

Compliance with Past Land Use Actions and Their Status

Appendix A

Land Use Files that were not Approved

Date	File #	Request	Result
1994	PC-94-10	Zone change from Rural Residential to Landfill Site Zone, Comprehensive Plan change from Rural Residential to Landfill Site.	BOC Denied
There are no conditions proposed for a zone change.			

Date	File #	Request	Result
1994	PC-94-11	A conditional use permit to expand the area approved for a landfill within the Landfill Site Zone and update the site development plan.	PC Approved; PC Decision Appealed; Application Withdrawn
<p>Planning Commission approved Conditions of Approval – as the application was withdrawn, these conditions hold no authority.</p> <ol style="list-style-type: none"> 1. Limit the extent of the fill to be sited on the property to the north and east of the ridge line. 2. Limit the extent of the fill to be sited on the property to be no greater than the existing elevation of the ridge line. 3. Submit a copy of the final approved site plan map to the Development Department that shows the provisions of the site plan in BCC 77.310(2) have been met. The approved site plan shall be signed by the Planning Official when approved. 4. Submit documentation to the Development Department showing the existing fill and proposed plan would be in compliance with Department of Environmental Quality standards. 			

Compliance with Past Land Use Actions and Their Status

Date	File #	Request	Result
2021	LU-21-047	<p>Conditional Use Permit to expand Coffin Butte Landfill. Republic Services proposed: 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. Closing Coffin Butte Road will likely require improvement of at least one other roadway in the area to accommodate increased traffic—potentially Tampico Road or Wiles and Robison Roads.</p>	<p>Planning Commission Denied; PC Decision Appealed; Application Withdrawn</p>
<p>Planning Department designated Conditions of Approval – as the application was withdrawn, these conditions hold no authority.</p> <p>Preliminary Approval Conditions</p> <p>The following Preliminary Approval Conditions shall be met within four years of the date of decision; the Planning Official may grant one extension for up to a year prior to the expiration of the preliminary approval period if the applicant makes a written extension request stating the reasons preventing completion within the approval period. Failure to complete the Preliminary Approval Conditions within the period of validity shall render this Conditional Use Permit void.</p> <p>Phase 1 Preliminary Approval Conditions – Only those activities necessary to complete the following conditions are authorized until all of these Phase 1 Preliminary Approval Conditions have been met.</p> <p>PA-1 Wetlands. On Tax Lot 1200, the applicant shall prepare and obtain approval from the Oregon Department of State Lands of a wetland delineation. The applicant shall relocate any portion of the project that would disturb the wetland and required buffer of the wetland.</p> <p>PA-2 Site Plan Map. The applicant shall submit to the Planning Official a final site plan map of the approved proposal. The map shall contain a scale, north arrow, assessor map numbers, location of existing landfill, access, proposed alteration, leachate treatment or monitoring areas surface water systems, and existing and proposed screening (location and types of materials). A statement shall be placed on the map that the site plan map and narrative together are considered as the Site Development Plan. A signature block shall be included for the date the approval is given and the signature of the Planning Official indicating approval.</p> <p>PA-3 Archaeological survey. The applicant shall complete a professional archaeological survey of the proposed expansion area, the internal road location, and the location of the employee building and leachate ponds. The applicant shall consult with all appropriate Native American tribes and</p>			

Compliance with Past Land Use Actions and Their Status

the Archaeological division of the State Historic Preservation Office regarding the proposed project. The applicant shall include County planning staff in all correspondence. The final survey shall be submitted to the State Historic Preservation Office, with a copy sent to the Planning Official. The applicant shall comply with all state and Federal laws regarding archaeological surveys and subsequent processes.

PA-4 Great Blue Heron Rookery (GBHR). The applicant shall hire a wildlife biologist experienced in surveying GBHRs and the biologist shall follow an approved survey protocol to determine whether the rookeries, identified on the map on Page 12 of the staff report, are active or have been abandoned. An active rookery must be protected or mitigated. For a rookery to be considered abandoned it must be documented to have not been used in any of the previous three years.

- (a) The wildlife biologist hired by the applicant shall map the perimeter of the rookery as defined by the outermost nest trees, and then identify a 300-ft buffer of trees around the rookery. Trees within this 300-ft buffer shall not be disturbed unless the disturbance will provide better nesting habitat for the herons, or it is determined by ODFW that the rookery is abandoned.
- (b) The western rookery shall be surveyed for three successive years to determine if the rookery is abandoned. Should the western rookery be determined to be active (used within the last three years) based on the surveys, the applicant shall coordinate with the ODFW to determine an appropriate mitigation plan. Additionally, the applicant shall work with the Oregon Department of Forestry to ensure compliance with the Forest Practices Act when working in this stand.
- (c) The applicant's biologist shall conduct follow-up surveys of both rookeries in accordance with the following survey methodology: During each visit, surveyors would observe each heron nesting site for a 2-hour observation period during daylight hours when weather conditions are mild. A heron nest would be considered active if it has known or inferred presence of a mated pair as indicated by observance of at least one of the following activity patterns:
 - Two adult herons are present on or near a nest, which has recently been repaired with fresh sticks (clean breaks) or fresh boughs on top, and/or having droppings and/or molted feathers on its rim or the ground underneath
 - One adult heron is sitting low in the nest, presumably incubating
 - Either adult is carrying prey to nest
 - Eggs are present
 - Young in nest or fledglings are presentA heron nest would be considered unoccupied for the year if no presence activity (as described above) is observed during three consecutive visits.

Surveyors shall note any key components associated with a nest site, such as perching trees, fledging trees, and replacement nest trees, by observing herons use during visits.

PA-5 Covenant. If not already completed, the property owner shall sign a declaratory statement to be recorded into the County Deed Records for the subject property on which the conditional use is located that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules, and that recognizes the hazards associated with the area.

PA-6 Reclamation Plan. The applicant shall submit an updated reclamation plan to the Planning Official.

Compliance with Past Land Use Actions and Their Status

PA-7 Noise.

(A) The applicant shall have prepared by noise-mitigation professionals a noise mitigation plan with strategies designed to provide sound-level compliance with applicable Oregon Administrative Rules for truck traffic on the access road and operations within the new cell. The applicant shall seek input from adjacent property owners.

(B) Along Tax Lot 1200 property line adjacent to Hwy 99W, the applicant shall plant evergreen trees in the gap between the existing evergreens and the deciduous trees. The applicant shall then plant a second row of evergreens behind the first row to provide a thicker buffer. The applicant shall also plant a row of evergreen trees along the edge of the wetland to provide a second layer of buffering behind the deciduous trees. The trees shall be at least 8 feet tall upon planting and be of a species to reach a height of at least 40 feet upon maturity.

(C) The applicant shall plant a triple row of evergreen trees along the area highlighted in yellow in the picture. The trees shall be at least 8 feet tall upon planting and be of a species that will reach a height of at least 40 feet upon maturity.

Phase 2 Preliminary Approval Conditions – Upon completion of the Phase 1 Preliminary Approval Conditions, the applicant may initiate the ground-disturbing activities identified in the following Phase 2 Preliminary Approval Conditions. Elements of this phase that do not include ground disturbance may be initiated in Phase 1.

PA-8 Coffin Butte Road. The applicant shall obtain Board of County Commissioners approval of the vacation of Coffin Butte Road.

PA-9 Public Works.

(A) Traffic counts shall be updated by a Traffic Engineering consultant licensed in the State of Oregon. The applicant shall provide an integrated, comprehensive, traffic impact analysis based on current traffic counts, classifications, and turn movement studies to address all of the issues raised in the October 22, 2021 Public Works review. Intersections to be studied will be determined by ODOT and the County Engineer.

(B) Tampico Road.

(i) The applicant shall have a Professional Land Surveyor licensed in the State of Oregon establish the extents of the Tampico Road right-of-way between Hwy 99W and Soap Creek Road.

(ii) The applicant shall survey, design, and construct Tampico Road between Hwy 99W and a point 100 feet north of the Soap Creek Intersection to Major Collector standards, with a pavement/base-rock section meeting a minimum 18" Crushed Base Equivalent (CBE) as specified in the TSP. Additional analysis may be required to determine if this section is sufficient for the proposed facility.

(iii) The applicant shall design and construct Tampico Road drainage ditches, stormwater conveyances, connections to off- right-of-way conveyances, and detention/treatment facilities to accommodate runoff using ODOT standards, details and methodologies.

(C) The applicant has proposed the Wiles/Robison corridor as an evacuation and emergency responder route. To effect that designation, the applicant, in coordination with County Engineering staff and representatives of the Adair Rural Fire Protection District, shall analyze the Wiles/Robison corridor to determine if it is suitable for such use. Improvement of this route to serve emergency responders will require the replacement of the existing Wiles Road Bridge. If the corridor is to be utilized as an evacuation/emergency responder route, at absolute minimum,

Compliance with Past Land Use Actions and Their Status

the road must meet fire department standards for two-way traffic as defined in Fire Protection Standards, Guidelines for the Application of Oregon's Fire & Safety Regulations within Linn & Benton Counties (Jointly Adopted January 1, 2020). The corridor shall be analyzed using this guideline. The costs of any improvements are unknown and are dependent on the need determined by the analysis. Any work in the right-of-way is subject to a Permit to Perform Work in the county Right-of-Way as noted in the Advisories.

(D) The applicant shall survey, design, and construct a cul-de-sac at the proposed terminus of Soap Creek Road employing Major Collector standards, with a pavement/base-rock section meeting a minimum 18" CBE as specified in the current TSP.

(i) The Soap Creek Road cul-de-sac dimensions shall conform to the most rigorous requirements of the local fire protection district.

(ii) If necessary, the applicant shall dedicate right-of-way to the public to accommodate the Soap Creek Road cul-de-sac.

(iii) Access to the vacated segment of Soap Creek Road and the southern access road will be controlled by a locked gate at the northerly terminus of the Soap Creek cul-de-sac. The gate shall be fitted with a forest access, Knox, or multiple-lock box to facilitate emergency access by authorized personnel.

(E) The applicant shall provide emergency access and egress easements over the length of the proposed southern private access road and the vacated segment of Soap Creek Road. The width and alignment of the easements shall be as approved by the County Engineer and the County Surveyor.

(F) The applicant has proposed the Wiles/Robison corridor as an evacuation and emergency responder route. A segment of Robison Road does not meet current standards for right-of-way width. In order to complete improvements, acquisition of right of way may be necessary. The cul-de-sac bulb at the northeasterly terminus of Soap Creek Road may require dedication of additional right-of-way. The applicant shall be responsible for right-of-way acquisition, if needed, to meet the road improvement conditions of this land use action.

(G) [Revised] Depending on the extent of improvements to the Tampico and Wiles/Robison corridors, modification to the Tampico/Hwy 99W and Robison/Hwy 99W intersections may be necessary. The applicant, the County, and ODOT shall work cooperatively to analyze and address the need for modification of these intersections. The scope of the analysis will be defined by the proposed use and improvement requirements for each of the corridors. The costs of intersection improvements are unknown and are dependent on the need determined by the analysis.

(H) The applicant shall provide calculations, design, and specifications for all proposed public infrastructure to Benton County Public Works staff for review and approval.

(I) The applicant shall provide the County with a proposed detailed chronological sequencing plan for accomplishment of the conditions of approval and shall work with Public Works Engineering staff to arrive at a final sequencing plan that is consistent with County Code and the Conditions of Approval. The plan shall include specific sequencing and timeline requirements for the replacement of the Wiles Road Bridge. The conditions listed here involve a series of construction requirements and quasi-judicial actions that must be achieved in a manner to protect the interests of the applicant, the public and the County's transportation system. Prior to receiving operating approval of this conditional use permit, the applicant shall fulfill ONE of the following TWO options to meet the conditions for improvements noted above:

(i) The applicant shall construct the improvements noted above as required. OR

Compliance with Past Land Use Actions and Their Status

(ii) The applicant shall enter into an Agreement for Improvements (AFI) with the County. The AFI will require security for the full amount of the work to be performed plus a 20% contingency. The security may take the form of a bond, a conditional irrevocable line of credit, or a cash deposit. The security serves to assure faithful performance of the required improvements, as outlined above, within 18 months of execution of the AFI.

(J) In order to mindfully achieve an approved sequencing plan, the applicant shall enter into an Improvement Agreement (or other binding document) with the County that specifies the obligations of both parties prior to pursuing the vacation of Coffin Butte Road. The Agreement must include all conditioned improvements to County infrastructure. This Improvement Agreement is to be separate guidance agreement and shall be independent of the AFI noted in (I)(ii) above.

Operating Approval Conditions (to be met for the duration of the business):

OA-1 Trucks using the new internal haul route shall not use Jake brakes to slow or stop their speed.

OA-2 Operating hours for the new cell shall be as follows:

(A) Monday through Friday, internal operations shall not begin prior to 5:30 am. The site may open to commercial vehicles starting at 6 am and to public vehicles starting at 8 am. The site shall close to both commercial and public vehicles at 5 pm and internal operations shall be completed by 6 pm.

(B) Saturday internal operations shall not begin prior to 7:30 am. The site shall not open to commercial and public traffic prior to 8 am and shall close to both at 5 pm. Internal operations shall be completed by 6 pm.

(C) The site shall be closed on Sunday.

(D) During an emergency, and when requested by a State, Federal, or county agency, the landfill may be opened outside of these hours.

OA-3 All vehicles being used for operations on the new cell shall be outfitted with white noise back up alarm.

OA-4 The applicant shall implement the noise mitigation strategies within the noise mitigation plan.

OA-5 Upon the Planning Official's direction, in response to noise complaints being received from adjacent property owners, the applicant shall within 90 days:

(A) Provide an updated noise study prepared by appropriate professionals addressing the complaints and identifying mitigation measures to bring any non-compliant noise levels into compliance and

(B) Implement such measures and demonstrate noise-level compliance. Such a noise study shall not be required more than once every two years.

OA-6 The applicant shall maintain the tree buffer along Hwy 99W and replace any dead trees during the rainy season.

OA-7 The applicant shall maintain the tree buffer along the access road near Parcel 1103 and replace any dead trees during the rainy season.

Compliance with Past Land Use Actions and Their Status

OA-8 Great Blue Heron Rookery. Unless modified by written agreement issued by the Oregon Department of Fish and Wildlife and with approval by Benton County:

- (A) No trees shall be removed from the stand of trees that encompass any active great blue heron rookery or from the 300-ft buffer unless the disturbance will provide better nesting habitat for the herons, or it is determined by ODFW that the rookery is abandoned.
- (B) During the critical nesting period for the Great blue heron, which is from February 15 through July 31, neither construction to prepare the ground or build the leachate ponds, employee building, road bed, or landfill cell shall occur within a quarter mile of the boundary of the rookery.
- (C) The applicant's biologist shall monitor, for 10 years after preliminary approval, the eastern great blue heron rookery throughout the nesting season to determine site specific nesting chronology, nest productivity, the degree of habituation to disturbance, and nearby foraging habitat. The applicant's biologist shall consult with ODFW on improvements that can be made to the site, and the applicant shall incorporate those improvements, that will enhance nesting productivity, mitigate disturbance, and enhance nearby foraging habitat.

OA-9 On all outdoor lighting, the applicant shall install light shields or use lights with the correct beam angle encased above and to the sides in order to channel the light downward and reduce the amount of light pollution.

OA-10 The final grade of the new landfill cell shall not exceed 500 feet in elevation.

OA-11 The applicant shall construct and operate the expanded landfill as described in the application materials, except as modified by these conditions of approval.

OA-12 The applicant shall obtain and maintain all required federal, state and Benton County permits for construction and operation of the landfill.

Advisory Notices:

Advisory 1. Endangered Species Act. Federal law requires that the applicant comply with the federal Endangered Species Act and is responsible for obtaining any required permit approvals from the U.S. Fish and Wildlife Service. Failure to do so may be a violation of federal law.

Advisory 2. Oregon Department of Transportation. With the proposal of vacating Coffin Butte, it is the understanding of ODOT that properties to the west which currently use Coffin Butte Road will likely now use Tampico Road, and possibly Robison Rd, as their new route. If the applicant proposes, or the County requires, improvements to the OR 99W/Tampico Road intersection and/or the OR

99W/Robison Road intersection, the design of such improvements would need to be reviewed and approved by ODOT. A traffic study may be required. To help make the determination if a traffic study would be required with any proposed intersection improvements, we will want to know what the existing volumes and traffic classifications using the intersection(s) are and what the new proposed volumes and traffic classifications will be due to the vacation and disconnection of Coffin Butte Road.

Advisory 3. Public Works.

Compliance with Past Land Use Actions and Their Status

- (A) Existing survey monuments must be preserved and protected. Any survey monuments disturbed during construction must be replaced at the expense of the applicant or the contractor.
- (B) All public improvements shall be subject to a 3-year warranty period. At the start of the 3-year warranty period, the applicant shall provide Public Works with a warranty bond in the amount of 15% of the value of the work performed within the Benton County right-of-way.
- (C) The applicant shall apply and obtain approval for a Permit to Perform Work in the County right-of-way for all work within County rights of way. The permit will be issued when construction drawings are approved and all supporting documentation has been provided to the County.
- (D) The applicant shall provide the County with a unit price cost estimate for the work to be performed within Benton County rights of way. This estimate shall include trenching, backfilling, paving, striping, signing, grading/restoration, seeding, mulching, fence replacement, and any required landscaping. Permit fees will be 4.0% of the estimate provided.
- (E) The applicant shall obtain a DEQ 1200-C permit, and a Benton County ESC permit prior to start of land disturbing activities.
- (F) The applicant shall obtain approval for all required local, state and federal permits prior to start of land disturbing activities.
- (G) Construction and post-construction storm drainage discharge shall conform to the standards and tenets established by Oregon Drainage Law and shall conform to all Oregon Department of Environmental Quality and Benton County stormwater quality standards using Oregon Department of Transportation erosion and sediment control details and best management practices.
- Advisory 4. Wetlands. Prior to ground disturbance, the applicant shall prepare and obtain approval from Oregon Department of State Lands of a wetland delineation and removal fill permit. Any amount of disturbance to a compensatory mitigation area requires a removal-fill permit. A Federal permit may be required by the Army Corps of Engineers.