

LLU F-22	Informal Workgroup Polling		
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<p><b><i>Draft 6 Text</i></b></p> <p>Were the site plan and narrative in PC-83-7 regulatory conditions of approval? No.</p> <p>The Board adopted the applicant’s site plan and narrative in PC-83-07 as “findings” but did not specifically adopt them as conditions of approval. Findings are not conditions of approval. Rather, they explain how the decision was reached and the facts the decision maker relied on to determine compliance with a criterion. For compliance with specific findings to be enforceable they must be made conditions of approval.</p> <p>The conditions that were adopted through the 1983 decision, described as “conditions of development”, specified changes to be made to the applicant’s site plan. Compliance with those revisions was not required as a condition of approval; the conditions required only that the revisions be submitted. The decision did not describe these revisions as necessary to establish compliance with any approval criteria and required only submission of additional documentation and a revised narrative.</p> <p>Because a) the site plan and narrative, while relied upon as findings, were not made conditions of approval, and because b) the conditions imposed in PC-83-07 that required changes to the site plan did not require those changes on the basis that they were necessary to establish compliance with any criterion but rather required only that they be submitted, the site plan and narrative are not conditions approval of PC-83-07.</p>	9		1
<p><b><i>Language Proposed by 3s</i></b></p> <ul style="list-style-type: none"> <li>I believe this question needs more review. One of the documents the CUP Subcommittee reviewed is the Planning Commission recommendation for approving changes to the Comprehensive Plan. The Commission based their positive recommendation on a Staff Report and completion of multiple narratives. Many of these materials are in the file. The submittals describe proposed landfill terracing, sloping, post closure grazing, expectations for future use of these lands as indicated by the existing farm and forest use designations, methane management, and some aspects of screening the landfill. Presumably these were included in the Comprehensive Plan. The question is what requirements / obligations, etc were agreed to for the site in 1983.</li> <li>Add: In 1983 the County created community expectations for how the landfill would look in decisions documented in PC83-07. Appearance issues including steepness of the landfill slopes, terracing, screening, and returning the land to grazing or other farm-like uses were addressed and committed to by the County and landfill operator. The way the County chose to implement these commitments is questionable given legal hindsight. Whether they be enforceable “conditions of approval” or “findings” in the PC83-07 record remains in dispute. The BCTT Workgroup is not a court of law. The differing interpretations over a possible</li> </ul>			

<p>process or wording error of the 83-07 decision, that causes this issue to arise, should not be the primary concern. Of greater importance for the County's relationship with its residents is the Planning Commission and Board of Commissioners decisions to adopt the offered designs and reclamation plans to meet public expectations. These expectations were made clear in the records of PC83-07. At a minimum, the debate over PC83-07's intended vs. actual conditions of approval or findings draws attention to the fragile "good neighbor" relationship between the County, landfill owner/operator and the public established through the 83-07 land use hearing process. Acknowledging these discrepancies with prior commitments should form a basis for the County, Republic, DEQ and the public to come to reasonable expectations for the appearance and long-term use and closure of the landfill facility.</p>			
<p><u>Language Proposed by 2s</u></p>			
	Formal Workgroup Polling		
<p><b><u>Real-Time Draft Revision 4/3/23</u></b>          Were the site plan and narrative in PC-83-7 regulatory conditions of approval?          No.          The Board adopted the applicant's site plan and narrative in PC-83-07 as "findings" but did not specifically adopt them as conditions of approval. Findings are not conditions of approval. Rather, they explain how the decision was reached and the facts the decision maker relied on to determine compliance with a criterion. For compliance with specific findings to be enforceable they must be made conditions of approval.          The conditions that were adopted through the 1983 decision, described as "conditions of development", specified changes to be made to the applicant's site plan. Compliance with those revisions was not required as a condition of approval; the conditions required only that the revisions be submitted. The decision did not describe these revisions as necessary to establish compliance with any approval criteria and required only submission of additional documentation and a revised narrative.          Because a) the site plan and narrative, while relied upon as findings, were not made conditions of approval, and because b) the conditions imposed in PC-83-07 that required changes to the site plan did not require those changes on the basis that they were necessary to establish compliance with any criterion but rather required only that they be submitted, the site plan and narrative are not conditions approval of PC-83-07.</p>			