

## Landfill CUP LU-21-047 Discussion in Deliberations

### General comments about this application

I am disappointed with this application and after reviewing the testimony and the draft Conditions of Approval, I **most favor Denying The Application**. I offer draft findings specific to the Benton County Code criteria later in this document for my fellow planning commissioners to read. I offer some general comments here about this application, in no particular order.

I want to criticize Republic Services for their lack of imagination. Other alternatives exist; maybe some without much controversy. We can't modify their proposal; mostly just band-aid conflict mitigations to their proposal with Conditions of Approval. When is it no longer their proposal? nor the best solution? Whatever happened to collaboration, design charrettes, and planning prior to application? Relying on Conditions of Approval for other jurisdictional approval can create a bias for those other jurisdictional agencies to make a project move along when it probably shouldn't.

Coffin Butte Road --Closing Coffin Butte Road is not in the best interest of Benton County residents. Closing Coffin Butte Road is not supported by the Transportation System Plan and flies in opposition to the principles used in our other land use actions regarding connectedness. We don't create dead-end roads from roads that travel through and provide access to other properties in the county. We are often creating connections or reserving those connections for the future. Coffin Butte Road exists for many good reasons, has been continually supported for many years by the public and is one of the best ingress and egress routes for county residents, businesses, and emergency responders. The county should not give it up.

There is a lot of missing information for planning commission consideration --A report from Benton County Environmental Health, impacts on wildlife, effect on greenhouse gases and climate change, and sustainability. More input was needed from the Solid Waste Advisory Council; they didn't provide any background about alternatives considered, a timeline for programs and implementation. There was some public testimony in our hearing about global alternatives to landfills, other regional landfill closures; their rationale, and result. The SWAC expertise and discussion is lacking in this application and decision.

There were too many concerns with long term ramifications left to Conditions of Approval, such as potential groundwater contamination. The protection of groundwater water quality is a high priority and the risk of contamination from the landfill expansion is too great to allow and too difficult to remediate if it happens. Prevention of the risk is more effective than limited monitoring after implementation.

There were disturbing reports of cancer clusters in the neighborhood of the landfill which should spark further investigation. Reports of odor have been testified from nearby residents out 6.8 miles from the landfill and the odor is indicative of other un-quantified emissions other gases with unknown health

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effects. One nearby resident pointed to studies in Europe that tied poor air quality in the proximity of landfills to bad health issues. This should be further investigated.

The stability of landfill cells in the event of a major subduction zone earthquake was not explored.

These large earthquakes are forecast for Oregon within the planning lifetime for this landfill.

The feasibility of timely construction of mitigated roadway segments and resultant loss of character and livability of neighborhoods was not explored. Proposed mitigations to overcome conflicts must be both feasible and not create other problems.

## draft Landfill CUP findings LU-21-047

### 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; (2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area; and (3) The proposed use complies with any additional criteria which may be required for the specific use by this code. [Ord 90-0069]*

**53.215 (1) The proposed use does seriously interfere with 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: The current mitigation of an earthen cap over cells does not mitigate smell and smell reflects emissions of other gases. The same mitigation is proposed for the expansion. If it currently does not mitigate the odor, then it cannot be used as a proposed 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.

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" do not seem stringent enough. Further concern of noise from banging truck gates, loud noises from unloading, was not addressed. The proposed condition of approval PA-7 (A) is inadequate to address this concern.

**53.215 (1) The proposed use does seriously interfere with the character of the 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. 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 said their view of the dump has steadily increased, is now noticed and commented on by her children, and is expected to increase more if the expansion is allowed.

**53.215 (1) The proposed use does seriously interfere with the purpose of the 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 for further study of Great Blue Heron 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. I am concerned the applicant does not see the importance of these potential wildlife impacts.

PA-4 only addresses Great Blue Heron concerns. Either that condition should be expanded to include other wildlife or additional conditions should be added. I am also concerned 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.

The proposed landfill expansion relies heavily on the buffering of noise, odor, sight, and other nuisances by adjacent property. 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. As stated in testimony, "if the landfill requires a buffer to operate and extend grading, that buffer becomes a landfill use. As such it should require appropriate zoning; a zone change if necessary. If the landfill cannot operate without establishing an illegal use on residentially-zoned lands, then reconsideration of this expansion location is necessary."

**53.215 (2) The proposed use does impose an undue burden on public improvements, facilities, or services available to the area:**

Coffin Butte Road, a public road is a public road, has not been vacated, and is used as a bicycle and walking route, log truck and freight haul road, and a emergency egress by the neighborhoods to the south and west, and used by Adair Rural Fire and Rescue for public safety and fire access. The closure of Coffin Butte Road seriously affects adjacent property owners, facilities, and services to the area and the proposed Conditions of Approval do not lower the impact below the level of serious. The proposed mitigations may not be feasible, or if implemented, may seriously interfere with uses on adjacent property or seriously interfere with the character of the area. The Adair Rural Fire Protection District Board advises that "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 roads loss through improvement to the northern route will not be "superior to Coffin Butte Road with regards to evacuation routes and public safety".

Leachate from the proposed expansion is planned to be hauled off-site and disposed at the Corvallis Wastewater Treatment facility. 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. Treated leachate from CWTF is released into the Willamette River and poses water quality concerns. There is no leachate plan presented for this increased volume and continued maintenance and disposal for the future.

### *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.*

**60.220 Conditional Use Criteria. (1) (a) 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.**

One commercial forester commented that their harvesting operations used Coffin Butte Road as a major haul route and that closure of the road would impact 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 will create problems for them in increased costs and safety issues.

**60.220 Conditional Use Criteria. (1) (b) The proposed use will significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.**

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".

### ***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: (a) Adjacent land use and impacts upon adjacent uses; (b) Future use of site as reclaimed, and impacts of that reclamation on adjacent uses; (c) Provisions for screening of the site from public roads and adjacent property; (d) Egress and ingress; and (e) Other information as required by the Planning Official.*

*(2) A site plan map shall accompany a conditional use permit application. The map shall contain at least 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. (3) A conditional use permit application shall contain a reclamation plan describing present efforts and future reclamation plans related to the site. (4) The following environmental and operational considerations shall be reviewed prior to changes in the documents referenced above: (a) Geology; (b) Groundwater and surface water; (c) Soil depth and classification, and erosion control factors; (d) Slope; and (e) Cover material availability, transportation, and use. [Ord 261, Ord 90-0069]*

**77.310 Conditional Use Review. (1) (c) Provisions for screening of the site from public roads and adjacent property is inadequate.**

The staff discussion in the staff memorandum of November 29, 2021 concluded that screening is appropriate for this application. Pages 2-5 proposes 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.