



Jeffrey G. Condit
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August 12, 2025

VIA EMAIL

PETRA.SCHUETZ@BENTONCOUNTYOR.GOV

Petra Schuetz
Benton County Planning Official
Benton County Community Development
4500 SW Research Way
Corvallis, OR 97330-1139

Subject: Appeal of Benton County Planning Commission's Decision on LU-24-027
(Conditional Use Permit to Expand Coffin Butte Landfill)

Dear Ms. Schuetz:

As you know, we represent the Applicant, Valley Landfills, Inc. (Republic Services), with regard to the above-noted permit. Attached is the Applicant's appeal of the July 29, 2025, decision of the Planning Commission to deny the above-noted permit. My office will contemporaneously pay the appeal deposit of \$5,000.

The Applicant requests that Benton County continue the appeal hearings until mid-October, 2025, to enable it to prepare and submit additional evidence on several of the key issues. The Applicant hereby approves extension of the 150-day local action deadline in ORS 215.427 from the current deadline of September 26, 2025, until November 26, 2025, to enable this change.

Thank you for your courtesies.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'JG Condit', written over a light blue rectangular background.

Jeffrey G. Condit

Attachments: Completed Appeal Application Form
Applicant's Appeal Narrative



**Benton
County**

**COMMUNITY DEVELOPMENT
DEPARTMENT**

Office: Kalapuya Building
4500 SW Research Way
Corvallis, OR 97333
(541) 766-6819
www.co.benton.or.us/cd

APPLICATION

APPEAL OF A PLANNING COMMISSION DECISION

File # LU-24-027

Fee*: Cost of Original Application \$ _____

**ALL SECTIONS MUST BE COMPLETED. ATTACH ADDITIONAL SHEETS IF NECESSARY.
REVIEW WILL BEGIN ONLY WHEN THE APPLICATION IS DETERMINED TO BE COMPLETE**

Appellant

Name: Republic Services (Valley Landfills, Inc.) Phone #1: 541.230.5543

Address: 28972 Coffin Butte Rd Phone #2: _____

City & Zip: Corvallis, OR 97330 Email: bdavis220203@republicservices.com

Other individuals to be notified of this application:

Name

Address

City & Zip

Jeffrey G. Condit, Miller Nash LLP, 1140 SW Washington St, Ste 700, Portland, OR 97205

Ryan Lawler, Area President-Northwest, Republic Services, 28972 Coffin Butte Rd, Corvallis, OR 97330

The appellant hereby requests the Board of County Commissioners to consider the following decision:

File Number: LU-24-027 Nature of Application: Conditional Use Permit to expand Coffin Butte Landfill

Decision: Denial by Benton County Planning Commission Decision Date: 07.29.25

Assessor's Map & Tax Lot Number: T 10S S, R 4W W, Section(s) 18, Tax Lot(s) See attached

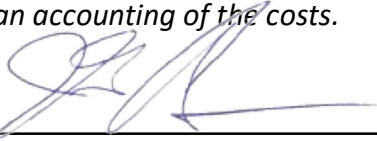
REQUIRED: (Failure to cite specific Plan or Code provisions and to demonstrate standing will nullify your appeal.
See BCC 51.830. Attach additional sheets as necessary.)

1. State the reasons for the appeal, citing the specific Comprehensive Plan or Development Code provisions which are alleged to be violated:

See attached appeal narrative

2. A statement of the standing to appeal: The appellant is the applicant for the subject Conditional Use Permit and appeared orally and in writing before the Benton County Planning Commission.

**NOTE: The required fee is a deposit in the amount of the fee of the original application (or if the original application fees were waived per BCC 51.520, then the fee is \$200). Costs of processing the appeal will be tracked and any portion of the deposit not expended in the appeal will be returned to the appellant together with an accounting of the costs.*



Signature

08.12.25

Date

(For Office Use Only)

Date Application Received: _____ Receipt Number: _____

File Number Assigned: _____ Planner Assigned: _____

APPLICANT'S APPEAL NARRATIVE

FILE #LU-24-027—Conditional Use Permit to Expand Coffin Butte Landfill

Property Location: 29000, 29160, 28972, and 29175 Coffin Butte Road, Township 10 S, Range 4 W, Section 18, Tax Lots 1107, 1200, 1101, 1104, 1108, and 801.

DISCUSSION

The Benton County Planning Commission misapplied the following standards from the Benton County Code ("BCC" or the "Code"):

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.¹

The Planning Commission decision improperly redefined the terms in the standard in a manner inconsistent with the County's historic interpretation and inconsistent with the plain meaning of the terms. Because these criteria apply to every conditional use application filed in the County, the future implications of this attempt to legislate by interpretation are significant. Because the Planning Commission misapplied the applicable criteria, the Planning Commission's analysis was flawed throughout its decision.

The Planning Commission decision was also not supported by substantial evidence in the record. The Planning Commission failed to explain why it found certain evidence more credible than the exhaustive professional analyses prepared by the Applicant's experts. The Applicant's evidence was found probative by the County's own independent experts, who recommended approval of the application with conditions. Much of the testimony relied on by the Planning Commission was anecdotal, unsupported by citation to authority, did not plausibly link the claimed impact to the landfill, or was purely speculative. Cited evidence that was relevant was heavily outweighed by the evidence supporting approval and/or that was addressed in the Conditions of Approval.

¹ As noted below, several statements prepared by individual planning commissioners were attached to and incorporated into the Planning Commission's final decision. It is unclear whether these statements were intended as analysis supporting the conclusions in the body of the findings or adopted as findings by the full Commission. If the latter, the interpretation of and findings regarding BCC 77.310(1)(c) and BCC 77.410 in Commissioner Evelyn Lee's statement also misinterprets the criterion and is not supported by the record. These are the only other Code provisions cited in the Planning Commission's decision or the statements as bases for denial.

Several of the planning commissioners prepared personal statements, which were delivered prior to deliberation and incorporated into the findings. Some of these statements included considerations well outside of the Planning Commission's scope of review under the applicable criteria and appeared to be objections to the fact that the area is designated for landfill use and that landfills are allowed under any criteria. Again, the Planning Commission has no authority to repeal provisions in the Comprehensive Plan and Development Code by interpretation. The landfill is a permitted use and is expressly permitted to expand upon approval of a conditional use permit.

The Planning Commission's decision also ignored the robust conditions of approval proposed by County staff and the Applicant. The County's independent experts concluded that these conditions would result in compliance with the applicable criteria. The basis for the Planning Commission's decision appeared to be that the Applicant will not comply with the conditions and the County will not enforce the conditions. In point of fact, the Applicant proposed a condition that would require it to provide significant funding to the County for the sole purpose of monitoring compliance and enforcing conditions of approval at the landfill. This demonstrates the Applicant's commitment to compliance and provides the County with the means to ensure compliance. Almost every land use decision includes at least some conditions of approval; if a county decision-maker starts with the assumption that conditions will not be complied with or enforced, then the county should get out of the land use business. Such an assumption is speculative and is not an appropriate basis for denial.

The Planning Commission's decision also appeared to be based in part on an assumption that the Oregon Department of Environmental Quality, United States Environmental Protection Agency, and other state and federal agencies with regulatory authority over the landfill will not do their jobs. This is not a basis for denial for the same reasons that speculation that the County will not do its job is not an appropriate basis for denial. These agencies have jurisdiction over the environmental impacts of the landfill, and the County does not have the jurisdiction or the expertise to second-guess these agency regulations or processes.

The Applicant reserves its rights under BCC 51.840(1) to present new evidence, testimony, and argument to the Benton County Board of Commissioners in support of its application.



Transaction Receipt
Record ID: 138-24-000095-PLNG
Receipt Number: 50899
Receipt Date: 8/12/25

Benton County Planning Division

4500 SW Research Way
Kalapuya Building, 2nd Floor
Corvallis, OR 97333
541-766-6819
permitcheck@bentoncountyor.gov
Website: bentoncountyor.gov/cd

Parcel: 104180000801

Fees Paid					
Transaction date	Units	Description	Account code	Fee amount	Paid amount
8/12/25	5,000.00 Amoun	Appeal - PC Decision - In LS Zone - \$5,000 deposit + bill for staff time Fee Notes: \$5,000 deposit + staff time	001-02-10-155-431075	\$5,000.00	\$5,000.00
Payment Method: Credit card		Payer: Lori Hughes		Payment Amount:	\$5,000.00
authorization: 062197					
Paid through ePermitting website			Receipt Total:		\$5,000.00