



A CHA Company

Permit No.	Scan Date	DIN
3602	March 8, 2011	13189

RECEIVED
March 7, 2011
Solid Waste Section
Asheville Regional Office

February 28, 2011

Mr. Charles T. Gerstell
Environmental Senior Specialist
NCDENR
Mooresville Regional Office
610 East Center Avenue, Suite 301
Mooresville, NC 28115

Re: Post-Closure Compliance Audit
Gaston County – Biggerstaff Landfill
Gaston County, North Carolina
Olver/CHA Project Number 20102.06/21420

Dear Mr. Gerstell:

Given the inference that was made during the compliance audit of the above referenced facility that the Division of Waste Management, Solid Waste Section (SWS) was going to issue Notice of Violation(s) (NOV) related to landfill gas monitoring and the model airplane landing strip, the County would like to reiterate its position and summarize documentation regarding facility post-closure compliance.

First, the County is adamant that it has complied with the Post-Closure Conditions contained in the Letter of Closure dated December 11, 1991 from the Division of Solid Waste Management (see Attachment A). The County has performed inspections of the landfill for distressed vegetation and observance of odors (which may indicate the presence of methane gas); conducted bar-hole punch surveys, surface sweeps, and gas monitoring of groundwater wells; and has conducted inspections of cap integrity (the facility is well maintained as acknowledged by your comments to staff during the audit) (see Attachment B). Through these actions, the County maintains that it has and continues to comply with the intent of Rule .0503(2)(a) and is unaware of any post-closure conditions related to landfill gas at this facility that could cause significant harm to the environment or risk to the public health. In addition, this facility has been in post-closure for over 20 years, under supervision and monitoring by the SWS. It is difficult to understand why this matter was just recently brought to the County's attention if there was a potential issue of noncompliance or question regarding risk to the public.

Secondly, in regards to the model airplane field, a Conditional Use Permit (CUP) was obtained in January 1994 for its development and operation that included a Public Hearing process. The Planning Board reviewed the application for CUP and found that "the proposed use will not materially endanger the public health if located where proposed and developed according to plan" (see Attachment C). The location of the air strip has been noted on the site layout figure included as a part of the groundwater monitoring reports submitted to the SWS (see Attachment D). Again, it is difficult to understand why this use is now considered to be in noncompliance with post-closure requirements for the facility.

Mr. Charles T. Gerstell
February 28, 2011
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The County would like to request a meeting with the SWS (at your earliest convenience) to discuss this matter in further detail prior to the SWS taking any formal action. Please coordinate directly with me (704-527-3227) or Marcie Smith (704-922-0267). It is the County's desire to resolve this matter in a manner that is consistent with applicable closure requirements, the history of the facility, and protection of public health and the environment.

Sincerely,

OLVER INCORPORATED



Robert C. Sallach, PE
President

RCS/det

Attachments

cc: Ray Maxwell (w/o attachments), Gaston County
Marcie Smith (w/o attachments), Gaston County
Larry Frost (w/attachments), NCDENR – Asheville Regional Office



State of North Carolina
Department of Environment, Health, and Natural Resources
Division of Solid Waste Management
P.O. Box 27687 · Raleigh, North Carolina 27611-7687

James G. Martin, Governor
William W. Cobey, Jr., Secretary

William L. Meyer
Director

December 11, 1991

Mr. William D. Beasley, Director
Gaston County Public Works
P.O. Box 1578
Gastonia, NC 28053

RE: Closure Letter, Gaston County Landfill, Permit No. 36-02

Dear Mr. Beasley:

This closure letter acknowledges that the referenced facility has been closed in accordance with the conditions of Section .0510 of the Solid Waste Management Rules and specifies the post-closure necessary maintenance and water quality monitoring responsibilities of Gaston County as the facility owner/operator. Section .0510 also states that when a disposal site has been closed, the permit is terminated and any future disposal operations will require a new permit.

Closure Conditions

The specific closure conditions of Section .0510 for this facility include:

- (1) Closure in accordance with the operational requirements for landfills, Section .0505, unless otherwise specified in the permit:
 - ✓(a) Final cover, two (2) feet of suitable compacted earth
 - ✓(b) Permanent erosion control measures, as necessary to prevent silt from moving off-site and excessive on-site erosion
 - ✓(c) Drainage control measures, as necessary to prevent the impoundment of surface water over waste
 - ✓(d) Vegetation requirements, stabilization with native grasses
 - ✓(e) Leachate control, containment on-site or properly discharged off-site.

Per telephone conversation w/ J. Coffey on 12/23/91, this letter is intended to state that Linn Co. has met all closure reqts & that Biggs/Leff site is officially closed.

Mr. David Hamlin
December 10, 1991
Page 2

- (2) Written notification and certification by Gaston County that the facility complies with the closure conditions.
- (3) Inspection and written statement by a representative of the Division concerning compliance with the closure conditions.

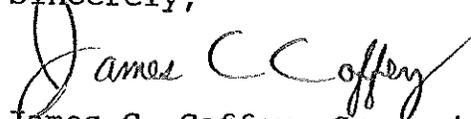
All disposal sites, either operating or closed, are subject to the explosive gas requirements of Section .0503 (2)(a), the surface water requirements of Section .0503 (2)(c), and the ground-water requirements of Section .0503 (2)(d).

Post Closure Conditions

Post-closure necessary maintenance for this facility shall consist of whatever measures, procedures, and activities are required to maintain this facility in compliance with those closure conditions specified within this letter. Water quality monitoring is required for a least five (5) years after closure, in accordance with the N.C. Water Quality Monitoring Guidance Document for Solid Waste Facilities. At the end of the five year period, the monitoring program will be re-evaluated.

If there are any questions, please contact me at (919) 733-0692.

Sincerely,



James C. Coffey, Supervisor
Permitting Branch
Solid Waste Section

JCC/mju

cc: Julian Foscue
Rick Doby

Biggerstaff Landfill Methane Testing

Date	MW-1	MW-2	MW-3	MW-4	MW-5	MW-6	MW-7
12/21/2001	6%	5%	5%	5%	5%	3%	2%
1/4/2002	6%	5%	5%	5%	5%	3%	2%
3/14/2003	5%	6%	5%	4%	4%	4%	2%

Annual Monitoring

Testing Sites

Date	MW-1	MW-2	MW-3	MW-4	MW-5	MW-6	MW-7
1/30/2006	2%	2%	1%	1%	1%	0%	0%
2/6/2007	2%	2%	1%	1%	0%	0%	0%
2/12/2008	2%	1%	1%	1%	1%	0%	0%
1/22/2009	1%	2%	1%	1%	1%	0%	0%
3/11/2010	2%	0%	0%	1%	0%	0%	0%

All test sites at least 100ft inside of property line without being on top of trash.

To: Steve Wilkins
From: Cathy Hart

December 23, 1991

MEMORANDUM

TO: Phil Hinely
FROM: Carl Baber, Recreation & Parks Director
SUBJECT: Status of "Lewis Brooks Airfield" in Biggerstaff Landfill

Dear Phil:

On December 16, 1991, Bill Beasley received an official "Certificate of Closure" from the state for the Biggerstaff Landfill. Prior to the closure, we could only be in a planning stage. We did layout the run way (425' x 60') and extra soil was compacted in this area. Robinson & Sawyer planned and approved locations as related to the closeout of the total landfill. We will stone and pave the airstrip at 30' x 300'. This is sufficient for this activity. We will also stone a roadway and a parking area. This is mandatory to prevent erosion and vehicles must stay within this designated area. We will do this work in early spring after the winter gives chance of settling. Asphalt plants are generally closed this time of year. We have money in our current budget to do the airfield and parking.

REQUEST FOR BOARD ACTION

TO: COUNTY MANAGER

DATE: 4/9/91

FROM: Cary McSwain, Department of Public Works

TITLE OF RESOLUTION: BID AWARD: GRADING AND DRAINAGE IMPROVEMENTS CONSTRUCTION AT BIGGERSTAFF LANDFILL

SYNOPSIS OF REQUEST:

The State of North Carolina requires that a sanitary landfill must have two feet of fill dirt above all solid waste and appropriate vegetation to assure proper drainage and containment of the landfilled waste. The Biggerstaff Sanitary Landfill has been surveyed, gridded, bored, and analyzed with respect to compliance with the State requirements. This work has been done on two previous occasions at a cost in 1986 of \$18,000 to S. O. Lovelace and in 1989 of \$26,679.60 to Champion Construction for a total cost of \$44,679.60. The two previous attempts at closure were unsuccessful in that the State requirements changed during the first construction and, after the second subsequent grading/landscape work, certain areas of the landfill have settled to the extent that the required two feet of soil is not present at certain locations.

This contract bid is projected to finalize the closure of Biggerstaff for CERTIFICATION OF CLOSURE by the State of North Carolina. The State inspectors and county staff with the project engineer, Robinson & Sawyer, have reviewed the site and believe that it has now stabilized.

This project has been bid according to the state statutes. The County is required by law to comply with Certification of Closure as approved by the State of North Carolina. This contract and the agreement to purchase the soil from an adjacent property owner, Tony Jeff Connor, should be successful in bringing the County to legal and environmentally appropriate closure. The lowest responsible bidder has bid \$56,912.50. The purchase of the soil by agreement will cost \$5,000 for a total cost of \$61,912.50.

FUNDING SOURCE:

Are County Monies Involved? yes no N/A

Federal _____ %

_____ Money is in current budget.

State _____ %

New appropriation requested.

Local 100 %

_____ Other, Explained in synopsis

User Fees _____ %

ALL BUDGET TRANSFER FORMS SHALL BE APPROVED BY FINANCE DIRECTOR BEFORE RESOLUTION WILL BE PLACED ON THE COMMISSIONERS AGENDA!!!

MANAGER'S RECOMMENDATION:

TO:

DATE:

FROM: Phillip L. Hinely, County Manager

SUBJECT: Board Action

Re: Resolution Number: _____

Attached resolution is approved, please take appropriate action,

cc:



County of Gaston

State of North Carolina

Resolution Number:

Date: April 9, 1991

Resolution Sponsor:

Resolution Title: BID AWARD: GRADING AND DRAINAGE IMPROVEMENTS CONSTRUCTION AT BIGGERSTAFF LANDFILL

WHEREAS, Gaston County operated a sanitary landfill at a location referred to as the Biggerstaff Landfill and has subsequently terminated the operation of that landfill for the daily receipt of municipal solid waste; and,

WHEREAS, The State of North Carolina regulates Gaston County with respect to requirements for the closure of sanitary landfills; and,

WHEREAS, consistent with the legal requirements to prepare the closure of Biggerstaff Sanitary Landfill for Certification of Closure by the State of North Carolina, Gaston County has requested bids for grading and drainage improvements construction at the Biggerstaff Landfill and consistent with the specifications contained in the bid document entitled "Specifications and Contract Documents for Grading and Drainage Improvements of Biggerstaff Landfill, Gaston County, NC," as prepared by Robinson & Sawyer, Inc.; and,

WHEREAS, the Biggerstaff Landfill, prior to closing, was operated under exigent and urgent conditions after all other landfills had closed and the full brunt fell on the Biggerstaff Landfill, leaving a significantly inadequate supply of cover dirt; further, in order to meet the necessary requirements for closure, Gaston County has obtained an agreement from an adjacent landowner, Tony Jeff Conner, to excavate and remove 10,000 cubic yards of soil and to repair and landscape the property of Tony Jeff Conner at a total purchase price of \$5,000; and,

WHEREAS, the following bids were received for the above referenced project as follows:

**BID AWARD: GRADING AND DRAINAGE IMPROVEMENTS CONSTRUCTION
 AT BIGGERSTAFF LANDFILL**
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ITEM	JOHN E. JENKINS, INC,			CHAMPIAN CONTRACTING CO., INC,	
	ESTIMATED QUANTITY	BID PRICE PER UNIT	TOTAL	BID PRICE PER UNIT	TOTAL
1. Clearing	3.0 AC	\$1,500.00	\$4,500.00	\$3,200.00	\$9,600.00
2. Topsoil Strip	2,000 CY	\$ 2.00	\$4,000.00	\$ 3.20	\$6,400.00
3. Borrow Excav. & Grading	9,000 CY	\$ 1.85	\$16,650.00	\$ 1.90	\$17,100.00
4. Fabric Liner	1,000 SY	\$ 2.25	\$2,250.00	\$ 3.50	\$3,500.00
5. Jute Mat. in Swales	450 SY	\$ 2.25	\$1,012.50	\$ 3.50	\$1,575.00
6. Plain Rip Rap - Class I (18" thick)	800 SY	\$ 16.50	\$13,200.00	\$ 19.60	\$15,680.00
7. Temporary Silt Fence	100 LF	\$ 3.00	\$ 300.00	\$ 3.50	\$ 350.00
8. Seeding and Mulching	12 AC	\$1,250.00	\$15,000.00	\$1,314.00	\$15,768.00
TOTAL AMOUNT BID			\$56,912.50		\$69,973.00

WHEREAS, Robinson & Sawyer, Inc., project engineer, has reviewed all bids submitted and recommends that the County accept the bid of John E. Jenkins, Inc. in the amount of \$56,912.50, and award the contract for construction of the grading and drainage improvements at Biggerstaff Landfill to the lowest responsible bidder.

NOW, THEREFORE, BE IT RESOLVED BY THE GASTON COUNTY BOARD OF COMMISSIONERS that:

- 1) The bid for construction of grading and drainage improvements at the Biggerstaff Sanitary Landfill, as specified in the bid document, be awarded to the lowest responsible bidder, John E. Jenkins, Inc., in the amount of \$56,912.50;
- 2) Funds for this project are to be appropriated from the Unappropriated Fund Balance as specified in the attached Budget Transfer Request;
- 3) The County Attorney be authorized to draft any necessary agreements and/or contracts, and the County Manager be authorized to execute the same;
- 4) this bid award be made a part of the Minutes of the Gaston County Board of Commissioners.

GASTON COUNTY

BUDGET CHANGE REQUEST

TO: Phil Hinely COUNTY MANAGER
 FROM: Cathy McSwain DEPARTMENT HEAD

FUND	DEPARTMENT
# <u>10</u> NAME <u>General</u>	# <u>4120</u> NAME <u>Landfill</u>

REQUEST: LINE ITEM CHANGE WITHIN DEPARTMENT
 ADDITIONAL FUNDS

ACCOUNT	DESCRIPTION	ACCOUNT NUMBER			AMOUNT + (-)
		FUND	DEPARTMENT	OBJECT	
	<u>Fund Balance Appropriated</u>	<u>310-3991-991</u>			<u>(61,912.50)</u>
	<u>Buildings + Grounds Maintenance</u>	<u>110-4120-351</u>			<u>61,912.50</u>

REASON / JUSTIFICATION
To appropriate funds for final closure of Biggerstaff Landfill.

SIGNATURES
 ORIGINATOR: _____ DATE: _____ DEPARTMENT HEAD: _____ DATE: _____

APPROVALS
 FINANCE DEPARTMENT: Ronald L. Country DATE: 4/9/11 COUNTY MANAGER: _____ DATE: _____

REQUEST FOR BOARD ACTION

TO: County Manager

DATE: July 15, 1994

RESOLUTION SPONSOR: Planning/Code Enforcement

RESOLUTION TITLE:

EXTENSION OF CONDITIONAL USE PERMIT: GASTON COUNTY: PROPERTY PARCEL R12/90/9

SYNOPSIS OF REQUEST:

The Board of Commissioners approved a conditional use permit on January 27, 1994 for the County to operate a model airplane field in a residential area (old Biggerstaff Landfill), with the provision that the question be revisited within six months. A letter was forwarded to the Board on June 9th advising that the CUP would expire at the end of August and requesting direction as to whether or not the Board wanted to hold a public hearing on the matter; approve the conditional use permit with no time limitation or to let the CUP sunset which would mean that at the end of July the use would not be allowed.

The Board is requested to approved the attached resolution which extends the CUP approval under the same terms and conditions until the last day of August 1994, and scheduled a public hearing for August 11, 1994 to take public comment into the continuance of the CUP.

| | Synopsis continued on page 2

FUNDING SOURCE:

FEDERAL _____% STATE _____% LOCAL _____%* USER FEES _____%

*Board of Education and the City of Gastonia to bny 33.3% share of cost.

ARK COUNTY MONIES INVOLVED? _____ yes no _____ N/A

_____ Money is in current budget _____ New appropriation requested

_____ Other, explained in synopsis.

PRIOR TO SUBMITTING AGENDA ITEMS TO THE CLERK, APPROVAL FROM THE PERSONNEL AND FINANCE DEPARTMENTS SHALL BE OBTAINED.

Have personnel requests been approved by the Personnel Director? yes no N/A _____
Have budget change forms been approved by the Finance Director? yes no N/A _____
Have budget change forms been approved by the Budget Director? yes no N/A SR 7/15/94

MANAGER'S RECOMMENDATION:

Approve Resolution

TO: Planning/Code Enforcement

DATE: 7/29/94

FROM: Philip L. Hinely, County Manager

SUBJECT: Board Action

RE: Resolution Number: 94-212

The attached resolution is approved; please take appropriate action.

cc: Finance; County Attorney, Eddie Isenhour, Carl Baber



County of Gaston

State of North Carolina

Resolution Number: 94-212

Date: July 28, 1994

Resolution Sponsor: Planning/Code Enforcement

Resolution Title: EXTENSION OF CONDITIONAL USE PERMIT: GASTON COUNTY:
PROPERTY PARCEL R.12/90/9

Whereas, the Board of Commissioners approved a conditional use permit on January 27, 1994 for the County to operate a model airplane field in a residential area (old Biggerstaff Landfill), with the provision that the question be revisited within six months; and,

Whereas, a letter was forwarded to the Board on June 9th advising that the CUP would expire at the end of August and requesting direction as to whether or not the Board wanted to hold a public hearing on the matter; approve the conditional use permit with no time limitation or to let the CUP sunset which would mean that at the end of July the use would not be allowed; and,

Whereas, the Board is requested to extend the CUP approval under the same terms and conditions until the last day of August 1994, and scheduled a public hearing for August 11, 1994 to take public comment into the continuance of the CUP.

Now, Therefore, **Be It Resolved** by the Board of Commissioners that the Conditional Use Permit to operate a model airplane field on property parcel R12/90/9 (old Biggerstaff Landfill) be extended until the last day of August 1994, under the same terms and conditions, and that a public hearing be scheduled at the first Commissioners meeting in August (August 11, 1994) to take public input into the extension of the Conditional Use Permit.

Be It Further Resolved by the Board that the County Manager is authorized to advertise this hearing following County policies and procedures.

REQUEST FOR BOARD ACTION

TO: COUNTY MANAGER

DATE: January 18, 1993

RESOLUTION SPONSOR: Planning Board

TITLE OF RESOLUTION:

CONDITIONAL USE PERMIT: PARCEL R12/090/009

SYNOPSIS OF REQUEST:

In accordance with Chapter 9 of the County Zoning Ordinance, Gaston County applied for a conditional use permit on property located off the Best Town Road (old Biggerstaff the Dallas Cherryville Highway, west of Whitesides Road, to develop a septic tank waste disposal area (land application of sludge from septic tanks) in a residential agriculture district. A joint public hearing was held on November 9, 1993 by the Board of Commissioners and the Planning Board to take testimony as to whether or not to issue the CUP.

TAX PARCEL NUMBER: R12/090/009

PROPERTY OWNER: Gaston County

ADDRESS: 212 West Main Street, Gastonia, NC 28052

LOCATION: Off of Bess Town Road, the old Biggerstaff Landfill

CURRENT ZONING: R-A - Rural Agricultural District - This purpose of this district is to accommodate agricultural and residential uses in areas of the County which are not intensively developed. This district allows for limited number of nonresidential uses as well as manufactured home parks.

(continued on page 2)

FUNDING SOURCE:

Federal _____% State _____% Local _____% User Fees _____%

ARE COUNTY MONIES INVOLVED? _____ yes _____ no X N/A

_____ Money is in current budget. _____ New appropriation requested.

_____ Other, Explained in synopsis.

PRIOR TO SUBMITTING AGENDA ITEMS TO THE CLERK, APPROVAL FROM THE PERSONNEL AND FINANCE DEPARTMENTS (IF APPLICABLE) SHALL BE OBTAINED. 1-16-94

Have personnel requests been approved by the Personnel Director? _____ yes _____ no X N/A

Have budget change forms been approved by the Finance Director? _____ yes _____ no X N/A

MANAGER'S RECOMMENDATION:

[Handwritten signatures and dates]
1/14/94 1/14/94

TO: Planning Board

DATE: 1/28/94

FROM: Phillip L. Hinely, County Manager

SUBJECT: Board Action Re: Resolution Number: 94-29

Attached resolution is approved, please take appropriate action.

cc: Finance; Danny Garrett, Planning/Code Enforcement; Charles L. Moore, County Attorney; Carl Baber
Larry Hurlocker, Eddie Laenhour

Synopsis: CONDITIONAL USE PERMIT: PARCEL R12-090-009.00
Page 2

CURRENT USE: The site in question was recently used as the Gaston County landfill. At this date the property is vacant.

REASON FOR APPLICATION: The applicant has applied for a conditional use permit so that the land may be leased to group for the purpose of operating a remote control airplane flying field. A model airplane flying field is classified in the Gaston County Zoning Ordinance as a Racetrack (small). A Racetrack (small) is allowed in the RA zoning district as a conditional use. A conditional use permit was submitted by the County department of Parks and Recreation and deemed complete on December 23, 1993.

DESCRIPTION OF AREA: The parcel in question is located off of Bess Town Road and is bordered, but not visible from, by Dameron Road to the west. Upon review of aerial photographs and a site inspection the following uses were noted and recorded. The property bordering the site to the west is vacant and residential. There are several single family site built houses along Dameron Road. To the north of the site along Bess Town Road are large vacant tracts and two single-family site built houses. The eastern and southern boundaries are also vacant and residential land uses. The general character of the area is rural/agricultural/residential.

STAFF COMMENT: The use in question is conducive to the surrounding land uses. The land was previously used as the site of the County landfill. A County park would be a positive and productive use of the now vacant land. A model airplane flying field is a use that should not cause a lot of problems for surrounding home owners. To address the issue of any possible noise or traffic that may be created by the applied use the following conditions may need to be considered:

- 1) Hours of Operation be limited from 8:00 am to 9:00 pm.
- 2) Flight patterns of the model airplanes to be limited and contained within the boundaries of the County owned property.
- 3) Users of the park facility should not conduct any activity which would disturb the covered landfill.

PUBLIC HEARING COMMENT: Public hearing was held on January 13, 1994 with the following sworn testimony being given:

Larry E. Hurlocker, Planning Director appeared before the Board and reviewed the application with the Board. He advised that the Department had received a call from Bayne Harmon (area property owner), who stated that he was not against the flying of the model planes, but he would not give access to the County across his land to get to the proposed site. This was due to the fact that agricultural crops were grow on the land and he did not want people dumping garbage on the property. The Planning Director advised that a call from Ben Houser, adjacent property owner, was received and that opposition was stated due to the noise potential. He advised that a letter (presented to the Board) was received from Phyllis & Timothy Miller, adjacent property owners stating opposition due to the potential noise and hazards from the planes.

Phyllis Miller, adjoining property owner, appeared before the Board and stated her opposition to the CUP, based on the noise that the model plane would create, and stated that it would be hard for her family to enjoy being outside due to the noise. She advised that people moved to the country to get away from the noise of the towns. She also stated that she saw a problem in that the proposed use would be limited to a small group of people, unlike having a golf course or park where all citizens could enjoy the benefits. She questioned why County dollars were spent only to benefit a few. She suggest that the flying club should buy a piece of land and use it for this purpose. She concluded by stating that there was a paved strip on the property already and wanted to know why a strip was already paved at the site.

Synopsis: CONDITIONAL USE PERMIT; PARCEL R12-090-009.00
Page 3

Commissioner Crisp stated that approximately three years ago, Lewis Brooks and other flyers in the County approached the county about use of the site to fly planes. After use of the site a maintenance problem developed and the group requested that County to pave the area to reduce the erosion and maintenance problems. He advised that this was completed a year or so ago (Carl Baber, Director, Parks and Recreation advised that the cost was \$5,500 for the paving). He also advised that the County had looked at this site for other uses such as a firing range for police officers.

Mrs. Miller stated that preferred seeing the site having a paved bicycle track or other use that would serve a larger group than the 80+/- people in the airplane club. She stated that if used for the airplanes that the site would probably be used from 8 to 5 when they were at work, but it would be used when they were home.

Don Barkley appeared before the Board asked if the proposed airstrip would be under the control of the club or the Parks and Recreation Department.

Carl Haber, Director, Parks & Recreation appeared before the Board and stated that over the past eight (8) months, the County and the Gaston Flyers Club had been negotiating an agreement for use of the site for a model airplane field. He stated that approximately three (3) years ago, the Commissioners requested the Parks and Recreation Commission to find uses for the three closed landfills. Also, that Lewis Brooks, Club Member, had brought a petition from approximately 82 persons requesting the County to consider used to the Biggerstaff site for a model airplane field. He advised that three years ago there was no zoning, and that under current rules if the CUP passed that this would be the final item needed and that the Parks and Recreation Commission would be prepared to move forward with the project.

Mr. Barkley questioned the Board as to whether or not the strip would be under control of the Parks & Recreation, if there would be a gate to restrict access, how the controlled access would work. He expressed concerns about erosion and garbage turning up due to use of the site. He stated that if you had to be a member of the Flyers Club before you could use the facility, then it would be a private activity and not open to the public.

Mr. Baber stated that Parks & Recreation would be in control of the park and it would be operated as others in the system, in that Flyers Club members would have to designate times for use of the facilities, and that other persons wanting to use the facility could sign up for time to use the site, thus it would not be specifically limited to any one group. He added that individuals or group using the strip would have to be a member of AMA (Aeronautical Model Association) which provided up to \$1,000,000 liability insurance to the members or be able to show that they have \$1,000,000 liability insurance before using the facility. He further stated that the Club would make time available to non-members (if a member of AMA).

Mr. Barkley question again who would be in charge of the site. Mr. Baber answered that Parks & Recreation would be in charge of the facility and that Public Works had the control over the landfill site which the facility is on.

Mr. Barkley state that there was to be a clubhouse erected and stated that the County should not do this due to placement of a building on a landfill and possible methane gas problems. He stated that the Club may have picked a bad spot. He asked how long the runway was, and Mr. Baber stated 400 feet.

Bill Galloway questioned how the citizens were notified of this request, and stated that the noise from the planes would be bad. He wanted to know if a runway would have to be built and what the cost would be. Mr. Baber stated the runway already existed.

Synopsis: CONDITIONAL USE PERMIT: PARCBL R12-090-009.00
Page 4

Gene Kimbro appeared before the Board and stated objections to County monies being used for a small group of people. He asked if there was to be a parking lot built and tool shed, and if other infrastructure would be requested. He stated he did not like tax money being used to cater to a small group of people. He likened flying the planes to a drunk driver in that if a plane would accidentally hit a child then the County could possible be liable. Mr. Baber stated that parking was already created due to the use as a landfill.

Ed Robinson, appeared before the Board and stated opposition due to the site being used only for small group of people.

David Powers, President of the Gaston Flyers Club appeared before the Board and stated that this group could grow and provide an outlet for the entire County. As to the noise, he stated that as a requirement of the Club, all planes had to use mufflers to reduce the noise level, and that there would be only a small number of planes in the air at any one time (approximately 4) due to the radio frequencies which control the planes. He state that they rented a site in the County for 15 years, and only had to move due to a residential structure being placed on the site. During that time they did not receive any complaints. He stated that in answer to an earlier statement, closed landfills were being used for these purposed all over the Country, and that the Club would provide maintenance and some security for the site and closed landfill.

Raymond Pearson, appeared before the Board and state that he was neither pro or con, but did not agree with giving any one party exclusive use of County property.

Bill Powers appeared before the Board and stated that there did not appear to be a clear understanding and that the site would be open to any citizen in the County, if they were an AMA member and that this was for the County's protection due to the insurance. He stated that the number of planes in the air would be limited; and that there would be no expense to the County. He stated the club would conduct maintenance of the site and that this was a family oriented gathering. He advised that they were restricted to only fly over land designated for the use, and that hours of operation would not be in early morning or after dark. He advised that the noise would be less than other recreations areas and that other recreation areas operated at night.

Mr. Pearson questioned why a person had to be a member of AMA. Mr. Powers stated that it was for the County's protection, due to the insurance.

Mr. Powers stated that in the agreement with the County there would be a six month trial period to see how it worked and if there were any problems.

Commissioner Kuykendoll stated that this use was proposed for 80 people which worked out to 5/11,000 people in the county. She questioned as to who would build the fence for security and gates. Mr. Baber stated that the Commissioners told him to develop the site and that there would be approximately 300 feet of fence needed and that there was an existing gate for landfill purposes. She questioned if other radio controlled vehicles could use the site. Mr. Baber stated that the agreement limited use to airplanes. Commissioner Kuykendoll questioned why someone had to be a member of AMA. Mr. Baber stated that the AMA member was for the liability insurance purposes and it was a stipulation of the County. She asked if other from outside the County would use the strip. Mr. Baber stated that if there were competitions or special events that it was possible. She question if there was not a competition could people outside the County use it. Mr. Baber stated that anyone who use the facility would have to be a member of the AMA. She state that she was not aware of having to have insurance proof to use other parks. Mr. Baber stated the Gaston Horseman Association had insurance when they sponsored horse shows at the Dallas Park.

Synopsis: CONDITIONAL USE PERMIT; PARCEL R12-090-009.00
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Philip L. Hinoly, County Manager stated that in a review of the proposal, the County would not provide an agreement which would limit use of the park to a specific group. He stated that the propose use of this site was similar to use of the picnic shelters or other ball fields and that any one could sign up for the facility. However, in this case, users had to either be members of AMA or show proof of \$1 million dollars in liability coverage prior to use. He stated that discussions had taken place for a scholarship type operation so a person may participate in this type recreation, but nothing was finalized.

Commissioner Blits questioned if spectators could attend these flying sessions. Mr. Powers advised that they could.

Commissioner Conner state that she may be perceived as having a conflict due to being an adjacent property owner, thus she did not participate in the discussion of the matter.

Planning Board Recommendation:

The Planning Board reviewed the application for the CUP, testimony from the public hearing and comment during a meeting on January 24, 1994. After consideration, the Board found the following in accordance with Section 9.5.2 of the Ordinance:

- A. The proposed use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
- B. The use meets all required conditions and specifications, and
- C. The use will not substantially injure the value of adjoining or abutting property and that the use is a public necessity; and
- D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the adopted Gaston County Land Use Plan and other plans for physical development of the County as adopted by the Board of Commissioners;

and that finding these facts in the affirmative, recommends approval of the Conditional Use Permit, with the following conditions being placed on the CUP:

- 1) Users of the facility either be a member of the AMA (Aeronautical Model Association) or provide proof of liability insurance in an amount required by the County, prior to use the facilities;
- 2) Users of the facility shall follow guidelines set forth by the County in a agreement with the Gaston Flyers Club;
- 3) Users of the facility shall schedule time with the Parks and Recreation Department, under County policies regulating recreational facilities use;
- 4) Users of the facility shall conduct no activities which would disturb the capped landfill.



County of Gaston

State of North Carolina

Resolution Number: 94-29

Date: January 27, 1994

Resolution Sponsor: Planning Board

Resolution Title: CONDITIONAL USE PERMIT; PARCEL R12-090-009.00

WHEREAS, the Board of Commissioners adopted a Zoning Ordinance for the Unincorporated Areas on January 9, 1992, and as a part of the ordinance a guidelines are set forth for issuing conditional use permits; and,

WHEREAS, in accordance with Chapter 9 of the County Zoning Ordinance, Gaston County applied for a conditional use permit on property located off the Best Town Road (old Biggerstaff Landfill Site) for operation of a model airplane field in a residential agriculture district; and,

WHEREAS, a joint public hearing was held on January 13, 1994 by the Planning Board and Board of Commissioners in which sworn testimony was, as follows:

Larry E. Hurlocker, Planning Director appeared before the Board and reviewed the application with the Board. He advised that the Department had received a call from Bayne Harmon (area property owner), who stated that he was not against the flying of the model planes, but he would not give access to the County across his land to get to the proposed site. This was due to the fact that agricultural crops were grow on the land and he did not want people dumping garbage on the property. The Planning Director advised that a call from Ben Houser, adjacent property owner, was received and that opposition was stated due to the noise potential. He advised that a letter (presented to the Board) was received from Phyllis & Timothy Miller, adjacent property owners stating opposition due to the potential noise and hazards from the planes.

Phyllis Miller, adjoining property owner, appeared before the Board and stated her opposition to the CUP, based on the noise that the model plane would create, and stated that it would be hard for her family to enjoy being outside due to the noise. She advised that people moved to the country to get away from the noise of the towns. She also stated that she saw a problem in that the proposed use would be limited to a small group of people, unlike having a golf course or park where all citizens could enjoy the benefits. She questioned why County dollars were spent only to benefit a few. She suggest that the flying club should buy a piece of land and use it for this purpose. She concluded by stating that there was a paved strip on the property already and wanted to know why a strip was already paved at the site.

Commissioner Crisp stated that approximately three years ago, Lewis Brooks and other flyers in the County approached the county about use of the site to fly planes. After use of the site, a maintenance problem developed and the group requested that County to pave the area to reduce the erosion and maintenance problems. He advised that this was completed a year or so ago (Carl Baber, Director, Parks and Recreation advised that the cost was \$5,500 for the paving). He also advised that the County had looked at this site for other uses such as a firing range for police officers.

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Mrs. Miller stated that she preferred seeing the site having a paved bicycle track or other use that would serve a larger group than the 80+/- people in the airplane club. She stated that if used for the airplanes, the site would probably not be used from 8 to 5 when they were at work, but it would be used when they were home.

Don Barkley appeared before the Board asked if the proposed airstrip would be under the control of the club or the Parks and Recreation Department.

Carl Baber, Director, Parks & Recreation appeared before the Board and stated that over the past eight (8) months, the County and the Gaston Flyers Club had been negotiating an agreement for use of the site for a model airplane field. He stated that approximately three (3) years ago, the Commissioners requested the Parks and Recreation Commission to find uses for the three closed landfills. Also, that Lewis Brooks, Club Member, had brought a petition from approximately 82 persons requesting the County to consider used to the Biggerstaff site for a model airplane field. He advised that three years ago there was no zoning, and that under current rules if the CUP passed, this would be the final item needed and that the Parks and Recreation Commission would be prepared to move forward with the project.

Mr. Barkley questioned the Board as to whether or not the strip would be under control of the Parks & Recreation; if there would be a gate to restrict access; and how the controlled access would work. He expressed concerns about erosion and garbage turning up due to use of the site. He stated that if you had to be a member of the Flyers Club before you could use the facility, then it would be a private activity and not open to the public.

Mr. Baber stated that Parks & Recreation would be in control of the park and it would be operated as others in the system, and that Flyers Club members would have to designate times for use of the facilities. He stated that other persons wanting to use the facility could sign up for time to use the site, thus it would not be specifically limited to any one group. He added that individuals or group using the strip would have to be a member of AMA (Aeronautical Model Association) which provided up to \$1,000,000 liability insurance to the members or be able to show that they have \$1,000,000 liability insurance before using the facility. He further stated that the Club would make time available to non-members (if a member of AMA).

Mr. Barkley question again who would be in charge of the site. Mr. Baber answered that Parks & Recreation would be in charge of the facility and that Public Works had the control over the landfill site which the facility is on.

Mr. Barkley state that there was to be a clubhouse erected and stated that the County should not allow this due to placement of a building on a landfill and possible methane gas problems. He stated that the Club may have picked a bad spot. He asked how long the runway was, and Mr. Baber stated 400 feet.

Bill Galloway questioned how the citizens were notified of this request, and stated that the noise from the planes would be bad. He wanted to know if a runway would have to be built and what the cost would be. Mr. Baber stated the runway already existed.

Gene Kimbro appeared before the Board and stated objections to County monies being used for a small group of people. He asked if there was to be a parking lot built and tool shed, and other infrastructure would be requested. He stated he did not like tax money being used to cater to a small

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group of people. He likened flying the planes to a drunk driver in that if a plane would accidentally hit a child then the County could possibly be liable. Mr. Baber stated that parking was already created due to the use as a landfill.

Ed Robinson, appeared before the Board and stated opposition due to the site being used only for small group of people.

David Powers, President of the Gaston Flyers Club appeared before the Board and stated that this group was small now, but it could grow and provide an outlet for the entire County. As to the noise, he stated that as a requirement of the Club, all planes had to use mufflers to reduce the noise level, and that there would be only a small number of planes in the air at any one time (approximately 4) due to the radio frequencies used to control the planes. He stated that they rented a site in the County for 15 years, and only had to move due to a residential structure being placed on the site. During that time they did not receive any complaints. He stated that in answer to an earlier statement, closed landfills were being used for these purposes all over the County, and that the Club would provide maintenance and some security for the closed landfill site.

Raymond Pearson, appeared before the Board and stated that he was neither pro or con, but did not agree with giving any one party exclusive use of County property.

Bill Powers appeared before the Board and stated that there did not appear to be a clear understanding and that the site would be open to any citizen in the County, if a member of AMA; and that this requirement was for the County's protection. He stated that the number of planes in the air would be limited; and that there would be no expense to the County. He stated the club would conduct maintenance of the site and that this was a family oriented gathering. He advised that they were restricted to only fly over land designated for the use, and that hours of operation would not be in early morning or after dark. He advised that the noise would be less than other recreation areas and that other recreation areas operated at night.

Mr. Pearson questioned why a person had to be a member of AMA. Mr. Powers stated that it was for the County's protection, by covering these people with liability insurance.

Mr. Powers stated that in the agreement with the County there would be a six month trial period to see how it worked and if there were any problems.

Commissioner Kuykendoll stated that this use was proposed for 80 people which worked out to 5/11,000 people in the county. She questioned who would build the fence and gate for security. Mr. Baber stated that the Commissioners told him to develop the site and that there would be approximately 300 feet of fence needed and that there was an existing gate for landfill purposes. She questioned if other radio controlled vehicles could use the site. Mr. Baber stated that the agreement limited use to airplanes. Commissioner Kuykendoll questioned why someone had to be a member of AMA. Mr. Baber stated that the AMA member was for the liability insurance purposes and it was a stipulation of the County. She asked if others from outside the County would use the strip. Mr. Baber stated that if there were competitions or special events that it was possible. She questioned if there was not a competition could people outside the County use it. Mr. Baber stated that anyone who use the facility would have to be a member of the AMA. She stated that she was not aware of having to have insurance proof to use other parks. Mr. Baber stated the Gaston Horseman Association had insurance when they sponsored horse shows at the Dallas Park.

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Philip L. Hinely, County Manager stated that in a review of the proposal, the County would not provide an agreement which would limit use of the park to a specific group. He stated that the propose use of this site was similar to use of the picnic shelters or other ball fields and that any one could sign up for the facility. However, in this case, users had to either be members of AMA or show proof of \$1 million dollars in liability coverage prior to use. He stated that discussions had taken place for a scholarship type operation so a person may participate in this type recreation, but nothing was finalized.

Commissioner Ellis questioned if spectators could attend these flying sessions. Mr. Powers advised that they could.

Commissioner Conner state that she may be perceived as having a conflict due to being an adjacent property owner, thus she did not participate in the discusslon of the matter.

WHEREAS, after review of the proposed Conditional Use Permit Application, public hearing testimony, the Planning Board determined that:

- A. The proposed use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
- B. The use meets all required conditions and specifications, and
- C. The use will not substantially injure the value of adjoining or abutting property and that the use is a public necessity; and
- D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the adopted Gaston County Land Use Plan and other plans for physical development of the County as adopted by the Board of Commissioners;

and that finding these facts in the affirmative recommends approval of the Conditional Use Permit, with the following conditions being placed on the CUP:

- 1) Users of the facility either be a member of the AMA (Aeronautical Model Association) or provide proof of liability insurance in an amount required by the County, prior to use the facilities;
- 2) Users of the facility shall follow guidelines set forth by the County in a agreement with the Gaston Flyers Club;
- 3) Users of the facility shall schedule time with the Parks and Recreation Department, under County policies regulating recreational facilities use;
- 4) Users of the facility shall conduct no activities which would disturb the capped landfill.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners, after consideration of the conditional use permit application, the testimony at the public hearing and the recommendation of the Planning Board, finds:

- A. The proposed use will not materially endanger the public health or safety if located where proposed and developed according to plan; and
- B. The use meets all required conditions and specifications, and
- C. The use will not substantially injure the value of adjoining or abutting property and that the use is a public necessity; and

CONDITIONAL USE PERMIT: PARCEL R12-090-009.00

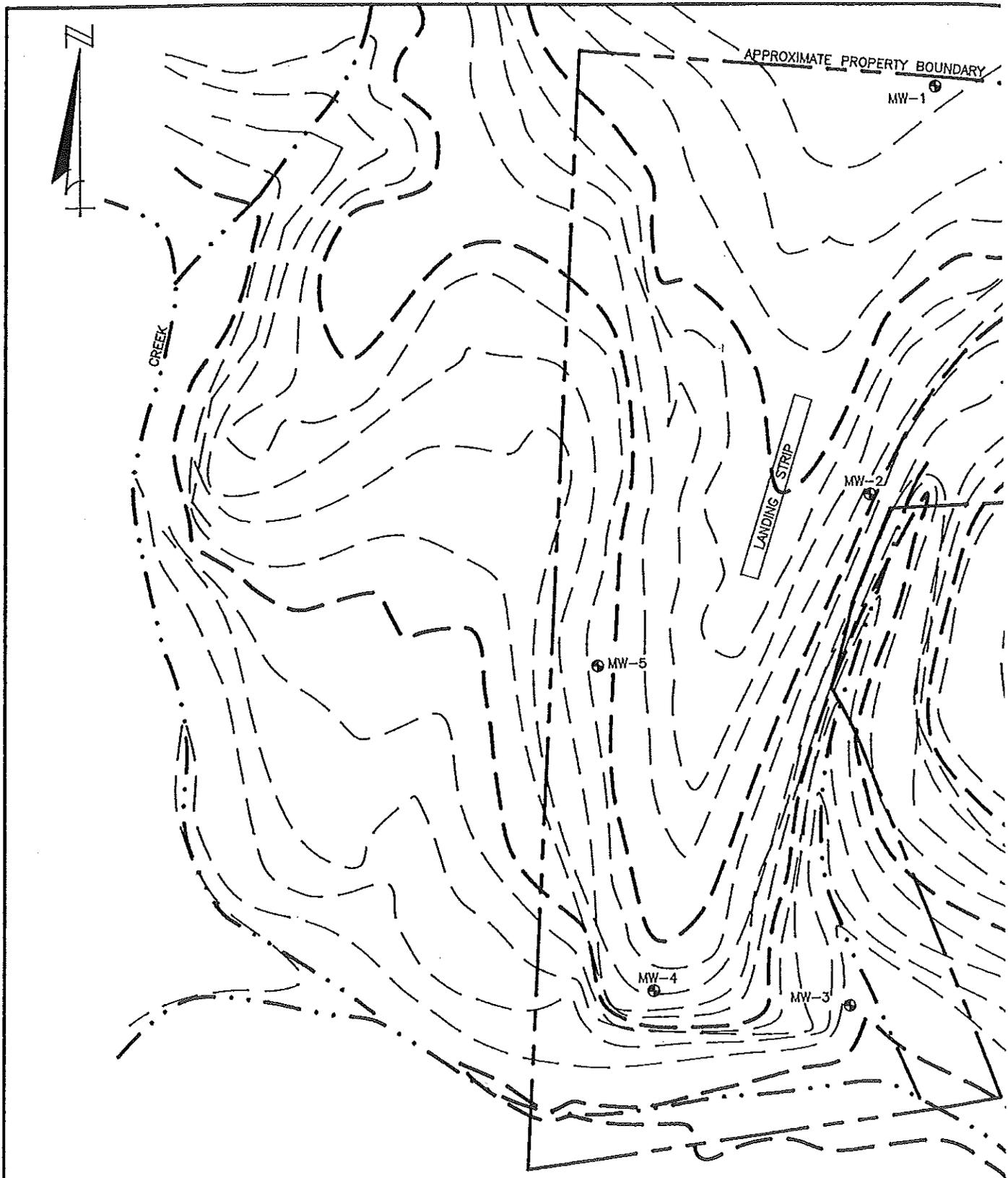
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- D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the adopted Gaston County Land Use Plan and other plans for physical development of the County as adopted by the Board of Commissioners.

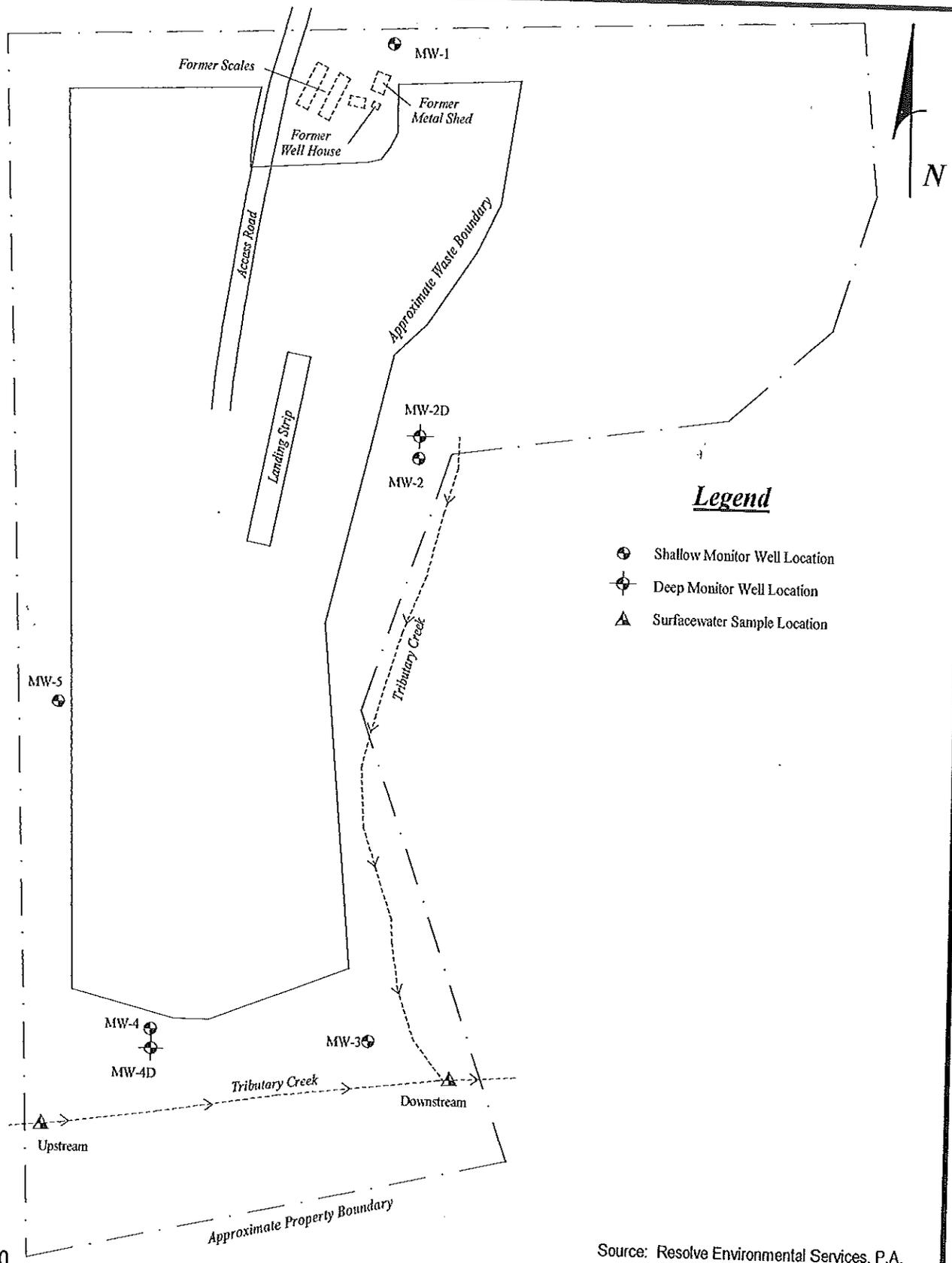
BE IT FURTHER RESOLVED that making these findings the Board of Commissioners, approves the Conditional Use Permit Application of Gaston County on property parcel R12-090-009, to allow for a model airplane facility on the old Biggerstaff Landfill in the residential agricultural district off the Bess Town Road, with the following conditions:

- 1) Users of the facility either be a member of the AMA (Aeronautical Model Association) or provide proof of liability insurance in an amount required by the County, prior to use the facilities;
- 2) Users of the facility shall follow guidelines set forth by the County in a agreement with the Gaston Flyers Club;
- 3) Users of the facility shall schedule time with the Parks and Recreation Department, under County policies regulating recreational facilities use;
- 4) Users of the facility shall conduct no activities which would disturb the capped landfill;
- 5) Hours of operation shall be limited between 10:00 A.M. to 7:00 P.M.;
- 6) This CUP shall be effective for a period of six months from the date of this action, and prior to the expiration date the Board of Commissioners shall determine whether or not to extend the CUP.

BE IT FURTHER RESOLVED that County Manager is authorized to made necessary notifications in this matter.



SOURCE: GASTON COUNTY DEPARTMENT OF
COMMUNITY DEVELOPMENT & TECHNOLOGY
PLANIMETRIC TOPOGRAPHY (MARCH 1997)



Legend

- ⊕ Shallow Monitor Well Location
- ⊕ Deep Monitor Well Location
- △ Surfacewater Sample Location

Scale



mf:sketch:biggerda

Source: Resolve Environmental Services, P.A.
Site Layout Map

Gaston County
Closed Biggerstaff Landfill
Gaston County, North Carolina

Buxton Environmental, Inc.

Figure 2.
Site Layout Map