - a. *Excessive noise. No equipment that causes excessive noise (beeping, honking, banging, dumping, heavy engine sounds, or other) shall cause disturbance to residents of neighboring properties between the hours of 9:00 p.m. and 5:00 a.m. Monday-Saturday, except for emergencies may temporarily be allowed outside the above hours. No excessive noise shall be allowed on Sunday except for emergencies may temporarily be allowed outside the above hours.*
6. The neighbors have concerns about odor. DEQ monitors this.
7. The neighbors would like the roads to be cleaned. Eco Vista addresses this in their application and are required to install a wheel wash within 180 days of approval of the Large-Scale Development.
8. The neighbors want digging requirements to meet or exceed ADEQ requirements and mentions private covenants. Staff believes that the DEQ requirements listed are for landfill operations (actual areas of trash disposal), however, if this is incorrect, DEQ would be the correct agency to monitor these requirements. All work associated with this project (grading, borrow areas, areas of landfill, buildings, etc.) will be 250 feet from property lines. The city has no authority over private covenants.
9. The neighbors state that stormwater runoff has been seen leaving the property in multiple areas. DEQ monitors this.

10. The neighbors state that the closed Class 1 landfill does not have a liner. [DEQ monitors this.](#)
11. The neighbors request that additional wells and gas conversion stations be implemented. [This is out of the scope of what the city can require. This discussion would be best had with Eco Vista.](#)
12. The neighbors want road maintenance and repairs addressed. [Eco Vista and the City are in the process of finalizing the MOU to address this condition.](#)
13. The neighbors want the Class 4 portion of the landfill to be lined. [DEQ monitors this.](#)
14. The neighbors are concerned about blowing trash. [Eco Vista has litter fencing installed, will be planting trees, and has stated that they will “deploy litter crews to collect litter that makes it beyond the perimeter fencing”. UPDATE-Eco Vista has since clarified that they pick up litter along the primary haul route to Hwy. 412.](#)
15. The neighbors want the implementation of recycling programs for the community. [This is something the City Council could discuss.](#)
16. The neighbors want a building or designated area for dumpsters in need of repair. [Eco Vista submitted a Conditional Use Permit to allow a repair shop for dumpsters to be placed near the existing business office.](#)
17. The neighbors want to set an expiration date for the landfill. [This expansion will provide approximately 12 additional years of use. Additional requests for expansion will be required.](#)

Additional questions and concerns have been submitted since last month. Below are several of those questions and responses from the City Attorney:

1. We would like to request that Waster Management Large Scale Development go to a city vote as does the bond/tax item.  
[Only a legislative action \(i.e. municipal legislation\) of a city can be referred to a vote of the people. Ark. Const. Amend 7. Arkansas Courts have been very clear that Amendment 7 reserves the referendum to legislative actions. A Large Scale Development Plat is not a legislative action, and therefore it cannot be referred to an election.](#)
2. Do you feel 42 years of existence for a landfill in an area becoming highly residential with more housing planned in close proximity warrants closing the landfill in 3-4 years? If the city allows the landfill to expand, the city should consider not allowing new residential development within a 2 mile radius of the landfill and compensation to the residents affected by their plant.  
[The city does not have the power or authority to close a landfill. The question of future land use in the area surrounding the landfill is something that can be discussed, and the future land use map can be amended by the Planning Commission and City Council when needed. The Planning Commission is within its authority to study changes to the future land use map.](#)
3. If a landfill did not exist here currently, would the city allow a landfill at this locations now? Please research and discuss EPA guidelines for locating new landfills and how those conditions relate to the current WM request for adding a new location.

This is hypothetical question, but unlike previously there is a zoning district that is exclusive to landfill operations so any new landfill would have to receive zoning approval, which could be withheld if it is determined not to be compatible with surrounding uses. Zoning is a discretionary and legislative action of a city, and if a new landfill were to be located in the city it would have to be properly zoned to EU-L District.

4. Noise Ordinance for Waste Management should match City Ordinance for businesses.  
The general noise ordinance requirements does not allow amplified noise or plainly audible construction noise after 10:00 p.m. until 6:00 a.m. on Monday through Friday with earlier hours on Sunday. The EU-L district does not allow excessive noise between 9:00 p.m. and 5:00 a.m.
5. Contract and provisions outlined to allow expansion of Waste Management Inc. to operate in the city should be negotiated by a firm advocating for specializing in contract negotiations in support of municipalities dealing with mega corporations operating landfills. In an agreement between the city and Waste Management can city require house cleaning of dust and debris from landfill on houses in the area?  
There is no contact or agreement between Tontitown and Waste Management to allow for the expansion of the landfill. The expansion is brought as a Large Scale Development application, and the standard of review for any applicant who submits a Large Scale Development application is whether the submission meets the minimum requirements of city ordinances.
6. Can City enforce windshield repairs for broken/cracked glass for vehicles when it occurs on Tontitown Roads?  
The Police Department can issue traffic violations to the drivers of trucks that are not properly covered.
7. Why isn't the City supporting affected neighbors by contacting and working with DEQ and WM to mitigate all issues- Odors, Debris, Water Runoff, noise, illegal truck routes, digging/trash in illegal areas, and etc.? This company is affecting the community and the city's primary responsibility is the welfare of its citizens.  
The City advises citizens with complaints when a particular issue is under ADEQ jurisdiction. To my knowledge, the city has also brought issues to Waste Management attention when there are complaints about such issues. If desired, the city could request for ADEQ officials to meet with citizens to address concerns.
8. If WM were to continue operations, we ask in the agreement to require WM to build 10 more gas wells/units to eliminate gas odors, toxins, and be friendly to the environment at the same time increase their electricity generating capability.  
There is not contract or agreement between Tontitown and Waste Management to allow for the expansion of the landfill. The expansion is brought as a Large Scale Development application, and the standard of review for any applicant who submits a Large Scale Development application is whether the submission meets the minimum requirements of city ordinances. I am not familiar with the issue of additional gas wells except the they are permitted as an accessory use under the code.
9. The Mayor requested for input on conditions, so if the expansion is considered for approval, we would like to see WM dig out the trash in the proposed expansion areas and put a liner which needs to be inspected BEFORE a city vote on the expansion. Currently in that proposed expansion area there is no liner.  
The installation of a liner for the landfill is regulated by ADEQ and not the City of Tontitown.
10. The landfill property was rezoned to EXCLUSIVE USE-LANDFILL (EU-L) in October 2020. How did the commission and/or City Council consider public input generated during the Public Hearing, of which no records have been posted on the city website and only produced

as part of a FOI request? In reading the September 22, 2020 minutes, all comments were against rezoning. How does the Commission consider citizen and neighbor comments?

The rezoning to EU-L was conducted with a public hearing at the Planning Commission and with public meetings of the Tontitown Planning Commission and City Council where public comment was available. The decision to rezone is discretionary and legislative in nature, as opposed to the consideration of a Large Scale Development plan which is administrative in nature and is a review limited to whether the application meets the minimum requirements of the code.

11. Be able to change the City/WM codes/contract so not to be grandfathered. In this agreement put in timelines for changes that could be made to this with review from both sides because 12-15 years is too extensive of a period to lock in as conditions/factors change. Bring it up to code and set up a date for review/change.

The EU-L code was adopted in 2020 and can be amended by the City Council. The issue of "grandfathering" concerns the issue of a nonconforming uses when a change to zoning law is made. A nonconforming use is a law use that existed when the zoning ordinance was adopted and that is permitted to continue. It involves property rights that are considered by courts to be vested unless abandonment and destruction occurs, or the nonconforming use is terminated by a large enough expansion of the use.

12. Request WM covers daily/nightly trash with dirt (not just cover with foam or tarps). Odor Control.

This request can be forwarded to Waste Management, but it is an ADEQ regulatory issue and not one that the City can require.

In addition, Planning Staff asked that DEQ respond to several questions:

1. Does the landfill meet Reg.22.425 for landfills in the Boone and St. Joe Formation?  
Yes, the landfill meets all requirements in Reg.22.425 for landfills in the Boone and St. Joe Formation.
2. Is Karst topography a concern?  
Yes, however those concerns are being addressed by design and testing information.
3. Does this landfill negatively affect the Ozark Cavefish?  
No, there is no noted critical habitat for the Ozark Cavefish on landfill property.
4. The neighbors claim to have found household trash in the Class 4 area, has DEQ been made aware of this? What actions can be taken by DEQ?  
DEQ was made aware by the petition submittal, however DEQ has not noted Class 1 trash in the Class 4 landfill on any inspection in the past year.
5. The neighbors state that there is no pump in the borrow areas to keep water from accumulating and causing a dangerous situation. Is this required by DEQ.  
DEQ Office of Land Resources does not require pumping of the borrow area.
6. When is it appropriate for the landfill to use tarp to cover waste at the end of the day? The tarp cover does not keep the odor in check.  
The landfill may use Tarps if the material of the tarps is of sufficient weight and durability to control disease vectors, fires, odors, blowing litter, and scavenging. The facility may not use alternate daily cover for more than six consecutive days.
7. How does DEQ regulate odor in the context of a landfill?  
Daily cover of the waste, removal of leachate and recovery of gas are all ways to minimize the odor of a landfill.
8. How is trash that leaves the landfill site onto other private property controlled by DEQ?

Litter is controlled at a landfill by daily cover, litter fences, and litter crews. It is DEQ's understanding that litter crews routinely pick up litter off the property site as well as on the property.

Staff received a letter from Dr. Mikaila Calcagni as well with health concerns related to living near a landfill facility. Those concerns have been sent to the Arkansas Department of Health (ADH) and Arkansas Department of Energy and Environment, Department of Environmental Quality (ADEE, DEQ). One concern that seemed prominent in this letter is exposure to hydrogen sulphide. This is regulated and monitored by DEQ.

All neighbor comments and responses received are included in the packet of information.

#### **WORK SESSION MEETING:**

A work session meeting of the Planning Commission was held on August 24, 2021. Several Planning Commission Members submitted questions for this meeting. Planning Staff requested that a representative from DEQ and Boston Mountain Solid Waste District also attend that meeting in order to answer questions outside of the scope of the Tontitown Ordinance. Some of the questions from Planning Commission Members were included in the above section that DEQ responded to, and the following are responses from Planning Staff:

1. What is the current zoning ordinance that WM has to comply with currently. I know it's not much, just want to know which ordinances they are? Which specific parts of the E-UL ordinance are considered operational and WM must currently comply with?

Nuisance Items apply city wide, such as:

- General litter pick up (off site) **Chapter 92: Environmental Code**
- Mud abatement on Public Streets **Chapter 130: General Offenses**
- General unkempt areas of the site (other than the nature preserve) **Chapter 92: Environmental Code**

As WM requested the site be rezoned to EU-L, the following applies because it is related to the zoning, and are not physical changes to the site:

- Noise/hours of operation **Chapter 153.086 Exclusive Use-Landfill (EU-L) District**

Existing limits of the current landfill operation are "grandfathered" and may continue as is, if the Large Scale Development submitted shows a larger buffer requirement for example, they will be required to stay out of those areas if the LSD is approve. WM has agreed to stay out of the increased buffer areas as this permit request is processed and will be regrading to make sure standing water is not an issue in these areas. Site improvements cannot be applied until a Large Scale Development is requested and approved:

- Buffer area of 250' (but WM is voluntarily staying out of those areas) **Chapter 153.086 Exclusive Use-Landfill (EU-L) District**
- Street Improvements **Chapter 153.086 Exclusive Use-Landfill (EU-L) District**
- Landscaping **Chapter 153.086 Exclusive Use-Landfill (EU-L) District**
- Updates to detention ponds **Chapter 153.086 Exclusive Use-Landfill (EU-L) District**
- Internal improvements such as the tire wash and paved entrance road (DEQ may have authority over these, but Tontitown could not enforce until LSD). **Chapter 153.086 Exclusive Use-Landfill (EU-L) District**
- Operations Plan adherence. (this was submitted as a conceptual plan at rezoning, but becomes effective at LSD approval). The Operations Plan includes everything from fill areas, borrow areas, access roads, interior drive, grading plan, fencing and buffering, areas to be preserved, utilities, timeline phasing, stormwater management, leachate management, odor management, litter management, road tracking, employee training, lighting, vector control, and landfill complaint information. Many of these items are in place now due to other

regulations, and because this is part of the current operations, but the City cannot enforce these until there is a Large Scale Development permit issued. **Chapter 153.086 Exclusive Use-Landfill (EU-L) District**

- Leachate Pretreatment (NACA may have authority to require, I am not sure Tontitown can with existing operations unless the expansion is approved). **Chapter 52: Sewer Regulations**
2. Which parts of the agreement between the city and WM are not finalized and will they be finalized prior to August 31 planning commission meeting?

Staff had comments regarding the maintenance agreement to clarify that this only applies to the current expansion request, language regarding the trail section (the city wants to review to determine which side of the street would be best for the trail connection, so we asked that they make this language less specific to the side of the street), and language that clarified that Eco Vista would reimburse the city for any cost of obtaining right of way along Arbor Acres for street improvements. Staff also wanted language added regarding fencing around the Russell property, and that the landfill must follow the applicable portions of Chapter 92 related to proper maintenance of setback areas. Please see attached DRAFT Memorandum of Understanding (MOU) 2021. Planning staff and the City Attorney received this formalized MOU 8.23.2021 and have not fully reviewed the information. This document is available for discussion.

3. Is Waste Management responsible for litter beyond Arbor Acres?

Yes, please see Waste Management's Response to Questions for more information.

4. Is it ok to use tarps as coverage?

Yes, please see the Issues Eco-Vista McNair questions DEQ responses for more information.

5. Pressure wash homes impacted by red clay?

No, please see Waste Management's Response to Questions for more information.

6. Why are people allow to come 24 hours a day and dump without the weigh station? Why is gate not closed?

Please see Waste Management's Response to Questions for more information.

7. ADEQ contact person for landfill

<https://www.adeq.state.ar.us/complaints/>

From staff conversations with DEQ, it appears that the correct contact for landfill complaints depends on the type of complaint. If you use the link above, you select which type of complaint you have.

The general complaint phone line numbers are:

**DEQ Contacts**

E&E Main Switchboard

501-682-0744

Toll-Free: 888-233-0326

Air Pollution

501-682-0773

Asbestos

501-682-0717

Hazardous Waste

501-682-0833

Mining

Non-Coal: 501-682-0805

Coal: 479-646-6611



Petroleum Product Spill or Release

501-682-0973

Solid Waste / Illegal Dumps

501-682-0581

Water Pollution

501-682-0634

8. Complaint flow chart.

Contact Eco-Vista directly:

<p><b>CONTACT INFORMATION FOR ECO-VISTA LANDFILL COMPLAINTS</b></p> <p><b>FOR LANDFILL OPERATIONAL CONCERNS:</b></p> <p>Blake Small Landfill District Manager (870) 510-0174</p> <p>Matt Berner Landfill Operations Manager (479) 263-4013</p> <p><b>FOR OTHER ENVIRONMENTAL CONCERNS:</b></p> <p>DEQ Hotline: (501) 682-0716</p>
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City of Tontitown:

Code Enforcement Officer, Philip Arends

Phone: 479-263-9213

Email: [codeenforcement@tontitownar.gov](mailto:codeenforcement@tontitownar.gov)

- Litter off site.
- Unkempt buffer area.
- Tracking of mud off site.
- Noise complaints (no loud noises allowed between 9:00 p.m. and 5:00 a.m.)
- Access gates being left open.
- Dangerous areas not being fenced or made inaccessible.

Mr. Arends submitted a summary of his enforcement process and an example complaint log.

DEQ:

Based on type of complaint, see above.

- Odor
- Borrow pit holding water, no system to remove water
- Additional waste in Class 4 landfill
- Remediation as detailed in neighbor petition
- Trash in drainage, runoff, outside of public rights-of-way.

9. Tie agreement for maintenance to CPI index. Base on current CPI at the time.

Discussion item.

Eco Vista submitted responses to questions requested by Planning and those are in the packet of information provided at the work session and for this report.

Also submitted at the Work Session meeting is a letter from Eco-Vista stating “It is our understanding that the City of Tontitown may hire or retain a qualified individual to perform independent air studies periodically around the area in which our Eco-Vista landfill is located. We want to let the City know that WM has no objections or issues associated with that possibility.”

Mayor Colvin has stated that he will request the City Council amend the budget to allow for an independent company to be hired to provide this additional monitoring. Results from this testing would be submitted to DEQ for evaluation and/or corrective action if air quality levels are unacceptable.

#### **STAFF RECOMMENDATION:**

All required technical information has been submitted on the Large-Scale Development Plan and associated documents.

Staff is recommending **approval of the Preliminary Large-Scale Development for Eco Vista Landfill Expansion, with conditions:**

#### **CONDITIONS RECOMMENDED FOR APPROVAL:**

1. The Operations Site Plan is part of this Large-Scale Development application and shall be adhered to.
2. The Landscape Plan is part of this Large-Scale Development application and shall be adhered to.
3. WM shall adhere to noise regulations located in Chapter 153.086. Any excessive noise outside of the listed hours shall be in violation of City of Tontitown code and should be reported to the Code Enforcement Officer for further action.
4. Additionally, the Hauling Company property (not part of this application) is zoned C2 as shall comply with the noise regulations found in Chapter 91.01.
5. The Large-Scale Development Plan is part of this Large-Scale Development application and shall be adhered to.
6. WWA has stated they may require the developer to relocate the 4-inch water line that exists within the current street ROW. It shall be the applicant's responsibility to relocate utilities that exist within the ROW.
7. Other utilities may require relocations if street improvements are required along Arbor Acres Ave. It shall be the applicant's responsibility to relocate utilities that exist within the ROW.
8. NACA will require pretreatment of the leachate discharge if the landfill use is extended, and Eco Vista shall be responsible for constructing this pretreatment facility.
9. New discharge limits for wastewater are being discussed, and if approved, and new Industrial Waste Discharge Permit shall be required to be submitted.
10. It is the applicant's responsibility to coordinate any additional utility easements or connections as needed to service their property.
11. Required street improvements to Arbor Acres Ave. shall be completed.
12. Street improvement plans for Arbor Acres Ave. shall be reviewed by the City Engineer prior to Construction Plan approval.
13. The MOU between Eco Vista and the City of Tontitown shall be signed after all additional comments have been updated/agreed upon.
14. Any changes to the phasing plan or the site plan shall require review by Planning Staff. If Planning Staff determines that the changes to the phasing plan or site plan are significant, they shall refer the changes to the Planning Commission for review.
15. The phasing plan shall be generally followed as presented. If any item is to be delayed, Eco Vista shall provide documentation of the nature of the delay and provide a new estimated date of completion.
16. Vegetation shall be required to be warranted for a period of three (3) years from the time of

- installation and shall be replaced during the appropriate planting season.
17. All interior drives shall meet the required compaction rating to support emergency vehicles.
  18. Improvements not reviewed with this LSD plan shall require additional review. No additional improvements shall begin construction prior to plan approval.
  19. This project shall generally conform to all plans and information submitted to the city. Any significant change from any information submitted may require additional review by the Planning Commission. This includes, but is not limited to, site and landscape plans, drainage information, memorandum of understanding for street maintenance, improvements to streets, sewer treatment, the operation site plan document, emergency action plans, conceptual future land use plans, and other written statements received from WM.
  20. Per the letter submitted on August 24, 2021, by Mr. George Wheatly, WM, independent air quality studies performed periodically around the Eco-Vista landfill will not be opposed by WM.
  21. This project shall adhere to all applicable City of Tontitown regulations.

**THE ATTACHMENTS FOR THIS PROJECT ARE VERY LARGE. THEY CAN BE ACCESSED VIA [THIS LINK](#) or by going to this address:**

[https://garverengineers-my.sharepoint.com/:f:/g/personal/cetmcnair\\_garverusa\\_com/EmNT00Qi8vJBr9r6yOtnK2QBOPpc4tJ1c7yEjSP5RBGjLA?e=iKsjUT](https://garverengineers-my.sharepoint.com/:f:/g/personal/cetmcnair_garverusa_com/EmNT00Qi8vJBr9r6yOtnK2QBOPpc4tJ1c7yEjSP5RBGjLA?e=iKsjUT)