



PLANNING COMMISSION FINDINGS

NATURE OF REQUEST:	Conditional Use Permit to expand Coffin Butte Landfill. Republic Services is proposing: to create a new disposal cell for the Coffin Butte Landfill which will extend from the current cell south of Coffin Butte Road; close Coffin Butte Road to public traffic (vacate the right-of-way) so the new cell can cover the road; relocate a replacement roadway (for landfill and quarry traffic only) around the area of the new disposal cell; relocate the leachate ponds south of Coffin Butte Road, and move some other structures.
APPLICABLE CODE CRITERIA:	Benton County Code (BCC) Section 51.505, Sections 51.705 through 51.840, Sections 53.205 through 53.235, Section 60.215, Section 60.220, Chapter 77, Chapter 99. The Benton County Code can be found at this link: https://www.co.benton.or.us/planning/page/development-code
PROJECT LOCATION:	<ul style="list-style-type: none"> • 29000 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 1107 • 29160 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 1200 • 28972 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 1101 • Township 10 S, Range 4 W, Section 18, Tax Lot 1104 • Township 10 S, Range 4 W, Section 18, Tax Lot 1108 • 29175 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 801
APPLICANT:	Republic Services
PROPERTY OWNER:	Valley Landfills Inc.
ZONE DESIGNATION:	Landfill Site (LS), and Forest Conservation (FC)
COMPREHENSIVE PLAN DESIGNATION:	Landfill Site, Forestry
CAC PLANNING AREA:	North Benton (not active)
STAFF CONTACT:	Inga Williams, inga.williams@co.benton.or.us
FILE NUMBER:	LU-21-047

This matter came before the Planning Commission in public hearings held November 2 and November 16, 2021. At the November 16 meeting:

- the applicant was provided the opportunity to submit additional written evidence up to 5 PM on November 19th;
- per statute, the record was held open so that the public could to submit further written testimony until 5 PM on the 29th; and
- per statute, the applicant was allowed one additional week, until 5 PM on December 6, to submit final written argument.

On December 7, 2021, the Planning Commission returned to deliberate on the application. At the meeting on the 7th, the Planning Commission considered the record as a whole, then deliberated and reached a decision. The decision of the Planning Commission is to **DENY** the Applicant’s request for a Conditional Use authorization to expand Coffin Butte Landfill based upon the following findings of fact.

FINDINGS

General Conditional Use Criteria - Chapter 53

53.215 Criteria. The decision to approve a conditional use permit shall be based on findings that:

(1) The proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone;

Uses on adjacent property:

Many residents of the area testified that the odor and noise has continually gotten worse over the years. Some testified that they have to seek shelter inside to avoid the noise and smell. They warn that the levels expected in the future will affect their rural residential uses. Some farmers have testified that getting workers to work in the stench has been an issue.

Odor: Methane emission rules do not capture the impacts to the character and use of the area because many people testified that the smell inhibits them from going outside and enjoying the use of their property. Property owners within miles of the site stated they could smell the landfill. The current mitigation of an earthen cap over cells does not mitigate smell and smell reflects emissions of other gases such as Volatile Organic Compounds (VOCs) and hydrogen sulfide. The same mitigation is proposed for the expansion and if it currently does not mitigate the odor then it cannot be used as a mitigation for the future and be expected to minimize the concern.

Bad air quality: People living in areas with poor air quality does pose serious interference with livability. Risk of health concerns is likely with the landfill expansion; enough so nearby residents speak out about it. Some residents point to increasing cancer clusters in their neighborhood and suggest that poor air quality may be responsible. One nearby resident pointed to studies in Europe that tied poor air quality in the proximity of landfills to bad health issues. The applicant noted they cannot control all of the releases of VOCs or hydrogen sulfide and these gases are understood to be potent carcinogens. The applicant did not address the long-term effects of those gases in varying concentrations in different weather situations but the Planning Commission certainly heard from people that they can smell these.

Noise: The noise study contracted by the applicant has been criticized as faulty and inadequate. Proposed mitigations do not seem feasible and such conditions couched as "whenever feasible" or "if permitted by safety conditions" are not stringent enough. Further concern of noise from banging truck gates, loud noises from unloading, was not addressed. Point noises are often the most debilitating and background noise is easier to live with. The proposed Condition of Approval PA-7 (A) is inadequate to address this concern. To base approval on the applicant's assurance that future studies will ensure compliance would be inappropriate.

Much of the applicant's response to these issues is to rely on subsequent review and approval by Oregon Dept. of Environmental Quality (DEQ); however, there is no ability for the Planning Commission to review the situation after DEQ's approval to ensure that DEQ's standards were adequate to prevent the proposed use from seriously interfering with uses on adjacent property.

Conclusion: The proposed use does seriously interfere with uses on adjacent property.

The character of the area:

Increase in landfill area

Residents of the area point to the change in the character of the area. The minimal footprint of the landfill in previous years has and will be changed to a dominant footprint. The proposed expansion

will increase that interference in a number of ways. A whole valley will be filled with garbage. Modification of the fundamental topography at this scale, turning a valley into a ridgeline and burying the valley under 100 feet of garbage seriously interferes with the character of the area. This level of impact could not have been reasonably anticipated by any existing resident or past prospective purchaser. No condition could mitigate this level of change to the character of the area; therefore, the application fails to meet this criterion.

Open space and views of the cascades will disappear. The agricultural production from fields have gone away. The livability of the area because of noise, odors, and the visibility of the garbage pile will continue to degrade. One resident testified that their view of the dump has steadily increased to the point that it is now noticed and commented on by her children, and it is expected to increase more if the expansion is allowed.

Closure of Coffin Butte Road

The closure of Coffin Butte Road seriously affects those that use this road and the proposed Conditions of Approval do not lower the impact below the level of serious. The proposed mitigations for a closure may not be feasible or, if implemented, may seriously interfere with uses on adjacent property or seriously interfere with the character of the area. Improvement to Tampico Road would drastically alter the character of the area. Traffic will increase on Tampico Rd, and no amount of leveling and grading will be sufficient to make Tampico Road a better egress route without substantially altering the character of the area. These improvements will also increase certain dangers on Tampico Road by enabling traffic to travel it faster and increase risks to non-motorized users.

Staff and the applicant conclude that the Tampico Rd corridor would be heavily impacted by the increased passenger traffic and changes to the nature of every day traffic to include freight, agriculture, and forestry heavy equipment. Increasing truck traffic on Tampico will negatively affect the area. It may be widened, but sight issues will remain. This will increase risks to non-motorized users of the road from increased traffic. No amount of widening will change the underlying topography and hazards inherent in it; yet widening would further damage the local community character with no guarantee of success.

Conclusion: The proposed use does seriously interfere with the character of the area.

The purpose of the zone:

Purpose of Conservation Zone

The applicant has not met the burden of proof that the proposal will not interfere with the purpose of the Forest Conservation zone for protection of the wildlife resources. The Conditions of Approval requiring further study of Great Blue Heron (GBH) rookeries do not provide us with timely information to determine if the criteria is met nor if mitigation is possible. Further, testimony regarding threatened Streaked Horn Lark populations, Oregon Vesper Sparrow populations, and wildlife movements in the area of the landfill expansion point to the need for more wildlife investigations before action is taken in this area.

Proposed Condition of Approval PA-4 only addresses GBH concerns. Either that condition should be expanded to include other wildlife or additional conditions should be added. There is also concern that the applicant has limited ability to hire qualified consultants. The inventory of GBH nesting activity by their hired consultant has been challenged by residents with compelling photographic evidence.

Buffering and Zoning

The proposed landfill expansion relies heavily on the buffering of noise, odor, sight, and other nuisances by adjacent property owned by the applicant. Some of this buffering is provided by properly zoned land. However, some of the adjacent land is zoned Rural Residential (tax lots 10419001600 and 104180001200). Rural Residential zoning has no provisions for landfill buffering or for the extension of the landfill's grading footprint. The buffering of the landfill site and proposed grading plan for the new haul road under this CUP shows the new haul road positioned on the lot boundary of tax lot 104180001107 (zoned LS) and tax lot 10419001600 (zoned RR-10) and the land graded in the RR-10 zone. If the landfill requires a buffer to operate and extend grading, that buffer becomes part of the landfill use. As such, it should require appropriate zoning; a zone change or Conditional Use Permit if necessary. If the landfill cannot operate without establishing an illegal use on residentially-zoned lands, then reconsideration of this expansion location is necessary.

Conclusion: The proposed use does seriously interfere with the purpose of the zone.

(2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area;

Closure of Coffin Butte Road

This is an undue burden because Coffin Butte Road is used as a bicycle and walking route, log truck and freight haul road, an emergency egress by the neighborhoods to the south and west, and is used by Adair Rural Fire Protection District for public safety and fire access. The closure of Coffin Butte Road seriously affects facilities and services.

Closure of Coffin Butte Road results in the loss of the most direct, safe evacuation route in case of inclement weather or wildfire; it eliminates the best (paved, flat, one curve) and shortest egress from the Soap Creek Valley. Closure of Coffin Butte Road results in the permanent loss of one of only three routes out of the Valley. In addition, the Coffin Butte Road closure results in the loss of the only locally available, direct east/west crossing of Hwy 99W, creating additional traffic conflicts on Hwy 99W at Camp Adair Road, Tampico Road, and Robison Road.

Based on community testimony, during the February 2021 ice storm Coffin Butte road was the only egress for several days. There is testimony dated November 23, 2021, from Chief Aaron Harris to Joe Bessmen and email from County Emergency Manager Bryan Lee dated Nov. 23, 2021, to Julie Jackson, and later that day forwarded to County staff, indicating that they both felt that the loss of Coffin Butte Road would be an impact on public safety.

The Adair Rural Fire Protection District Board advises, "this route should not be closed" and "closure of Coffin Butte Road would be detrimental to public safety". Proposed Conditions of Approval to mitigate this road's loss through improvement to the northern route will not be "superior to Coffin Butte Road with regards to evacuation routes and public safety".

Closing Coffin Butte Road for this conditional use would remove an important route, replacing it with a lesser, compromised route or routes.

Leachate

Leachate from the proposed expansion is planned to be hauled off-site and disposed at the Corvallis Wastewater Treatment Facility (CWTF). The increased volume of leachate hauled will increase tanker truck loads to Corvallis and burden the transportation corridor and create an undue burden on the CWTF. The treated leachate from CWTF is released into the Willamette River and poses water quality concerns. The applicant has presented no leachate plan to account for this increased volume and continued maintenance and disposal for the future.

Conclusion: The proposed use does impose an undue burden on public improvements, facilities, or services available to the area:

Conditional Use Criteria for the Forest Conservation Zone - Chapter 60

60.220 Conditional Use Criteria. (1) A use allowed under BCC 60.205 or 60.215 may be approved only upon findings that the use: (a) Will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; (b) Will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and (c) Complies with criteria set forth in BCC 53.215 and 53.220.

There will be increased transportation costs to local farm and forestry operations from the closure of Coffin Butte Road. One commercial forester commented that their harvesting operations use Coffin Butte Road as a major haul route and that closure of the road would affect their forestry operation. "Closing Coffin Butte Road and replacing it with an alternative will add time and cost." Another commercial forester commented that closing Coffin Butte Road would create problems for them in increased costs and safety issues.

Adair Rural Fire and Rescue uses Coffin Butte Road for public safety and fire access. Alternative routes take more time for fire response and are narrower. "The closure of Coffin Butte Road will negatively impact the response time from the Substation to the northern/northeastern areas of our fire district and North Albany automatic aid response areas." It will also create an increase in fire suppression costs and increase risk to fire suppression personnel because of the increase in transportation time to reach a fire.

Conclusion: The proposed use will force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands, and will significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

Conditional Use Criteria for the Landfill Site Zone - Chapter 77

77.310 Conditional Use Review. (1) The applicant for a conditional use permit shall provide a narrative which describes:

(c) Provisions for screening of the site from public roads and adjacent property;

The staff discussion in the staff memorandum of November 29, 2021, concluded that screening is appropriate for this application. Pages 2-5 propose screening mitigation activities (tree planting), but even those would not be sufficient. Proposed condition of approval OA-6 and OA-7 for screening are not adequate to address screening of the site from public roads or adjacent property. It will be impossible to adequately screen the view of this mountain of garbage. Since no mitigation is possible, we must deny the application for non-compliance to the criteria.

Conclusion: Provisions for screening of the site from public roads and adjacent property is inadequate.

PLANNING OFFICIAL: _____



Date of Decision: December 7, 2021