

STAFF REPORT CONDITIONAL USE PERMIT

NATURE OF REQUEST:	Conditional Use Permit to expand Coffin Butte Landfill. Republic Services is proposing to expand existing landfill operations south of Coffin Butte Road, construct an 1,800 sq. ft. employee building with off-street parking, modify an access road, and relocate leachate activities, portions of a perimeter landfill road, an outbound scale, and construct a shop/maintenance area. The Applicant is also proposing to modify access roads North of Coffin Butte Road.
APPLICABLE CODE CRITERIA:	Benton County Code (BCC) Section 51.505, Sections 51.705 through 51.840, Sections 53.205 through 53.235, Section 55.005, Section 60.005, Section 61.005, Section 63.005, Chapter 77, Sections 87.200 through 87.230, Chapter 99.
FILE NO.:	LU-24-027
PROJECT LOCATION:	29175 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 801 28972 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 1101 and Tax Lot 1108 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
APPLICANT:	Republic Services
PROPERTY OWNER:	Valley Landfills Inc.
ZONE DESIGNATION:	Landfill Site (LS), Forest Conservation (FC)
COMPREHENSIVE PLAN DESIGNATION:	Landfill Site, Forestry
CAC PLANNING AREA:	North Benton, not active
STAFF CONTACT:	Petra Schuetz, petra.schuetz@bentoncountyor.gov

Summary of Staff Conclusion: After considering new information provided by the Applicant, third party reviews of this new information, public comments, agency comments, and Applicant responses to Staff, public, and agency comments, Staff recommends **Approval with Conditions**.

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Attachments

The following materials are attached to this Staff Report. All other reference materials are listed in Section X.

- A. Compiled Engineer Comments on Post-PC Decision Material
- B. COA P1-4 Mitigation Wetland Location ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 148](#))
- C. COA P2-2(B) Noise Study Table 5.3 and Methodology ([Record ID. BC016 Noise Study, p. 831](#))
- D. COA P2-5 Landscape Plan ([Record ID. BC016 Engineering Plans, p. 161](#))
- E. COA P2-9 Archaeology Report ([Record ID. BC016 Archaeological report \(Exhibit E26\), p. 1356 – 1358](#))
- F. COA OP-2(E) Approved Site Plans ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 146 – 147, 150 – 153](#))
- G. COA OP-9(A) Litter Control Measures ([Record ID BC016 June 23 Cover Letter \(1/2\), p. 131 – 134](#))
- H. COA OP-9(E) Litter Control Fence Location ([Record ID. A0096 Applicant Presentation to Planning Commission - July 8, 2025, p. 12](#))

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Executive Summary

Valley Landfills, represented by Jeffrey G. Condit of Miller Nash LLP, applied for a Conditional Use Permit to allow for expansion of the Coffin Butte Landfill (LU-24-027). This application was determined to be complete on January 15, 2025, and County Staff, including neutral 3rd party planning and engineering consultants, began review of the application.

April 2025 Staff Report

Citing inadequate technical evidence relating to noise and odor impacts to uses on adjacent properties, County Staff initially recommended denial of LU-24-027 in the April 2025 Staff Report. The Applicant requested and was provided an extension of the review timeframe and prepared and submitted additional evidence responding to the Staff Report, public comments, and Planning Commission feedback.

June 2025 Staff Report

Staff prepared a Supplemental Staff Report, issued on June 26, 2025 (“June 2025 Staff Report”), that incorporated the Applicant’s additional evidence, as well as extensive public comments. The June 2025 Staff Report ([Record ID. BC014 June 2025 Supplemental Staff Report](#)) found that the Applicant had responded to identified concerns with expert testimony and evidence, and recommended approval with conditions.

Planning Commission Decision

After an extensive hearings process, on July 30, 2025, the Planning Commission adopted a unanimous denial of LU-24-027, as documented in the Decision report and four Commissioner exhibits (‘Incorporated Findings’). The Commission found the Coffin Butte Landfill expansion failed to meet BCC 53.215 Conditional Use criteria (1) and (2), citing:

- Serious interference with adjacent uses and the area’s character,
- Serious interference due to odor, noise, litter, degraded air quality, groundwater impacts, and fire,
- Undue burdens on transportation, utilities, emergency services, and county code enforcement,
- Inconsistent compliance with past Conditions, and
- Inadequate proposed mitigations.

Commissioner exhibits further detailed environmental and safety risks, enforcement concerns, residential incompatibility, and long-term impacts of extended landfill operations. The full Planning Commission Decision is located at [Record ID. BC019 Planning Commission Decision](#).

Appeal to Board of Commissioners

On August 12, 2025, Valley Landfills, represented by Jeffrey G. Condit of Miller Nash LLP, submitted an appeal challenging the Benton County Planning Commission’s denial of LU-24-027 and providing additional evidence relating to construction, noise, and groundwater impacts ([Record ID. BOC1 A0001 Appeal Submission](#)).

This October 15, 2025 Staff Report reviews the Applicant’s submitted evidence, as well as additional public testimony received by October 7, 2025. Staff’s recommendation is based on the expertise of and review from:

- Independent third-party consulting planners, engineers, and legal counsel; as recommended in the BCTT process ([Record ID. BC015 Benton County Reviewing Consultants' Credentials, p. 119 – 161](#))
- County Staff from the Community Development Department, Public Works Department, and Special County Counsel

- Comments from government agency partners ([Record ID. BC015 Compiled Agency Comments, p. 38 – 111](#))

County Staff finds that the Applicant has provided expert technical evidence showing that, with conditions, the proposed expansion meets County land use requirements. Therefore, Staff recommends that the Benton County Board of Commissioners approve LU-24-027.

The recommended Conditions of Approval (COAs) are provided in Section VIII and require the Applicant first to meet Phase 1 Pre-Construction Conditions, followed by Phase 2 Pre-Commercial Operations Conditions, and, ultimately continue to meet Ongoing Performance Requirements for the duration of the use.

Issues Overview

This section summarizes some of the complex and controversial issues relating to review of this application. The purpose of this section is to provide the Board with an overview of these issues in one location, for reference when making Findings. These issues include:

- Reliance on DEQ/EPA Regulations, Monitoring and Enforcement
- Adequacy and Number of Conditions of Approval
- Interpretation of Ambiguous Language in the BCC
- Context of Existing Use vs Proposed Expansion
- Long Range Planning and Policy
- Weighing of Evidence

Reliance on DEQ/EPA Regulations, Monitoring and Enforcement

The Planning Commission (PC) concluded that Department of Environmental Quality (DEQ), and the Environmental Protection Agency (EPA) regulations, monitoring, and enforcement were inadequate to ensure the proposed expansion would meet DEQ and EPA standards and therefore BCC standards. Commissioner concerns included:

- Federal funding and political support for the agencies are unpredictable, and, therefore, state and federal agencies cannot be relied upon to monitor compliance with and enforce their regulations.
- DEQ and EPA lack the necessary expertise and standards to regulate potential impacts, such as impacts to air and water from PFAS (per- and polyfluoroalkyl substances).

As part of the established regulatory framework, DEQ and EPA are the sole authorities for regulating, monitoring, and enforcing state and federal environmental standards relating to air and water quality. The BCC does not include any provisions regulating air quality or water quality and water quantity. Benton County does not have the staff resources or expertise to evaluate whether a proposed conditional use complies with state and federal air and water quality standards. Staff recommends that the Board's review be focused on evaluating landfill expansion impacts that are within the County's regulatory authority under the BCC and are not under the explicit regulatory and permitting authority of state and federal agencies. Staff does recommend a Condition requiring all State and Federal permits prior to beginning any ground disturbing activities.

Adequacy and Number of Conditions of Approval

The PC found that the recommended Conditions of Approval (COAs) (in the June 2025 Staff Report) were insufficient to ensure that the proposed expansion would comply with the relevant BCC standards. Commissioner concerns included:

- The number of conditions (83) was an indication that the standards were not met.
- The COAs lacked the specificity necessary to ensure proper monitoring and terms for enforcement.
- The COAs did not go far enough to alleviate their concerns.
- Given the County's code-enforcement funding limitations, the Applicant's compliance was unreliable.

COAs are typical of Conditional Use applications (BCC 53.220) and are often numerous for large-scale projects. Conditions of Approval include both mitigating conditions to mitigate the effects of a proposed use to a non-impactful level, and post-approval ongoing performance requirements to ensure compliance with the approved permit. Staff recommends that the Board's consideration focus on COA content rather than quantity. PC discussion

also included discussions about future property values or unplanned development near the subject site as well as franchise agreement and future tax-related topics. Staff finds that these issues are not within the scope of the BCC conditional use criteria.

Currently, County monitoring of Conditions for all approved conditional use permits relies on complaints, Applicant self-reporting, and, for landfill activities, DSAC Disposal Site Advisory Committee oversight. **Speculative and/or unadjudicated matters regarding compliance or lack of compliance with existing Conditions that apply to the existing landfill should not inform the Board's decision.**

In response to concerns about the lack of County funding for enforcing future Conditions related to the landfill, the Applicant has proposed a Condition to reimburse the County for code enforcement related to the landfill and associated conditions. Staff recommends adopting this Condition.

Staff has carefully drafted the recommended COAs and welcomes any Commissioner questions or concerns in advance of deliberations to allow Staff to assist with potential revisions addressing relevant concerns.

Interpretation of Ambiguous Language in the BCC

The PC decision provided new definitions of three terms used in conditional use criteria at BCC 53.215. The Commissioners decided that:

- “Seriously interfere” (BCC 53.215(1)) should have the same meaning as “significant impact,” as that phrase is used in ORS 215.296 relating to farm impacts from development on EFU land, and has been interpreted by the Oregon Supreme Court, rather than using the interpretation identified in the BCTT process.
- “Adjacent property” (BCC 53.215(1)) should be interpreted to encompass a much larger area extending to Adair Village, Independence, Arlie, Lewisburg, Philomath, North Albany, South Corvallis, and “rural unincorporated areas of Benton County”, rather than property sharing a lot line with – or across a right-of-way from – the properties which contain the landfill and its accessory uses.
- “Undue burden” (BCC 53.215(2)) should be interpreted to mean “A situation where a requirement or action is excessively difficult, costly, or impractical to fulfill, effectively preventing or significantly hindering someone from exercising a right or fulfilling an obligation”, rather than using the interpretation identified in the BCTT process.

The BCTT process included discussion of all of the above terms. Below, in the Staff Report findings addressing BCC 53.215(1) and (2), Staff provided a summary and quotes from the BCTT discussion, as well as additional discussion of the terms in the context of the proposed application.

The Board of Commissioners has the authority to interpret ambiguous terms in the BCC. Such an interpretation will be affirmed on appeal, unless it is inconsistent with the express language of the code provision or with other code provisions, the county's comprehensive plan or State law. A reviewing court will give ordinary words their ordinary meaning, with reference to *Websters Third New International Dictionary* (2002), unless a different meaning is justified. Staff recommends that any interpretations of ambiguous language in the BCC be accompanied by consideration and reasoning to withstand potential appeal.

Context of Existing Use vs Proposed Expansion

Some commenters and Planning Commissioners argued that the proposed landfill expansion application should be reviewed as a new use, without considering the existing landfill impacts as a baseline. However, evaluating an expansion of an existing use as an entirely new use would not be consistent with Staff experience or County

practice. Staff reviewed this conditional use application as an expansion of the existing landfill. Thus, the existing landfill operations, as they have been previously approved by Benton County, are important context, and they form the “base case” from which potential impacts may be measured.

Staff notes that the existing landfill is a County-approved use, currently operating at levels consistent with the County’s operating agreement with the landfill.

Construction impacts

The PC found that the Applicant had not sufficiently studied the proposed expansion’s potential impacts from construction activity and that testimony in the record included evidence that such impacts could “seriously interfere” with uses on adjacent properties. Commissioners were concerned that the construction traffic and blasting activities associated with construction could have serious transportation, noise, and groundwater impacts.

Staff notes that Benton County does not typically evaluate construction impacts in conditional use applications. The BCC requires evaluation of the impacts of the proposed use. Construction impacts are temporary, and case law holds that construction leading up to a proposed use is not part of the proposed use. Therefore, it is inappropriate to consider impacts from construction activities that lead to the proposed use being achieved.¹ Staff recommends that the Board focus on the impacts of the landfill use upon implementation of the use.

Long-Range Planning and Policy

The PC found that Benton County should have additional plans and policies related to the Coffin Butte Landfill. The Planning Commission’s concerns included:

- The County’s lack of a Sustainable Material Management Plan (SMMP) identifying waste-reduction and waste management alternatives.
- That Coffin Butte Landfill-specific fire risks are not considered in the County’s Community Wildfire Protection Plan (CWPP).
- The BCC does not include air quality, water quality, or noise regulations, leaving the County without policy or sufficient expertise to analyze these impacts internally.

Staff considers this as general advice from the PC to the BOC that is unrelated to any applicable approval criteria. Staff recommends that the BOC review of conditional use applications be focused on applicable Code standards adopted in BCC 53.215 and elsewhere in the BCC.

Weighing of Evidence

The Applicant and their team, County Staff and third-party reviewers, and public testimony provided extensive evidence relating to potential impacts from the use and the proposal’s ability to meet BCC conditional use requirements. However, the Planning Commission’s decision in relation to some approval criteria did not provide a clear indication of which evidence the PC found more persuasive in making its decision.²

Staff recommends the BOC review the evidence presented and, during its deliberations, identify which evidence was more persuasive in coming to a final decision.

¹ See Cottrell Cmty. Planning Org. v. Multnomah Cnty., LUBA No. 2023-086 (Jan. 22, 2025)

² Proposed findings that included a discussion of “weighing of evidence” were removed from the final findings decision during the PC meeting to adopt the findings. See [July 29, 2025 PC Meeting Minutes](#); [Video recording](#) timestamps 20:52 and 1:13:15.

I. FINDINGS OF FACT

1. The Coffin Butte Landfill site was established as a disposal site in 1948 as an open burning dump. It was on property formerly part of the Camp Adair U. S. Army post.
2. In 1974, it was designated as a regional solid waste disposal site in the Chemeketa Region Solid Waste Management Plan. This plan was a coordinated, multi-agency planning effort for waste disposal from Linn, Benton, Polk, Marion and Yamhill Counties.
3. A “Solid Waste Management Plan for Benton County” was approved by the Planning Commission in 1977.
4. The Coffin Butte Landfill site was zoned Forest Conservation until 1983. In 1983³, the Benton County Comprehensive Plan and the Zoning Map were amended to apply Landfill Site Comprehensive Plan Map designation and Landfill Site (Benton County Code Chapter 77) zoning to approximately 266 acres. The property owners were granted Conditional Use approvals in 1994⁴, 1997⁵, 2011⁶, 2013⁷, and 2015⁸.
5. In 2021, the property owners applied for Conditional Use Permit approval for a landfill expansion (local case file LU-21-047), which was recommended for approval by the Solid Waste Advisory Council (SWAC) but denied by the Benton County Planning Commission. In 2022, the Applicant appealed this denial to the Benton County Board of Commissioners (BOC) before withdrawing that appeal in favor of reserving the option to apply for another CUP in the future.
6. The BOC hired a consulting group in September 2022, to establish and facilitate a community workgroup, which established Findings and recommendations for processing future Conditional Use permits. The workgroup detailed its processes and findings in the Benton County Talks Trash (BCTT) report, which was transmitted to the BOC in April 2023.
7. In a July 2, 2024 order, the BOC delegated the landfill land use application review duties and responsibilities of SWAC to the Environmental and Natural Resources Advisory Committee (ENRAC)⁹. These duties and responsibilities are assigned in BCC 77.305 and charged the Committee to review and make recommendations to the Planning Commission regarding Landfill site development plans and narratives.
8. There are several substantial differences between this application and the Conditional Use proposal in 2021. Rather than proposing the closure of Coffin Butte Road, the Applicant now proposes widening a section of the road adjacent to the development site. As a result, the lifespan of the expanded landfill area will be six years (reduced from twelve), and the volume of waste disposed of will be halved. The

³ Local case file PC-83-07/L-83-7

⁴ Local case file S-94-3, Approval of a 2.2 megawatt power generation facility on T10S, R4W, Section 18, Tax Lot 1100

⁵ Local case file S-97-58, Approval to expand the generating capacity of the power generation facility

⁶ Local case file LU-11-016, Approval for the construction of recycling and refuse transfer facility on T10S, R4W, Section 18, Tax Lot 801

⁷ Local case file LU-13-061, approval to use [T10S, R4W, Section 18] Tax Lots 1101 & 1104 as a stockpile and staging area

⁸ Local case file LU-15-001, approval to enhance a stormwater treatment facility on T10S, R6W, Section 13, Tax Lot 800

⁹ Order #D2024-048

Applicant is no longer proposing that portions of the landfill's working face¹⁰ or supporting infrastructure be located in any zone other than Landfill Site (LS) and Forest Conservation (FC).

¹⁰ In their application ([Record ID. BC016 Burden of Proof, p. 1 – 90](#)), the applicant states that, “the ‘working face’ of the landfill is the area of active disposal of solid waste. At Coffin Butte, it is approximately half an acre in size.” In their June 6, 2025 Cover Letter ([Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 115 - 128](#)), the applicant corrects, “The Applicant reviewed the testimony that the working face in recent history has been larger than the one-half acre previously estimated, and corrects the record to reflect that the current working face size is between approximately 1.5 and 2 acres. There is no regulation or requirement that limits the working face to a particular size.

II. PROJECT DESCRIPTION

Background

The “**subject property**” is 462 acres of land in unincorporated Benton County, approximately 6.5 miles north of Corvallis. It consists of 14 Tax Lots¹¹ owned and/or operated by the Applicant – Republic Services and Valley Landfills, Inc. on which there are existing or proposed landfill operations. The property includes Tax Lots within the County’s Landfill Site (LS), Forest Conservation (FC), and Exclusive Farm Use (EFU) zones.

Not including the Tax Lots where the development is proposed (the “development area”), the Applicant described the current land uses on the subject property as existing landfill areas and accessory uses. In addition to this general description, the Applicant identified a residential or vacant use and farm or forest uses on Tax Lot 104180001104 (in the FC zone), and a farm and open space use on Tax Lot 105130000902 (in the EFU zone).

The Applicant described the development area Tax Lots, and their current land uses as follows ([Record ID. BC016 Burden of Proof, p. 14 – 16](#)):

- **Tax Lot 104180000801**, approximately 89 acres – “[...] already in use for the existing landfill area. The area of proposed improvement contains access roads, a scale house, and scales. These tax lots also contain Palustrine Emergent Wetland on the eastern portion.”
- **Tax Lot 104180001101**, approximately four acres – “[...] majority of this property is grass, while the eastern edge is treed. This tax lot is currently developed with VLI offices. This tax lot also contains Palustrine Emergent Wetland on the western and northwestern edge.”
- **Tax Lot 104180001107**, approximately 59 acres – “[...] currently developed with an access drive, leachate pretreatment and treatment buildings, parking and maneuvering areas, leachate ponds, and a permeate pond. Aside from the leachate ponds, the improvements on this tax lot are obsolete infrastructure that has not been used since the early 2000s. The existing improvements on Tax Lot 1107 are situated on the northern portion of the Development Site which is relatively level. From the currently developed area, the site slopes upward to the south, with an elevation change of 60-160 feet (to different points along Tampico Ridge). The undeveloped portions of the site are vegetated with grasses and trees. This tax lot contains a likely abandoned but mapped Great Blue Heron rookery (#2683) in the northwest quadrant, along with a small area of Palustrine Emergent Wetland in the northeast corner.”
- **Tax Lot 104180001108**, approximately 29 acres – “[...] already in use for the existing landfill area. The area of proposed improvement contains access roads, a scale house, and scales. These tax lots also contain Palustrine Emergent Wetland on the eastern portion.”
- **Tax Lot 104180001200**, approximately 82 acres – “[...] The northeast portion of the site contains native vegetation and trees. There is also a buffer of trees along the eastern property line, abutting Hwy 99W. The center portion of the site is currently developed with a gas-to-energy plant, gas blowers and flares, parking areas, and drive aisles. The approximately 20-acre center area that surrounds the gas-to-energy plant is leased by VLI to Agri-Industries, Inc., and has historically been farmed for grass. The lands south of the fields is steep, sloping topography that is vegetated with Douglas fir surrounded by native trees. This tax lot also contains a mapped but likely abandoned Great Blue Heron rookery #2716 in the north central area quadrant, along with Palustrine Emergent Wetland and Palustrine Forested Wetlands.”

The Applicant adds to their BOP ([Record ID. BC016 Burden of Proof, p. 17](#)) that row crops are also farmed on the 20 acres of this Tax Lot that is leased to Agri-Industries, Inc.

¹¹ The proposed development work will take place on Tax Lots 104180000801, 104180001101, 104180001107, 104180001108, 104180001200. Additional Tax Lots on the subject property include 104180000301, 104180000900, 104180001000, 104180001104, 104180001106, 105130000900, 105130000901, 105130000902, and 105130001000.

The subject property is accessed by Coffin Butte Road, which intersects US Highway 99W to the east and Soap Creek Road to the west. Coffin Butte Road cuts east-west through the property and separates the existing landfill area from the only remaining land in this LS zone not yet used for landfill operations.

Adjacent properties¹² are owned by the Applicant, individuals, or state entities such as the Oregon State Game Commission and Oregon Department of Fish and Wildlife (ODFW).

Proposal

The Applicant requests a Conditional Use Permit to expand existing landfill operations to **Tax Lot 104180001107**, south of Coffin Butte Road within the Landfill Site (LS) zone. The proposal also includes:

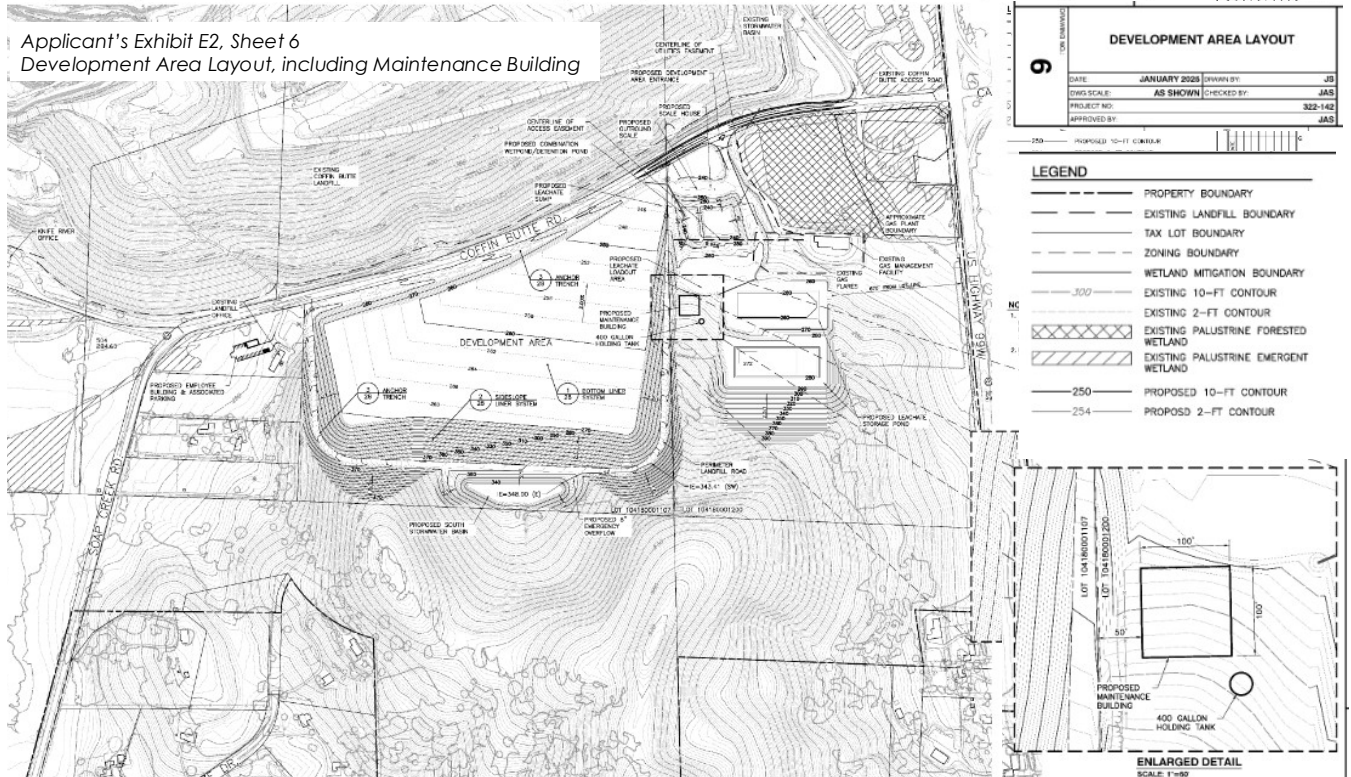
- **Tax Lot 104180001101** -Construction of an 1,800-square-foot employee building and off-street parking on a portion of the subject property zoned FC;
- **Tax Lot 104180000801** - Modifications to an access road located on a portion of the subject property zoned FC;
- **Tax Lot 104180001108** - Modifications to an access road; and
- **Tax Lot 104180001200** - Relocation of leachate ponds, loadout, sump, an outbound scale, portions of the perimeter landfill road, and a shop/maintenance building; and removal of existing landfill and leachate activities on the east side of the subject property within the FC zone.

To avoid confusion on definitions of site and ownership, this Staff Report identifies the “**development area**” as the five Tax Lots¹³ (264 total acres) of the subject property where the conditional use is proposed (Figure 2 and [Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 142 – 170](#)). The Applicant refers to the development area as the “Development Site” in their Burden of Proof.

¹² See Section V findings for BCC 53.215(1) for a comprehensive description of the “adjacent property”.

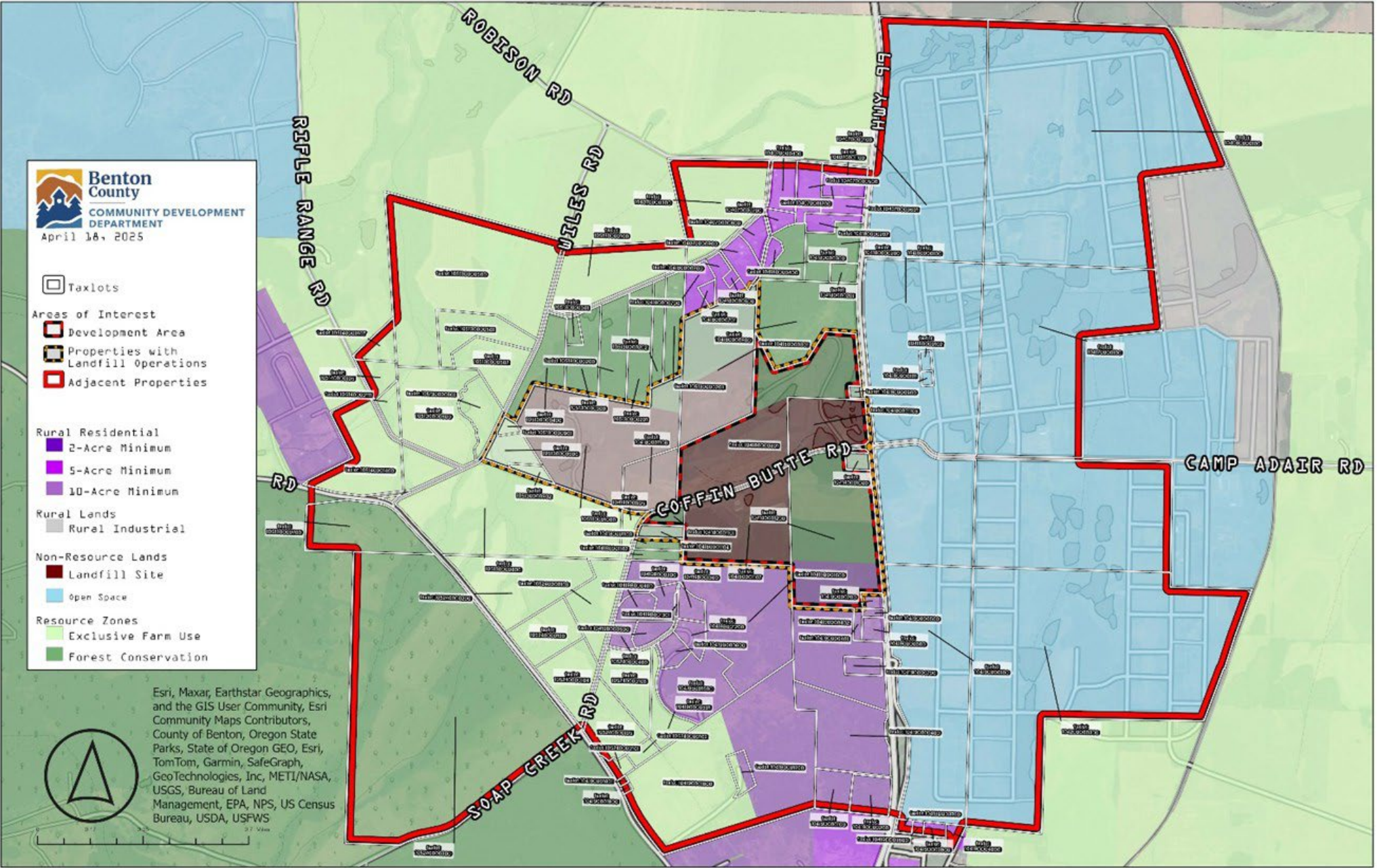
¹³ The proposed development work will take place on Tax Lots 801, 1101, 1107, 1108, 1200.

Figure 1. Development Area Map



Regarding the phasing of disposal operations in the development area, the working face of the landfill will move from north of Coffin Butte Road to the Development site once it is ready for waste disposal operations. The working face area will be up to two acres (the same as the existing working face), and there will be only one working face operating at a time.

In the development area, neither the existing landfill areas nor the proposed expansion area are connected to sewer or domestic water service. Landfill construction and the bulk of landfill operations use water supplied by Adair Village. An existing office building and the proposed employee building are proposed to be served by two wells used for water production at the landfill. A septic system serves the existing office building, but the new employee building is proposed to be served by a holding tank rather than connected to the existing septic system. The new maintenance building will also be served by a holding tank, and potable water will be trucked in as there is not a well or other water source on site. As mentioned, the development area activities are accessed from Coffin Butte Road, classified as a Major Collector road.



III. REVIEW PROCESS

As required by BCC Chapter 60 and 77, a Conditional Use permit is required for a landfill or its accessory uses in the Forest Conservation (FC) zone, and for the expansion of an existing landfill within the Landfill Site (LS) zone.

Planning Commission Decision

After numerous hearings and lengthy deliberation, the Planning Commission adopted its written Findings of Denial of LU-24-027 on July 30, 2025. Adopted Findings and conclusions are in the Planning Commission Decision report, as well as four exhibits that make up the ‘Incorporated Findings.’ The exhibits are written statements from Commissioners Fowler, Fulford, Lee, and Biscoe ([Record ID. BC019 Planning Commission Decision](#)) that were the opening statements the Commissioners read at the July 22, 2025, deliberations hearing.

In summary, the Planning Commission denied the Coffin Butte Landfill expansion application after concluding that the proposal did not satisfy BCC 53.215 Conditional Use criteria (1) and (2). The Commission found that the expansion would seriously interfere with adjacent property uses and the character of the surrounding area, citing concerns about odor, noise, litter, air quality, groundwater, and fire hazards. It also concluded that the project would place undue burdens on transportation, fire protection, water and wastewater systems, and county monitoring and enforcement capacity. Past Conditions of Approval were noted as not consistently addressed, and all proposed mitigation measures were viewed as insufficient to ensure compatibility or to manage potential impacts.

The Incorporated Findings expanded these conclusions. Collectively, the four Commissioners’ Incorporated Findings emphasized concerns with environmental impacts, fire and safety risks, noise and blasting, and enforcement challenges. They also pointed to compatibility issues with surrounding residential growth, unresolved compliance questions, and the implications of extending landfill operations for decades in relation to county climate and waste management goals.

On this basis, the Commission determined that the application did not meet the applicable standards and voted unanimously for denial.

When relevant and clearly tied to code criteria, Staff includes representative quotes from the Planning Commission decision throughout the findings in Section V of this Staff Report. The full PC Decision is available for review in [Record ID. BC019 Planning Commission Decision](#).

Appeal

On August 12, 2025, the Applicant filed a timely appeal of the Planning Commission decision, arguing that the decision “misconstrued the applicable law and did not appropriately weigh the evidence or adequately explain why it found certain evidence more credible or weighty than conflicting evidence in the record” ([Record ID. BOC1 A0001 Appeal Submission, p. 4 – 5](#)).

Benton County appeal procedures and requirements are codified in BCC Chapter 51.805 through 51.840. In accordance with the code, the Applicant’s appeal of the Planning Commission denial is resolved before the Board of Commissioners. The Board of Commissioners must affirm, reverse, or modify in whole or in part the decision that is under appeal.

The 150-day time limit to reach a final decision on the proposed application is November 26, 2025.

Public Notice

An appeal hearing must meet the notice requirements for a quasi-judicial land use action, and requires notification of all interested parties, including the Applicant and all who provided testimony in the original proceedings, including commenting agencies, prior to the Planning Commission decision¹⁴. The county provided expanded notice of the hearings before the BOC.

Agency Review Opportunities

BCC 77.305 requires that the Benton County Environmental Health Division and the County's Solid Waste Advisory Council (SWAC) review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative. This BCC provision is procedural and does not include any additional standards against which to measure the Site Development Plan Map and narrative.

The Environmental Health Division no longer administers the solid waste program for Benton County. That responsibility was transferred to the Community Development Department. Accordingly, the Environmental Health Division has not submitted any comments or recommendations. The Benton County Board of Commissioners delegated review and recommendation duty from SWAC to the County Environmental and Natural Resource Advisory Committee (ENRAC) through Order #D2024-048 in July of 2024. A recommendation letter from ENRAC was included with Staff evaluation in the June 2025 Staff Report.

On March 20, 2025, Benton County provided notice of the proposal to Oregon Department of Environmental Quality (ODEQ), Oregon Department of Fish and Wildlife (ODFW), Oregon Department of State Lands (DSL), Oregon Department of Land Conservation and Development (DLCD), the Army Corps of Engineers, Adair Rural Fire District, Corvallis Fire Department, the City of Corvallis, and Adair Village. DLCD, the City of Corvallis, the Corvallis Fire Department, and the City of Adair Village did not comment on the application. Comments received from the remaining agencies are compiled in [Record ID. BC015 Compiled Agency Comments, p. 38 – 111](#).

¹⁴ BCC 51.835

IV. COMMENTS

Comments that address and apply to Benton County Code criteria will contribute to the Board of Commissioner deliberations. The Board of Commissioners can decide how and if a comment is applicable.

Agency Comments

As of October 7, 2025, the County received no new responses from partner government agencies.

DOGAMI, ODFW, ENRAC, Adair Rural Fire District, and ODOT comments were included in the June 2025 Staff Report and compiled as an exhibit ([Record ID. BC015 Compiled Agency Comments, p. 38 – 111](#)).

DOGAMI

Melissa Carley, Aggregate Permitting Reclamationist, Oregon Department of Geology and Mineral Industries – (MLRR) and DOGAMI, April 9, 2025

“DOGAMI has no comments on the proposed Land Use Application.”

ODFW

Joe Stack, Regional Habitat Biologist, South Willamette Watershed, Oregon Department of Fish and Wildlife (ODFW) April 11, 2025

Staff Summary:

On April 11, 2025, Joe Stack, Regional Habitat Biologist for the Oregon Department of Fish and Wildlife (ODFW), submitted comments regarding the proposed expansion of the landfill. He identified two documented Great Blue Heron rookeries on the subject property — one on tax lot 1107 (western rookery) and one on tax lot 1200 (eastern rookery) — as sensitive habitats subject to protection under Benton County Code (BCC 87 - Goal 5 Resources) and ODFW’s Fish and Wildlife Habitat Mitigation Policy (OAR 635-415). Staff recommended that if either rookery is determined to be active, the Applicant coordinate with ODFW to develop a mitigation plan that includes a 300-foot buffer and construction restrictions during the nesting season (February 15 – July 31).

Following review of the Applicant’s Wildlife Habitat Assessment ([Record ID. BC016 Wildlife habitat assessment and surveys \(Exhibit E4\), p. 186 – 286](#)), Stack submitted revised comments on April 18, 2025. He noted that the eastern rookery exhibited nesting activity in 2022 and, under the Forest Practices Act, remains classified as active. While he acknowledged the Applicant’s proposed protection measures as appropriate, Stack advised that additional survey efforts may be necessary to confirm the current status of the rookery. He further recommended coordination with the Oregon Department of Forestry to ensure compliance with relevant habitat protection standards.

Staff responds to the issue of the Great Blue Heron rookeries and Goal 5 resources in the CHAPTER 87 section of this Staff Report.

ENRAC

Jason Schindler, Chair, Benton County Environmental and Natural Resource Advisory Committee (ENRAC), April 16, 2025

Staff Summary and Response:

On April 16, 2025, ENRAC Chair Jason Schindler submitted a letter stating that ENRAC recommends that the Planning Commission deny LU-24-027. Furthermore, the letter includes a list of the major topics that informed

the ENRAC recommendation. These topics broadly included air pollution, methane emissions, water pollution, leachate, impact to nearby residents and community, economics, and regional impacts and coordination. Citing that the existing landfill already has an overestimated lifespan, ENRAC urged that end-of-life planning and closure strategies be addressed before any expansion is approved.

Finally, the ENRAC Chair refers to an attached report, which includes supplemental documentation and statements or comments from individual ENRAC members.

The ENRAC recommendation for denial did not include discussion of potential Conditions of Approval¹⁵.

Adair Rural Fire Protection District

Aaron Harris, Fire Chief, Adair Rural Fire Protection District, April 21, 2025

Staff Summary:

On April 21, 2025, Fire Chief Aaron C. Harris of the Adair Rural Fire Protection District submitted testimony recommending denial of land use application LU-24-027, citing concerns related to the proposed landfill expansion. Chief Harris outlined four primary issues: potential reductions in property tax revenue due to decreased property values near the landfill; increased traffic and associated emergency response demands; elevated fire risk tied to methane emissions, including findings from a current EPA investigation; and long-term challenges to sustaining a volunteer-based fire department.

Staff responds to the issues surrounding fire risks in the CHAPTER 53 and CHAPTER 60 sections of this Staff Report.

ODOT Region 2

Arielle Childress, Traffic Analysis Engineer – ODOT Region 2

On May 13, 2025, ODOT submitted a letter stating that ODOT had no comments on the application.

¹⁵ In the attached notes (“ENRAC Deliberations for CUP Expansion Application”), individual committee members used a work sheet to note their thoughts on potential conditions of approval (COAs). However, as stated at the beginning of the document regarding these notes, “No effort was made to aggregate language or find consensus per topic.”

Public Comments

The public comment period for this appeal began when the Appeal was filed on August 12, 2025. Members of the public could provide written testimony through an online form, email, an upload site for media files, postal mail, or hand delivery. Since the comment period began, Commissioners and the public have had access to public entries. County Staff uploaded new testimony twice weekly onto an online platform under the County domain. The County web page¹⁶, which is active as of the writing of this Staff Report, hosts the LU-24-027 Planning Commission and Board of Commissioners record.

As of October 7, 2025, the County received 270 entries, 44 in support and 226 in opposition.

Staff have summarized or quoted specific opposition testimony in this Staff Report, which met one or more of the following criteria:

- The testimony presented a clear argument linking the concerns to the application and applicable code standards;
- Supporting evidence was provided to substantiate the claims made;
- The testimony originated from property owners or residents located adjacent to the subject property; or
- The Applicant referenced the comments directly in their responses;

Citations for these materials, and those which Staff cited in the June 2025 Staff Report, are located in Section X.

¹⁶ <https://www.bentoncountyor.gov/lu-24-027-proposed-coffin-butte-landfill-expansion/>

V. UPDATED FINDINGS

Relevant Code Chapters

The relevant requirements and standards for the proposed landfill expansion are in the following chapters of the Benton County Code (BCC):

- BCC 51 Development Code Administration
- BCC 53 General Review Criteria and Procedures
- BCC 55 Exclusive Farm Use Zone (EFU)
- BCC 60 Forest Conservation Zone (FC)
- BCC 61 Open Space Zone (OS)
- BCC 63 Rural Residential Zone (RR)
- BCC 77 Landfill Site Zone (LS)
- BCC 87 Goal 5 Resources
- BCC 99 General Development Standards

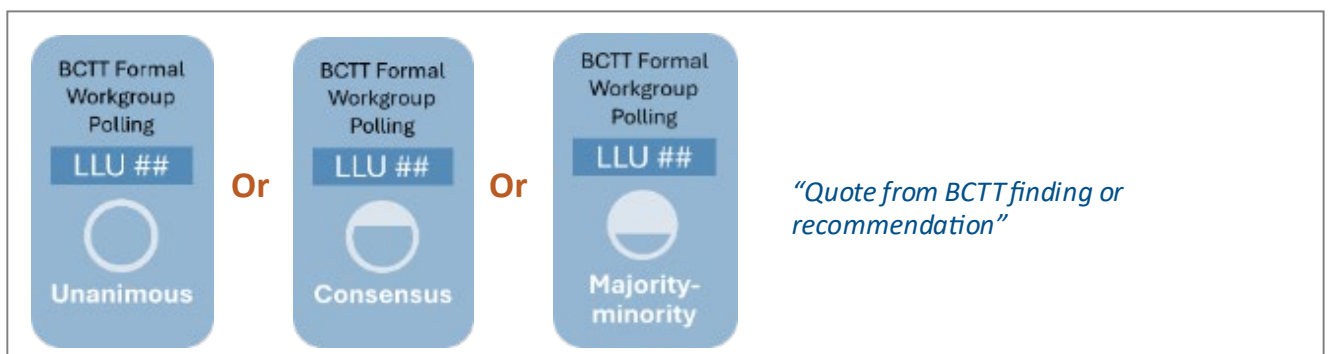
Section V., Updated Findings is the substantive focus of this Staff Report and addresses BCC Chapter 53 Conditional Use criteria – the primary criteria under debate in this appeal. In Section V, the Staff Report evaluates the Applicant’s submission, including new information and materials, as well as testimony from the public and commenting agencies.

Any code standards not covered in Section V contain Staff findings that are not substantively changed from the June 2025 Staff Report ([Record ID. BC014 June 2025 Supplemental Staff Report](#)). These standards and findings are contained in Section VI.

Understanding How This Report Uses the Benton County Talks Trash (BCTT) Report

Staff have included Findings and recommendations from the 2021 Benton County Talks Trash (BCTT) report as supplemental guidance regarding code interpretations. The BCTT Legal Issues and Land Use Review Subcommittee’s findings and recommendations are the result of subcommittee member polling and are accompanied by more comprehensive discussions within the BCTT report. As shown in the example in **Figure 1**, when BCTT findings are referenced within this report, they will include the polling reference number (beginning with “F-” for findings and “R-” for recommendations), the results of each finding (e.g. “unanimous”, “consensus”, “majority-minority”), and relevant quotations.

Figure 2. Example BCTT Findings Result Graphic



Key to Reading Findings

Text in italics within this Staff Report is quoted from the Benton County Code (BCC).

In response, Staff “findings” achieve the following:

1. Identify the approval standards, which are cited in the section above;
2. Set out the facts relied upon to meet the standard(s);
3. Explain how those facts lead to compliance with the standard(s); and
4. Show evidence that, when viewed as a whole, would permit a reasonable person to make that finding.

The Applicant has the burden of proof to show, by a preponderance of the evidence, compliance with the relevant requirements and standards, and the Applicant provided responses to standards in their narrative submittal, titled “Burden of Proof” (BOP – [Record ID. BC016 Burden of Proof, p. 1 – 90](#)) and supplemental material.

Quotes or summaries of materials provided by the Applicant appear under the sub-heading “Applicant Response” and quotes or summaries of issues identified by opponents appear under the sub-heading “Opponent Testimony”.

Staff start each finding with a “**Pre-Planning Commission Decision, evidence cited by Staff**” section, where citations refer to Applicant responses, agency comments, and opponent testimony that Staff previously mentioned in the June 2025 Staff Report.

This Staff Report also includes a sub-heading for “Planning Commission Decision” that provides PC findings that are relevant and clearly tied to code criteria. **Where Staff have included a string of quotations, they always appear in chronological order.**

These are followed by a final sub-heading called “Staff Response”. Staff responses begin with an indication of which Benton County department or third-party consultant has provided the response (e.g. “Public Works”, “Kellar Engineering”, “MFA- Engineering”, or “Planning”). The final Staff Response will always be from “Planning”, which is a third-party consultant, Winterbrook Planning.

References to the record. Applicant submissions, agency comments, public testimony, and Benton County material make up the record, which was open during the PC review process and again for the BOC review. Throughout the findings in this Staff Report, Staff use a “Record ID” consistent with County records to cite material. An index of the material Staff reference in this report, and the respective Record IDs, are located in Section X. Items submitted to the record will be available on the Benton County web page¹⁷ for at least the duration of the BOC hearing process.

CHAPTER 53 - GENERAL REVIEW CRITERIA AND PROCEDURES – CONDITIONAL USE

CONDITIONAL USES

A conditional use permit is required for a landfill expansion in the LS zone and landfill use in the FC zone. The BCC Chapter 53 includes details of the requirements and criteria for an approved conditional use application.

53.210 Permit Required. A person shall obtain a conditional use permit from the County in order to establish a conditional use. The decision to issue a conditional use permit is discretionary.

¹⁷ <https://www.bentoncountyor.gov/lu-24-027-proposed-coffin-butte-landfill-expansion/>

Staff Response:

As stated in this standard, Benton County decision-makers must employ discretion when determining whether the Applicant meets the following requirements to receive a conditional use permit. Because the conditional use criteria contain words with a degree of ambiguity, analysis of the language is necessary before discussing how the text applies to the proposal. Generally, ambiguous terminology is to be interpreted by the text used, then the context, and then the legislative history.

In 2021, the BCTT LLU Subcommittee reviewed the BCC conditional use requirements for a landfill expansion and provided findings regarding their meaning, history, and typical practices. Direct quotes are located within text boxes. Regarding the first criterion (BCC 53.213.1) below, the subcommittee reviewed Staff-provided materials from the previous 25 years of Benton County conditional use-legislative history and presented summaries of their findings. Staff have used BCTT formal workgroup findings regarding these summaries (LLU F-9a – c) to inform this analysis.

In the Applicant's September 12 memorandum on code interpretation ([Record ID. BOC1 A0003 Code Interpretation Memorandum from Miller Nash \(Exhibit E66\), p. 2](#)), Jeffrey Condit, the Applicant's consultant land use legal representative, states:

"To determine the meaning of an enactment, a court applies the framework for statutory construction established in *PGE v. Bureau of Labor and Indus.*, 317 Or 606, 610-12, 859 P2d 1143 (1993) and *State v. Gaines*, 346 Or 160, 171-73, 206 P3d 1042 (2009). Under the PGE/Gaines framework, a court construes a statute based on its text, its context in the statutory scheme, and its legislative history. PGE and Gaines involve the construction of state statutes, but the courts have ruled that the same framework applies to construction of local enactments. See *Church v. Grant Cnty.*, 187 Or App 518, 527 n.4, 69 P3d 759 (2003), citing *Lincoln Loan Co. v. City of Portland*, 317 Or 192, 199, 855 P2d 151 (1993). Absent a special definition of a specific term used in enactment, the courts ordinarily resort to the dictionary definitions, assuming that the legislature (or, in this case, the Board) meant to use a word of common usage in its ordinary sense. Webster's Third New International Dictionary of the English Language Unabridged, Merriam-Webster Inc., Publishers, Springfield, Massachusetts, USA ("Webster's") is the preferred dictionary of Oregon courts in such circumstance.

The Applicant analyzed BCC 53.215 in Section III of its Burden of Proof using this framework, relying on Webster's to construe terms such as "adjacent" and relying on the historical interpretation of terms such as "seriously interfere" and "undue burden" as analyzed by Benton County Staff during the Benton County Talks Trash ("BCTT") process. Benton County's independent consultants concurred with this interpretation in the initial and amended Staff reports. The Planning Commission decision ignored these analyses and failed to offer a reasonable alternative interpretation. [...]

Comments from certain members of the Planning Commission suggested that they believed that they had unbridled discretion to interpret the code. That is error. The Commission's interpretation of the Code must be consistent with the PGE/Gaines framework, and a planning commission's decision is not entitled to deference on appeal. See *Gould v. Deschutes Cnty.*, 233 Or App 623, 227 P3d 758 (2010).

As the County governing body, the Board's interpretation of its own enactments is entitled to deference under Oregon law. See *Siporen v. City of Medford*, 349 Or 247, 243 P3d 776 (2010). In order for deference to apply, however, the underlying criterion must be ambiguous or in conflict with another provision, and the governing body's interpretation has to be plausible. Plausibility is determined in the context of the PGE/Gaines analysis and prior interpretations.

See, e.g., Central Eastside Indus. Council v. City of Portland, 74 Or LUBA 221 (2016). The Board has no authority to repeal provisions in the Comprehensive Plan and Development Code by interpretation.”

Staff concur with the Applicant’s statement above. Staff continues to recommend the interpretations identified in BCTT, discussed in previous Staff Reports, and discussed in this Staff Report below. Staff considers these interpretations both understandable and legally defensible and can be used to effectively support the Board’s decision to Approve or Deny the application.

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;

Meaning of “Seriously interfere”

As discussed in Issues Overview (Interpretation of Ambiguous Language in the BCC) and immediately above in the Staff Response relating to discretionary language, the Board’s interpretation of ambiguous language is critical to reviewing the application against code criteria.

The first important term used in BCC 53.215(1) relates to the meaning of the words “seriously interfere”. The Applicant developed their application narrative and evidence based on guidance from the BCTT Workgroup related directly to this term (BCTT LLU F-9a):



“[...] In applying the term “seriously interfere”, Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered factors such as: does the proposed use make it difficult to continue uses on the adjacent property; would it create significant disruption to the character of the area; would it conflict, in a substantive way, with the purpose of the zone. [...] In the past, ‘seriously interfere’ has generally been applied as meaning more than an inconvenience or irritation but is a lesser threshold than rendering the uses on adjacent property impossible. Speculated effect on property values has not been a primary consideration in determining serious interference. [...]”

Staff concurred with this definition and prepared Staff findings in response to this definition.

However, an attorney representing opposition to this application disagreed with using the BCTT definition, and the Planning Commission decision defined the words “seriously interfere” to mean “significant impact”. Relevant arguments presented by the Applicant and opposition are linked below.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 25](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1618 – 1622](#)

Opponent evidence:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 379 – 381](#))

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 4](#)):

“As a preliminary matter, the planning commission interprets the word “seriously” in the phrase “seriously interfere” in BCC 53.215(1) to be synonymous with the phrase “significant” as discussed in *Stop the Dump Coalition v. Yamhill County*, 72 Or LUBA 341, 359 (2015):

“Because the term ‘significant’ is undefined, and of common usage, it is permissible to consult dictionary definitions. The most pertinent definition of ‘significant’ in Webster’s Third New International Dictionary (2002), 2116, appears to be ‘3 a: having or likely to have influence or effect : deserving to be considered[.]’ Because ORS 215.296(1) is framed in the negative (the Applicant must demonstrate that the proposed use ‘will not’ force a significant change, etc.), it seems appropriate to consider related antonyms such as the term ‘insignificant,’ which Webster’s defines in relevant part as ‘e: of little size or importance[.]’ Id. at 1169.”

Therefore, when the word seriously is used in these findings it means significantly and vice versa.”

Staff Response, Planning:

Staff has not changed its recommendation in relation to this definition. The language that Applicant used in their application materials is consistent with Staff’s understanding and matches that from the BCTT finding regarding the legislative history of the phrase.

Proposed development occurs in two zones: the LS Zone and the FC Zone. The Farm Impacts test applies to a conditional use in farm and forest zones. Under OAR 660-006-0025(4)(d), the proposed development in the FC zone is required to satisfy OAR 660-006-0025(5), which is identical to the Farm Impacts test in ORS 215.296. These rules are implemented in BCC 60.220. The Applicant proposes some development within the FC zone including an employee building and leachate ponds. For the proposed development in the FC zone, the Applicant is required to satisfy the Farm Impacts test.

Both Applicant and opposition testimony folded FC zone impact analysis into the overall proposed expansion. Due to this conflation, Staff noted in the first Staff Report that FC Zone standards were not met, because LS zone standards (noise and odor impacts on adjacent uses) were not met. Findings related to FC Zone standards are presented in the review of BCC Chapter 60 in this Staff Report.

However, the Farm Impacts test does not apply to development proposed in the LS zone. BCC 53.215(1) applies. The meaning of the phrase “seriously interfere” is a matter of local law, and the county is not bound to interpret the phrase to be synonymous with or apply the Farm Impacts test to the proposed development in the LS zone. Staff agrees with the Applicant that the words used (“seriously interfere”) in the LS Zone are different than the standard farm and forest impacts test language, derived directly from ORS 215.296, that applies to the FC Zone. Staff does not agree that the words used in LS Zone should be interpreted to mean the same thing as different words used in the FC Zone. Staff continues to recommend that the Planning Commission evaluate LS Zone conditional use requirements related to “seriously interfere” consistent with BCTT finding LLU F-9a quoted above.

Meaning of “Adjacent property”

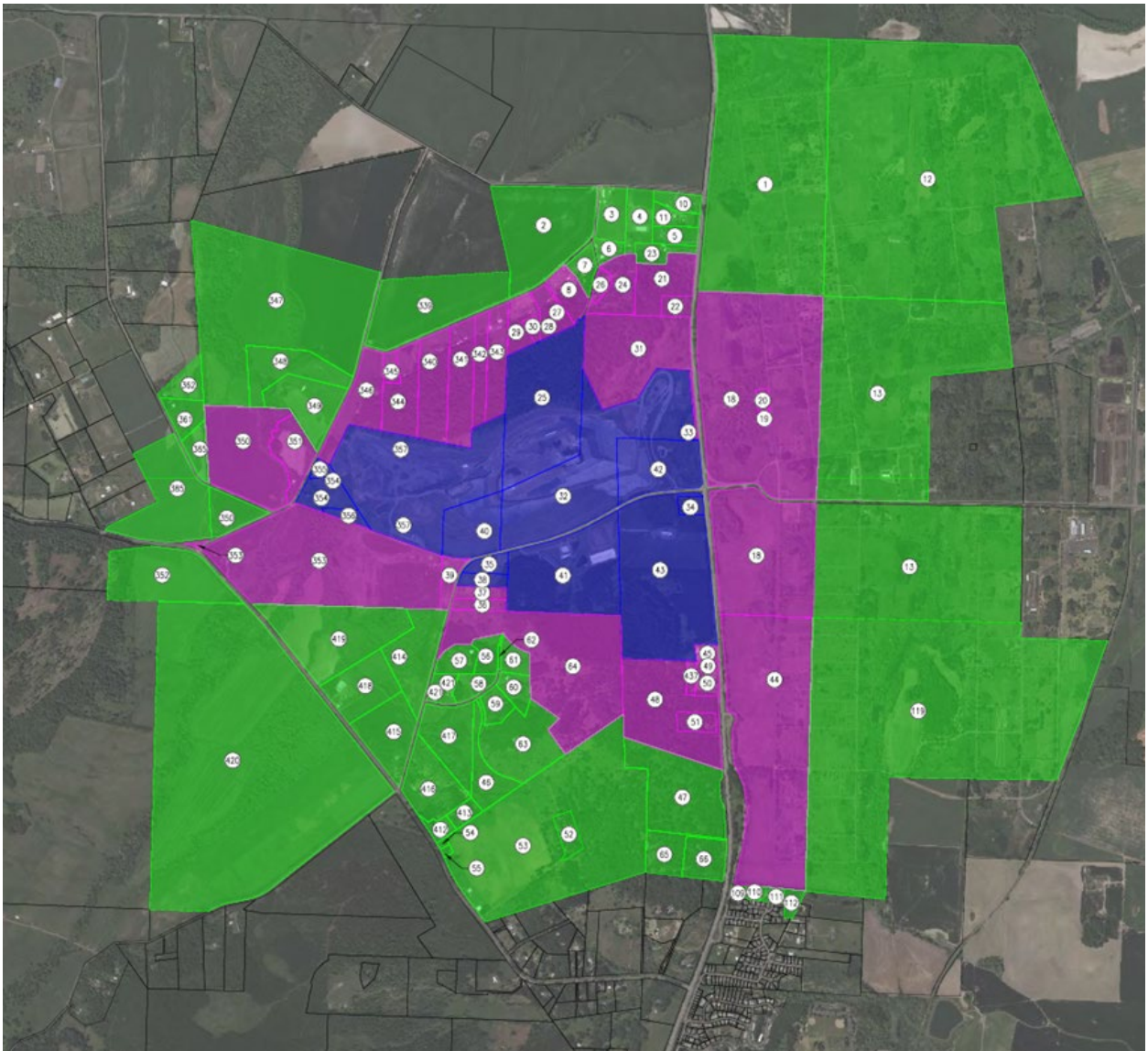
As discussed in Issues Overview (Interpretation of Ambiguous Language in the BCC) and above in the Staff Response relating to discretionary language, the Board’s interpretation of relevant criteria is critical to reviewing the application against code criteria.

The second important term used in BCC 53.215(1) relates to the meaning of the words “adjacent property”. This term was not addressed in the BCTT. The Applicant applied a definition from Webster’s Third New International Dictionary:

“not distant or far off * * *: nearby but not touching * * *relatively near and having nothing of the same kind intervening: having a common border: ABUTTING, TOUCHING; living nearby or sitting or standing close relatively near or close together: immediately preceding or following with nothing of the same kind intervening.” (Capitalized emphasis in the original.)

Applicant prepared a map of “Adjacent and Nearby Properties”, defining “adjacent” as properties directly abutting tax lots with existing and proposed landfill operations, and “nearby” as properties abutting “adjacent” properties. See Applicant testimony cited below.

Figure 3. Applicant’s Map of Adjacent and Nearby Properties ([Record ID. BC016, p. 813-815](#))



Staff concurred with using the Webster's definition, but included as “adjacent” for the purpose of review all of the properties the Applicant identified as “adjacent” and “nearby”. Staff prepared findings in response to this definition. See Figure 3 in this Staff Report.

However, an attorney representing opposition to this application disagreed with the extent of “adjacent” properties under review, and the Planning Commission decision redefined the words “adjacent properties” to

include properties over 10 miles away from the proposed landfill expansion (e.g., Philomath, Independence). Relevant arguments presented by the Applicant and opposition are linked below.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- Meaning of “adjacent” ([Record ID. BC016 Burden of Proof, p. 25](#))
- Description of the uses on “adjacent and nearby” properties ([Record ID. BC016 Burden of Proof, p. 26 – 28](#))
- [Record ID. BC016 Map and list of adjacent and nearby properties \(Exhibit E8\), p. 813 – 815](#)
- [Record ID. BC016 Benton County business database \(Exhibit E34\), p. 1523 – 1616](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1619](#)

Opponent evidence:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 381](#))

Planning Commission Decision (Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 27, 31):

““Adjacent properties” for the purpose of this hearing related to criteria found in BCC 53.215, has been determined to far exceed the immediately adjacent by “shared property lines” property owners, with documented risks and impacts as far as North Albany, Airlie, Independence in Polk County, South Corvallis, Lewisburg, Philomath, and rural unincorporated areas of Benton County.

[...]

The “adjacent properties” in the past, often identified as sharing property lines with the landfill buffer zones and drawn by a line on a map, have now become Adair Village, Independence, Airlie, Lewisburg, South Corvallis and more, reporting landfill odors and other impacts of landfill operations. Adjacent properties” has now become a regional definition and no longer a linear definition.”

Applicant Response (Record ID. BOC1 A0003 Code Interpretation Memorandum from Miller Nash (Exhibit E66), p. 2):

“One of the Commissioners suggested during deliberations that “adjacent property” should include land in the surrounding counties. This ignores the dictionary definition of “adjacent” and ignores the context in BCC 53.215 that distinguishes between impacts on “adjacent property” and the character of the “area.” In addition, it fails to articulate an alternative definition of adjacent, as a decisionmaker is required to do. See *Wilson Park Neigh. Ass’n v. City of Portland*, 24 Or LUBA 98, 101-02 (1992), *aff’d*, 117 Or App 620, *rev denied*, 316 Or 142 (1993).”

Staff Response, Planning:

Staff has not changed its recommendation in relation to this definition. Staff concurs with all parties that “adjacent property” is not defined in the code, and that the dictionary definition of “adjacent” provided by the Applicant indicates properties both touching and nearby the subject property would reasonably meet this definition. Staff also notes that “adjacent” would typically mean “abutting” for land use review purposes. Due to area ownership patterns and scale of the proposed development, an inclusive definition of “adjacent” is merited. Consistent with that view, Staff is evaluating properties identified as “nearby” as well as properties identified as “adjacent” in review of this standard.

Evaluation of impacts on “adjacent” properties includes all the properties identified as “adjacent” (purple) or “nearby” (green) in Figure 3 above. (Figure 1 of [Record ID. BC016 Burden of Proof, p. 26](#) (as well as in [Record ID. BC016 Map and list of adjacent and nearby properties \(Exhibit E8\), p. 813 - 815](#))). Staff concludes that this inclusive definition is sufficient to capture the intent of a code standard that evaluates impact on “adjacent”

properties. As of the writing of this Staff Report, the County had received comments from sixteen addresses within the “adjacent” area (including during the PC review and since then); these are identified below in Table O-1.

Staff continues to recommend that evaluation of impacts on “adjacent” properties be limited to properties identified as abutting the landfill site, as well as properties abutting those properties. This provides an area sufficiently inclusive to address the code standard consistent with what Staff would consider a reasonable interpretation of “adjacent”.

As noted by the Applicant above, BCC 53.215(1) also requires evaluation of serious interference with the “character of the area”. A “character of the area” evaluation extends to a significantly larger area and is addressed separately in analysis and findings in this and previous Staff Reports.

Adjacent Property Owner or Resident Comments:

As of October 7, 2025, the County received comments from residents or owners of seven adjacent properties. Testimony included reporting of ongoing visual, odor, and noise impacts from existing operations and expressed concern that the proposed expansion would worsen these conditions.

Key issues raised included:

- **Air and Water Quality:** Alleged fugitive methane emissions, potential groundwater and well contamination from leachate, and lack of a County reserve fund for leachate management.
- **Construction Impacts:** Concerns that excavation and blasting affect groundwater flow, noise levels, and property damage.
- **Operational Impacts:** Ongoing issues with odor, noise, litter, and fire risks from regular landfill activities.
- **Procedural Issues:** Claims that County oversight and Applicant analyses are inadequate or based on non-conservative assumptions.

Residents testified that the proposed expansion would likely increase existing environmental and livability impacts.

In findings below, Staff includes citations, links, and summary of testimony regarding impacts on adjacent uses. Copies of their testimony and testimony submitted during the PC review process are included in the record as [Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 164 – 365](#), also as listed in Table O-1 and in Section X.

Table 0-1 . Comments received from owners or renters of adjacent property

RECORD ID	NAME	TLID
Pre-Planning Commission Decision		
BC015 p. 167 – 180	E. and L. Bradley	104190000200
BC015 p. 181 – 186	J. Searls	104190000401
BC015 p. 187 – 316	J. Geier	104190000500
BC015 p. 317 – 320	C. and P. Merrill	104190000600
BC015 p. 321 – 327	J. and P. Morrell	104190000700
BC015 p. 328 – 329	R. Wilson	104190001800
BC015 p. 330 – 334	G. Carlin	10419B000400
BC015 p. 335 – 336	L. A. Davis	10419B000500
BC015 p. 337 – 339	I. Finn	10419B001300
BC015 p. 349 – 346	A., C., and R. Holdorf	10419B001500
BC015 p. 347 – 353	D. Hackleman	105130000200
BC015 p. 354 – 360	B. Briskey	105130000400
BC015 p. 361 – 363	D. and N. Johnson	105240000101
BC015 p. 364 – 365	G. Lind Flak	105240000400
Response to Appeal		
BOC1 T0099	R. Holdorf	10419B001500
BOC1 T0146 & BOC1 T0147	J. and T. Morrell	104190000700
BOC1 T0152	B. Briskey	105130000400
BOC1 T0155	L. A. Davis	10419B000500
BOC1 T0173 & BOC1 T0174	Ri. and Ro. Kipper	104190000402 & 104190000400
BOC1 T0196	K. and S. Edwardsson	104190001800
BOC1 T0215	J. Geier	104190000500

Potential impacts on uses of adjacent property

Staff received comments identifying nine general categories of impacts on adjacent properties:

- Noise
- Odor
- Traffic
- Water Quality and Well Water
- Visual Impacts
- Litter
- Fire Risk
- Wildlife
- Air Quality

Each of these categories are discussed below. Each impact section begins with links to Applicant testimony and evidence, followed by links to adjacent property owner and opposition attorney testimony evaluated in the final Staff Report to the Planning Commission.

These links are followed by summaries of Applicant testimony provided in final rebuttal, then the Planning Commission decision, and summaries of Applicant testimony provided in their appeal package.

Finally, Staff provides a Staff Response to the evidence presented by all of the above.

Noise

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- Original response to this criterion ([Record ID. BC016 Burden of Proof, p. 34 – 36](#))
- Original noise analysis ([Record ID. BC016 Noise study \(Exhibit E11\), p. 820 – 851](#))
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 116](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1619 – 1620](#)
- [Record ID. BC016 Response to VNEQS Odor Comments \(Exhibit E53\), p. 2250 – 2251](#)

Adjacent Property Owner/Resident Testimony:

- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 168](#))
- J. Searls ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 185](#))
- C. Merrill ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 318](#))
- G. Carlin ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 332 – 334](#))
- L.A. Davis ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 336](#))
- I. Finn ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 338 – 339](#))
- R. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 341](#))
- C. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 343](#))
- D. Hackleman ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 349 – 353](#))
- G. Lind Flak ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 365](#))

Opponent testimony:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 383 – 385](#))

Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 4 - 5](#)):

“The Applicant responded in detail to the testimony in opposition regarding noise in Exhibit 65 on pages 13 and 14, and Applicant incorporates that response here.

- A. The proposed expansion will comply with the DEQ noise rule. As shown by the Applicant’s analyses, modifying its on-site equipment to reduce noise by 10 dBA over 2023 levels will cause the noise from the expansion area to be well under the DEQ maximum noise level for the quietest hour at surrounding noise-sensitive uses. This will be true even though the 10 dBA reduction will not apply to truck and other traffic accessing the landfill.
- B. The DEQ Noise Rule is a generally accepted standard for determining noise impacts. Although DEQ does not enforce the Noise Rule, it continues to update it in response to the Noise Control Act and federal guidance. The original Staff Report and supplemental June 2025 Staff Report concur with application of the DEQ Noise Rule with regard to this application. Again, the County has not adopted its own noise regulations and, as noted above, cannot apply unadopted standards. The Noise Rule provides a generally accepted engineering basis for determining whether noise generated by a particular use—whether it is from a wind farm or a landfill—will substantially interfere with uses on adjacent property.

- C. The County will be able to enforce compliance with the noise conditions. Proposed condition OP-17 will enable the County to directly monitor ongoing compliance requirements.”

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 5](#)):

“Blasting for landfill cell preparation: The planning commission finds that blasting activities for construction of the new cell will seriously interfere with uses on adjacent properties including harming livestock and pets, [...] The planning commission finds the Applicant’s consultants’ evidence and the county’s third party reviewers’ evidence regarding interference with wells on adjacent properties to be less credible than opponent testimony and evidence regarding the effects of blasting and regarding past dewatering of wells on adjacent properties.”

Planning Commission Decision ([Commissioner Lee Incorporated Findings, Record ID. BC019, p. 23](#)):

“[...] Noise levels already cause concerns. The Applicant proposes blasting and other construction noise to take place over the span of at least 4 years, on top of the noise levels already causing complaint.

[COA] OP-2 is intended to mitigate noise only after commercial operation begins, and specifically not during the construction phase. This is not adequate to respond to interference with uses on adjacent properties and the character of the area from the application. OP-2 relies on reporting noise. Enforcement of this COA would result in lots of reports, but no mitigation.”

Planning Commission Decision ([Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 46](#)):

“Undue Burdens and Serious Interference presented by the public in this process, include:

[...]

The combined adverse impacts, undue burden and serious interference of the region due to the noise and traffic increases of the combined current operations and the expansion area were not addressed, including any reasonable mitigation to the region or surrounding properties proposals by Republic Services.”

Applicant Response ([Record ID. BOC1 A0003 Code Interpretation Memorandum from Miller Nash \(Exhibit E66\), p. 4 - 5](#)):

“Staff summary: The Applicant argues that construction-related noise and traffic are not part of the “use” subject to conditional use review under the Benton County Code or the DEQ Noise Rule, which explicitly exempts construction noise. The Applicant cites a recent LUBA decision (*Cottrell Community Planning Org. v. Multnomah County, 2025*) affirming that construction impacts are not regulated as part of a land use review. Nonetheless, the Applicant voluntarily updated its traffic and noise analyses to include construction activity, and those studies found no undue burden or significant interference with nearby properties.”

Applicant Response ([Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 7](#)):

“Staff summary: The Applicant contends that construction and blasting noise from the expansion will not create serious interference with adjacent agricultural or residential uses. Predicted sound levels for regular operations are generally lower than existing median daytime levels, and blasting is expected to be about half the allowable limit under OAR standards. Blasting vibrations are not anticipated to affect nearby structures within 675 feet. An updated construction noise assessment, including hauling and equipment activity, confirms that noise impacts are minor and do not constitute significant interference.”

Staff Response, MFA – Engineering:

In the June 2025 Staff Report, MFA concurred with the methodology used and conclusions reached by the Applicant and recommended Conditions of Approval to ensure consistent measurement of noise levels during operations. ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#))

MFA provided additional comments in response to updated Applicant materials ([Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 7](#)):

“As previously noted, due to the absence of a noise standard in Benton County code, the Oregon Department of Environmental Quality (DEQ) noise regulations are being utilized by the Applicant and the County as the standard. The DEQ noise rule (OAR 340-035-0035) limits the noise increase to no greater than 10 dB at the noise-sensitive property; the applicant has stated that construction noise will not exceed an increase of 5 dB. For blasting, the applicant has predicted blasting-related noise to be 10dB less than the allowed limit.

MFA agrees that the evidence provided by the Applicant indicates that the construction noise and blasting levels are expected to comply with more stringent standards than OAR criteria, and ongoing monitoring will allow the County to require improvements if future work fails to maintain sound levels below the OAR standard.” (Attachment A, p. 3 – 5)

Staff Response, Planning:

The Applicant identified the closest noise-sensitive properties (residential uses) and evaluated potential noise impacts on these uses ([Record ID. BC016 Burden of Proof, p. 29 – 35](#) and [Noise study, p. 831 – 834](#)). The Applicant did not evaluate noise impacts on other adjacent properties at greater distances. Staff concurs with the Applicant and the submitted expert testimony that if noise does not seriously interfere with close noise-sensitive uses, it will not seriously interfere with noise-sensitive uses farther away, as noise diminishes over distance.

Staff originally recommended denial due to noise impacts on an adjacent property, the Applicant’s proposed essentially unlimited hours of operation, and an unclear path to mitigation of noise impacts. In updated materials, the Applicant proposed conditions limiting hours of operation and noise generation; these conditions would limit noise increase from existing conditions to below noise impact thresholds established by DEQ, and below existing conditions.

Staff notes that in the absence of established noise impact thresholds in the BCC, or identified impacts relating to an alternative noise level threshold, use of a noise impact threshold defined by DEQ is appropriate for County review of noise in the context of “serious interference”. Staff engineering review found the Applicant’s proposed conditions to be viable and added clarifying recommendations.

The Applicant provided additional analysis indicating that noise levels during construction will also be well within the DEQ impact threshold. Staff engineering review concurred with the Applicant’s methodology and conclusions. Staff recommends Conditions **P2-2(A-B)** and **OP-3(A-C)** requiring noise reduction and monitoring of noise levels in the expansion area prior to the start of commercial operations, and for the duration of the use.

Radio Telecommunications (Noise Floor). While not classically related to noise production, Staff addresses the telecommunications noise floor issue here. Dr. Hackleman, an adjacent property owner, notes that the landfill must stay at least 50 feet below his lower property line to avoid impacts on telecommunication ([Record ID. BC016 Noise study \(Exhibit E11\), p. 822 – 826](#)). Staff presume that Dr. Hackleman refers to the rear (southern) property lines located near the crest of Coffin Butte, though Dr. Hackleman did not specify the elevation below which the expansion would need to remain. The elevation across Dr. Hackleman’s rear property line ranges from approximately 620 to 740 feet above mean sea level (MSL). According to the Applicant ([Record ID. BC016 Cross Sections of Expansion Height \(Exhibit E45\), p. 2215 – 2218](#)), the top of waste of the proposed landfill expansion

elevation is 450 feet MSL. Therefore, Staff understands this concern can be resolved with a condition limiting the landfill expansion height to the elevation proposed.

Recommended Condition OP-8 limits the maximum landfill height to 450 feet, addressing telecommunication height concerns.

Staff finds that noise from the proposed landfill expansion can be mitigated through Conditions of Approval to not “seriously interfere” with adjacent properties.

Odor

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- Original response to issue of odor ([Record ID. BC016 Burden of Proof, p. 36 – 39](#))
- Additional response ([Record ID. BC016 ADDENDUM to Burden of Proof, p. 93 - 95](#))
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1620](#)
- [Record ID. BC016 June 2025 Odor Study, p. 1644 – 1647](#)
- [Record ID. BC016 Odor Study Supplemental Information \(Exhibit E51\), p. 2244 – 2246](#)
- [Record ID. BC016 Response to VNEQS Odor Comments \(Exhibit E53\), p. 2250 – 2251](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 115 – 116](#)

Adjacent Property Owner/Resident Testimony:

- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 168](#))
- J. Searls ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, 182, 185](#))
- C. Merrill ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 318](#))
- P. Morrel ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 323](#))
- J. Morrel ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 326](#))
- L. A. Davis ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 336](#))
- I. Finn ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 338](#))
- R. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 341](#))
- C. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 343](#))
- A. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 345](#))
- D. Hackleman ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 349 – 350, 353](#))
- B. Briskey ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 355](#))

Opponent testimony:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 386 – 387](#))

Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 4](#)):

“Staff summary: In response to opponent arguments, the Applicant contends that removing the franchise tonnage cap will not significantly increase landfill impacts, as waste volumes will grow only with regional population growth and demand. To address concerns, the Applicant proposes a new tonnage cap effective upon CUP approval and maintains that the CUP will not meaningfully change annual waste intake.”

Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 5 - 6](#)):

“Staff summary: In response to opponent arguments, the Applicant maintains that odor and air quality impacts have been properly evaluated and mitigated. Using the AERMOD model—recognized by both the Applicant’s and County’s consultants, the revised analysis shows no nuisance-level odors at the property boundary. The Applicant explains that short-term odor increases may occur during gas well construction but lead to improved long-term gas collection and reduced emissions. Proposed conditions establish stricter monitoring, response, and enforcement measures to ensure effective odor control and County oversight.”

Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 7](#)):

“Staff summary: In response to opponent arguments, the Applicant argues that it is improbable for odors from the landfill to reach locations more than seven miles away and that the claims lack sufficient detail for full evaluation. Monitoring and modeling indicate that odors are generally confined near the landfill. The Applicant also notes that all reported complaints were investigated quickly, no odors were detected during visits, and responses were documented and shared with DEQ.”

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 4](#)):

“The planning commission finds that testimony from occupants of adjacent properties and from opponents that odor from current landfill operations limits them from opening their windows and going outside supports a conclusion that odor from the proposed landfill use will seriously interfere with uses on adjacent property and with the character of the area. The planning commission finds the Applicant’s consultants’ odor studies and the third party reviewers evidence to be less credible than testimony from adjacent property owners and opponents because the locations of odor-sensitive adjacent uses were not clearly defined in the Applicant’s odor analysis or mapping, and the potential impact on these adjacent uses was not specifically evaluated”

Planning Commission Decision ([Chair Fowler Incorporated Findings, Record ID. BC019, p. 9](#)):

“As the model has not been verified with empirical results and not squared with the body of public testimony, I very much struggle with the proposed conditions. It is not obvious to me that the record demonstrates that proposed conditions will successfully mitigate odor to or below nuisance levels.”

Applicant Response ([Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 4 - 5](#)):

“The Commission’s conclusion overlooks significant, tangible, measures already implemented in 2025 to actively reduce odor emissions. Coffin Butte Landfill acknowledges sporadic odor events in the past. The Applicant is aggressively addressing these issues. In the last 12 months, Valley Landfills has constructed 21 new vertical gas collection wells and made improvements to 18 existing horizontal wells, supported by the installation of 16,835 feet of new gas piping to improve gas capture efficiency across the site and installed an enclosed flare to combust 99% more efficiently. These upgrades increase landfill gas collection rates, reducing the potential for fugitive emissions that could cause offsite odors.

To directly address concerns about ongoing and future odor impacts, Valley Landfills will commit to a phased closure plan of approximately five separate closure events with the last event occurring once final elevations have been reached. The first closure event will begin within the range of calendar year 2027 to 2029, dependent on landfill tonnage volumes. The last event will occur once all operations are moved to the expansion area. In addition, we will

continue to enhance the existing gas collection system by installing new gas wells in areas with elevated emissions. Finally, we are prepared to adopt objective, enforceable mitigation triggers. For example, immediate operational adjustments will be made if nuisance-level offsite odors are verified through monitoring, thereby demonstrating our commitment to protecting neighboring properties.”

Staff Response, MFA Engineering:

In the June 2025 Staff Report, MFA concluded:

“MFA generally agrees with the dispersion modeling techniques and methodologies used by SCS Engineers to produce the results presented in the revised Odor Study. The revised Odor Study is based on actual measured data, including actual flowrates for the flare, current waste acceptance volumes for the landfill, onsite meteorological data, onsite terrain data, and actual operating hours for the tipper engines, as well as Oregon Department of Environmental Quality (ODEQ)-approved emission rates for the eight highest odor-causing pollutants potentially emitted by the landfill. This represents the best available data for conducting an odor dispersion modeling assessment.” [...]

“The results of the revised Odor Study adequately demonstrates that Scenarios #1 and #2 are unlikely to exceed a nuisance D/T of 7. It is reasonable, for each scenario evaluated, that two odor pollutants (dimethyl sulfide and hydrogen sulfide) were predicted to be between the “no odor noticeable” D/T threshold of 1 and the “just noticeable” D/T threshold of 2, which aligns with the public’s experience that there are some detectable odors from the landfill. However, based on the results of the revised Odor Study, it is unlikely that potential odors from the landfill will rise to the level at which a nuisance condition will be created, as indicated by the two highest predicted odor pollutants, dimethyl sulfide and hydrogen sulfide, resulting in a maximum D/T of 1.45 and 1.38 in Scenario #1, and 1.34 and 1.28 in Scenario #2, both of which are well below the nuisance D/T of 7.” ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#))

MFA also reviewed the Applicant’s supplemental material for the BOC hearing process. In response to these materials, MFA concluded:

“We agree that improving the LFG collection efficiency will help control LFG emissions and reduce the potential for offsite odors, while implementing enforceable mitigation measures via monitoring will help reduce and/or remedy nuisance conditions offsite. Phased closure of open landfill cells will also reduce the potential for release of odors from the landfill surface.” (Attachment A, p. 3 – 5)

Staff Response, Planning:

The June 2025 Staff Report referenced and provided an overview of adjacent property owner testimony related to odor, for additional context on this issue (cited above). The County received additional odor testimony from six adjacent property owners or residents relating to the current appeal process¹⁸.

Staff acknowledges that odor impacts are difficult to evaluate. Staff appreciates the evolution and refinement of the Applicant’s odor analysis and findings over the past year in response to Staff concerns. Different people have different levels of sensitivity, weather systems produce different odor patterns, and there are many sources of odor. But there is a science-based method of evaluating odor, and odor levels can be quantified. Therefore, Staff places high value on technical analysis in relation to the odor produced by the proposed expansion. With a focus on technical analysis to evaluate this issue, Staff also places a high value on technical review of the Applicant’s methodology and results.

The Applicant’s initial odor studies were lacking in key information and therefore Staff initially recommended denial on that basis. The Applicant submitted an updated odor study ([Record ID. BC016 June 2025 Odor Study, p. 1623 – 1734](#)) and an updated legal argument ([Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit](#)

¹⁸ [Record ID. BOC1_T099 R. Holdorf](#); [Record ID. BOC1_T0146 J. Morrell](#); [Record ID. BOC1_T0147 T. Morrell](#); [Record ID. BOC1_T0152 B. Briskey](#); [Record ID. BOC1_T0155 L. A. Davis](#); [Record ID. BOC1_T0196 K. and S. Edwardsson](#).

[E35](#)), p. 1617 – 1622). The updated odor study was reviewed by Staff contract engineers who provided an updated Staff engineering response, indicating the Applicant’s updated odor study was technically sound. Expected D/T values modeled in the updated odor study increased from under 0.5 to 1.4 (see Figure 4 below, relating to odor units) at points within the development area and at the property boundary. The analysis now indicates that odor from the landfill is detectable at the boundary of the landfill in the modeled “typical” scenario, which is more consistent with neighbor testimony. As described in the 2025 Odor Study ([Record ID. BC016 June 2025 Odor Study, p. 1623 – 1734](#)) and noted in the Staff engineering response, odor levels are not constant – the model describes odor produced in a “typical” set of assumptions.

The question for Staff and the Board is: Does the expected odor from the proposed expansion rise to the level of “seriously interfere” with uses on adjacent property or the character of the area? Staff notes that the project is a landfill expansion in a landfill zone that allows landfill expansion through a conditional use process. Landfills typically produce odors that many people find objectionable. The “seriously interfere” standard is not a standard that requires an Applicant to demonstrate “no detectable odor,” as no landfill could meet that requirement, and the zone would not serve a purpose.

The Applicant’s analysis indicates that odor units will typically be between 1 and 2 at the area of highest concentration along the property boundary. As noted in Staff Engineering Response and Figure 4 below, the landfill at that northwest boundary will typically produce a detectable odor below levels common in a city (4) or generally considered a nuisance (7). As noted by Staff engineering consultants, “nuisance” level odor can be considered to “seriously interfere”.

Staff engineering consultants have reviewed and determined the Applicant’s 2025 Odor Study follows reasonable assumptions and modeling protocols. The results of the updated study indicate typical odor levels of 1.4 D/T, well below 7, for everyone affected by odor from the landfill expansion. Notably for the purpose of this application, the expansion model shows that the proposed expansion will ultimately produce lower odor levels than the existing landfill.

Staff’s conclusion that the landfill expansion will not seriously interfere with uses on adjacent properties or with the character of the area with regard to odor impacts is based on the Applicant’s submitted odor study ([Record ID. BC016 2025 Odor study \(Exhibit E33\), p. 1408 – 1522](#)). The Applicant’s odor study models annual waste acceptance of 930,373 tons or less from 2023 to 2052. Accordingly, a condition of approval is authorized by BCC 53.220 and is appropriate to ensure that the Applicant’s modeled amount of waste acceptance is not exceeded on an annual basis.

The Applicant also proposed Conditions of Approval to monitor and log odors (Conditions **P2-3(A-B)** and **OP-4(A-F)**); Staff engineering consultants recommended additional conditions to require outside review of odor monitoring, as well as limit the amount of trash the landfill intakes to be consistent with the Applicant’s odor model (Conditions **OP-4 (A, G)**). Recommended Condition **OP-4 (H)** requires continued enhancement of the existing gas collection system in areas with elevated emissions. Recommended Condition **OP-8** limits landfill height to the proposed and modeled height of 450 feet above sea level. With these conditions, it is reasonable to assume typical odor levels will be minimal, instances of higher odor can be detected and mitigated, and expected odor levels from the proposed expansion will not “seriously interfere” with adjacent land uses. Therefore, Staff recommends approval of the proposed expansion with conditions.

Figure 4. Odor Index

Table 1. Odor Index Examples¹

Odor Unit or D/T	Odor Description
1,000,000	Rendering plant uncontrolled exhaust
100,000	Venting anaerobic digester gases
10,000	Sludge centrifuge vent
1,000	Primary clarifier weir cover exhaust
500	Dewatering building exhaust
100	Multistage scrubber exhaust
50	Carbon filter exhaust
30	Ambient odor adjacent to biosolids land application
15	Ambient odor adjacent to aeration basin
10	Design value sometimes used in odor modeling
7	Ambient odor level sometimes considered a nuisance
5	Design value sometimes used in odor modeling
4	Ambient odor level common in a city
2	Ambient odor level usually considered "just noticeable"
1	Ambient air in a community with "no odor" noticeable
Reference	
⁽¹⁾ McGinley, Charles & Michael McGinley. (2006). An Odor Index Scale for Policy and Decision Making Using Ambient and Source Odor Concentrations. Proceedings of the Water Environment Federation. 2006. 244-250. 10.2175/193864706783791696.	

Traffic

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 39 – 40](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Response to VNEQS Traffic Comments \(Exhibit E54\), p. 2252 - 2257](#)

Adjacent Property Owner/Resident Testimony:

- P. Merrill ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 320](#))
- C. Merrill ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 318](#))
- J. Morrell ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 325 – 326](#))

Opponent testimony:

- M. Yeager, R. Irish ([Record ID. BC015 Compiled Testimony from Opponents, p. 370](#))

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 5](#)):

"The planning commission finds that landfill uses will seriously interfere with uses on adjacent properties and with the character of the area because traffic from construction activities and landfill operations will seriously interfere with uses in the area. The planning commission considered the Applicant's traffic consultant's evidence and the third-party review of that evidence and considered testimony and evidence submitted by opponents."

Planning Commission Decision ([Commissioner Biscoe, Record ID. BC019, p. 43, 46](#)):

"Undue Burdens and Serious Interference presented by the public in this process, include:
[...]"

Traffic Impact Analysis submitted by Applicant does not include 3-4 years of construction traffic, increase of traffic from nearby housing developments traffic– witness accounts used in part to determine traffic impacts...leaving questions regarding modeling used and validity of report.

Traffic impact analysis that does not address remaining 35% increase of waste intake at current site, simultaneously as the blasting and development of proposed site, the filling of Cell 6 simultaneously or any impact from removal of tonnage cap – based on assumption traffic volumes will not change [...]

Application offers no truck and traffic impacts assessment and comparison between expansion versus development of rail and transfer station”

Applicant Response ([Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\)](#), p. 5 - 6):

“Staff summary: In response to Incorporated Findings from Commissioner Biscoe, the Applicant contends that the traffic impact analysis accurately reflects current and future conditions. Traffic counts were collected at multiple points over several years, capturing both landfill and construction activity, including the quarry and expansion work, providing a comprehensive baseline. The study incorporates regional traffic growth but excludes individual housing developments that were not identified during the scoping process. The review by County Staff, ODOT, and the County’s consultant confirmed that the analysis reasonably assesses system impacts. The Applicant further explains that increases in tonnage do not directly translate to proportional increases in trips due to transfer station efficiencies and larger trucks, and that the proposed tonnage cap further limits potential impacts. Overall, the analysis indicates that even with future traffic increases, intersections will operate acceptably.”

Staff Response, Public Works:

In the June 2025 Staff Report, County Public Works provided the following feedback:

Coffin Butte Road, and the easterly segment of Soap Creek Road carry the functional classification of Major Collector. Neither facility meets current standards for this classification as specified in the TSP. [...] Improvement of Coffin Butte Road to this standard will provide additional lane width and wide shoulders for vehicle stops and to accommodate bicycle, pedestrian, and emergency access where this function is currently very limited. [...]

Benton County Staff have cooperated with Kellar Engineering in this review process, and we concur with their findings and conditions regarding the Traffic Impact Analysis.” ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 30 – 32](#))

Staff Response, Kellar Engineering (Attachment A, p. 11):

In the June 2025 Staff Report, Kellar Engineering provided feedback recommending that Transight Consulting respond to comments provided by opponent, Mark Yeager (April 21, 2025 - [Record ID. BC015, p. 368 – 372](#)), and respond to the claim the Knife River traffic is substantially different from landfill traffic. Kellar Engineering also confirmed that projected traffic levels are within typical rural collector parameters. ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 30 – 32](#))

Kellar Engineering reviewed the Applicant’s updated traffic submission and provided additional responses:

- Kellar Engineering (KE) has reviewed [Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 4 – 6](#), Commissioner comment responses. KE does not have objections to the comment responses provided in the document.
- Kellar Engineering (KE) has also reviewed the formal response to transportation comments #1 and #2 in a P.E. stamped memorandum (memo) dated August 25, 2025, by Transight Consulting, LLC [Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 42 – 44](#). KE does not have objections

to the comment responses provided by Transight Consulting, LLC in the memorandum. The responses in the memo follow industry standard methods for traffic impact analysis.”

Staff Response, Planning:

The Applicant has provided qualified expert responses to detailed issues raised by VQNES. The Applicant provided additional analysis to include construction impacts. Staff concurs with Staff engineering and transportation comments, as well as the Applicant’s conclusion. Transportation impacts from the proposed landfill expansion are minimal and are not expected to “seriously interfere” with adjacent land uses. Staff recommends Conditions **P1-5(A-H), P2-6(A-E), and OP-12** requiring consistency with the proposed application and public works and roadway construction requirements.

Water Quality and Well Water

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 40 – 41](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 117, 121](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1621](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 12th File Submissions, p. 129 – 130](#)
- [Record ID. BC016 Memorandum Re: Groundwater Testimony \(Exhibit E49\), p. 2241](#)
- [Record ID. BC016 Response to VNEQS Groundwater and Leachate Comments \(Exhibit E55\), p. 2258 - 2262](#)

Agency comments:

- ENRAC ([Record ID. BC015 Compiled Agency Comments, p. 50](#))

Adjacent Property Owner/Resident Testimony:

- J. Searls ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 183](#))
- C. Merrill ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 318](#))
- I. Finn ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 338 – 339](#))
- D. Hackleman ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 351](#))
- B. Briskey ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 356](#))

Opponent testimony:

- VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 442 – 445](#))

Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 6 - 7](#)):

“VI. RESPONSE TO ARGUMENTS ABOUT GROUNDWATER AND WATER QUALITY

The Applicant responded in detail to the testimony in opposition regarding groundwater and water quality in Exhibit 65 on pages 3 to 4, pages 8 and 9 (Blasting), and page 9 (Liner Life), and the Applicant incorporates that response here.

A. Excavation, including blasting, for the expansion area will not dewater wells or increase arsenic levels.

1. The Applicant’s assessment of groundwater and stormwater impacts is based on conservative assumptions, relevant site-specific data, and years of experience and data at the existing landfill.

2. The proposed sentinel wells will alert the Applicant to any unexpected adverse conditions and the condition will require corrective action if a problem is documented.
3. The Applicant's seismic study was conducted in compliance with EPA and DEQ standards.

B. The landfill liners will not leak. Concerns about liner failures and similar issues are based on outdated technology. The expansion will use high-density [polyethylene] ("HDPE") geomembranes and geosynthetic clay liners ("GCLs"), which are each expected to last several hundred to over a thousand years without failure. (See citations to authorities in Exhibit 5 page 9.)

C. The County will be able to enforce compliance with the groundwater and water quality conditions. Proposed condition OP-17 will enable the County to directly monitor ongoing compliance requirements."

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 5](#)):

"The planning commission finds that landfill uses will seriously interfere with uses on adjacent property and the character of the area from groundwater contamination from leachate. The planning commission considered the Applicant's consultants' evidence and the county's third-party reviewers' evidence regarding groundwater contamination from leachate, and considered opponents' evidence, including without limitation evidence submitted by VNEQS. The planning commission acknowledges DEQ's regulatory authority over water quality but concludes that BCC 53.215(1) allows the planning commission to take into consideration whether groundwater contamination from leachate will seriously interfere with uses on adjacent properties or with the character of the area, and the planning commission concludes that it will."

Planning Commission Decision ([Commissioner Lee Incorporated Findings, Record ID. BC019, p. 15 - 17](#)):

"Staff Summary: Commissioner Lee asserted that the Applicant did not meet the burden of proof under BCC 53.215(1) to demonstrate that groundwater interruption will not seriously interfere with uses on adjacent property. Commissioner Lee stated that the groundwater analysis relied on incomplete data from the north side of Coffin Butte Road, while comparable studies for the south side remain unavailable. Commissioner Lee also noted conflicting assumptions between the Applicant's modeling and consultant reports.

Commissioner Lee further argued that construction-phase impacts, such as excavation for leachate ponds near Tampico Ridge, could dewater surface water features and fractured basalt zones, potentially affecting nearby wells. In this scenario, Commissioner Lee found that proposed mitigation measures, including Staff-proposed COA OP-13(A)(1), were inadequate because they relied on after-the-fact monitoring, lacked baseline data, and shifted the burden of proof onto neighboring property owners. The risks, according to the Commissioner, would be permanent and irreversible."

Applicant Response ([Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 2 - 4](#)):

"Staff Summary: The Applicant responds to five quotes from Commissioner Lee's Incorporated Findings in the Planning Commission decision.

In response to the Commissioner's assertion that the Applicant presented incorrect assumptions about the bedrock on site, and that this could result in dewatering of nearby wells, the Applicant argues that the Commissioner ignored the expert opinions of the

applicant and county consultants. The Applicant's modeling was intentionally conservative, and, regardless, COA OP-13 would satisfy legal and technical requirements for the prevention of harm."

County engineering Staff provided feedback on the Applicant's submissions relating to groundwater in the June 2025 Staff Report:

"The project's disturbed area footprint exceeds one acre. [...]

Construction of the proposed improvements may require permitting through regulatory agencies including, but not limited to, the Oregon Department of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), the Oregon Department of Fish & Wildlife (ODFW), the Oregon State Historic Preservation Office (SHPO), the Oregon Department of Geology and Mineral Industries (DOGAMI), U.S. Fish & Wildlife (USFW), the U.S. Army Corps of Engineers (COE), and the National Oceanic and Atmospheric Administration-National Marine Fisheries Service (NOAA-NMFS). [...]

Final engineering design for any public infrastructure improvements will be required after Conditional Use approval. Review and approval of those calculations, drawings, right of way adjustments, and specifications will be completed prior to start of construction." ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 33 – 37](#))

Staff Response, MFA – Engineering (Attachment A, 6 – 9):

MFA provided feedback on the Applicant's submissions relating to geotechnical explorations, well logs, environmental and operational considerations, and seismic design in the June 2025 Staff Report:

"In general, the scope of the field exploration, laboratory testing program, and analysis methods are appropriate for the geologic complexity and nature of the proposed development. The geotechnical report provides a thorough discussion of regional geology, local subsurface conditions, and relevant seismically-induced geologic hazards, as required by the Oregon Structural Specialty Code.

[...] We conclude that the existing geotechnical data and analysis presented in the geotechnical report (Exhibit 5) do not indicate that there are any geotechnical or geologic constraints that would adversely impact landfill development.

We note that additional geotechnical evaluation related to design of the landfill itself will be provided before landfill construction." ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#))

MFA provided updated feedback based on the Applicant's updated groundwater submission:

"Groundwater Supply

The first topic is questions of groundwater supply, and specific concerns that excavation activities conducted during the construction of the landfill expansion will negatively impact nearby water supply wells.

Based on the information provided by the Applicant, as well as publicly available documents and professional judgement, MFA concludes that a preponderance of the evidence demonstrates that excavation in connection with construction is unlikely to seriously interfere with water supply wells on neighboring properties. MFA further concludes that the proposed condition of approval requiring the Applicant to conduct a hydrogeologic investigation of the proposed expansion area and install, monitor, and evaluate a system of sentry/monitoring wells to observe groundwater levels before, during, and after construction is a reasonable solution to identify possible impacts on adjacent well levels, and is likely to succeed in preventing serious interference with water supply wells on adjacent properties.

Groundwater Quality

The second topic reviewed by MFA in Exhibit 67 is questions of groundwater quality and specifically questions of whether elevated arsenic concentrations observed in groundwater downgradient of the existing CBL footprint are the result of leachate releases from the landfill.

MFA has reviewed the Applicant's evidence and the responses to the opponents' questions and concludes that potential groundwater impacts from the existing CBL footprint are not an indication that future leachate releases or impacts to groundwater quality are likely to occur at the proposed CBL expansion. The design of the future landfill must be found to be protective of the environment (including groundwater) by meeting or exceeding the minimum design standards of the Oregon DEQ and the United States Environmental Protection Agency, which will be ensured through a design review process with DEQ landfill engineers. MFA also notes that prior to constructing the CBL expansion, an update to the landfill operating permit must be issued by DEQ, and all environmental safeguards must be demonstrated. During landfill operation the evaluation of groundwater data to determine if a release of leachate should be presented in comprehensive annual environmental monitoring reports and submitted to DEQ hydrogeologists, who have the relevant expertise and experience to assess potential impacts to groundwater resulting from landfill operations. DEQ is a state agency with the relevant expertise and experience to assess the engineering design, operating procedures, and groundwater monitoring and protection requirements for the site."

Staff Response, Planning:

Staff understands that groundwater impacts have been and continue to be a controversial topic in landfill expansion applications in Benton County. As cited above, the June 2025 Staff Report included neighbor, opponent, and ENRAC testimony relating to water quality concerns. In addition, six owners or residents on adjacent property submitted related testimony into the BOC record¹⁹. However, the county is limited in its ability to evaluate and regulate groundwater impacts beyond the multiple levels of state and federal regulation applicable to the proposed landfill expansion. Those regulatory agencies provide a more appropriate venue to address groundwater quality impacts.

The Applicant has provided robust, qualified expert responses to concerns raised by opponent testimony ([Record ID. A0099 Responses to July 8-9 Evidence \(Exhibit E65\)](#)).

Concerns relating to potential water table and water quantity impacts were raised by some adjacent property owners, including expert testimony ([Record ID. T0776 J. Geier](#)). Qualified experts can and clearly do in this case disagree as to some of the details relating to hydrogeology with this project.

The Applicant provided supplemental evidence prepared by a hydrogeologist and a proposed approach to ensure groundwater quantity remains stable for adjacent properties during construction. Staff third-party engineers, also including a hydrogeologist, reviewed the evidence and recommended additional specific Conditions of Approval relating to pre-construction groundwater investigation, ongoing monitoring, specification on designed landfill bottom elevation, and observation during construction.

Therefore, for purposes of County land use review, and in the context of additional required regulatory frameworks, the proposal is unlikely to "seriously interfere" with adjacent uses concerning groundwater impacts, and the proposed approach is likely to succeed in ensuring there will be no interference with groundwater levels on adjacent properties.

¹⁹ [Record ID. BOC1_T0099 R. Holdorf](#); [Record ID. BOC1_T0147 T. Morrell](#); [Record ID. BOC1_T0155 L. A. Davis](#); [Record ID. BOC1_T0174 Ri. Kipper](#); [Record ID. BOC1_T0196 K. and S. Edwardsson](#); [Record ID. BOC1_T0215 J. Geier](#).

Staff recommends Conditions **P1-1(A-B)**, **P1-6(A-B)**, **P2-4(A-B)**, **P2-6(D-E)**, **OP-2(A-F)**, **OP-5(A-B)**, **OP-11**, and **OP-13** to ensure local well water impacts are avoided and ensure compliance with local, state, and federal water quality requirements.

Visual Impacts

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 39 – 40](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1620](#)
- [Record ID. BC016 Cross Sections of Expansion Height \(Exhibit E45\), p. 2215 – 2218](#)

Adjacent Property Owner/Resident Testimony:

- J. Searls ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 185](#))
- E. Finn ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 338](#))
- R. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 341](#))
- D. Hackleman ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 350 – 351](#))

Opponent testimony:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 387 – 388](#))

Staff Response, Planning:

Staff concurs with the Applicant's argument and evidence in relation to visual impacts on adjacent properties. As cited above, some concerns regarding visibility of the expansion area from properties to the south, lack of tree screening, and tarp condition were raised by adjacent property owners or residents and opponents and quoted in the June 2025 Staff Report. In addition, one pair of owners or residents on adjacent property submitted related testimony into the BOC record ([Record ID. BOC1 T0196 K. and S. Edwardsson](#)). However, as shown in the submitted Landfill Cross Section ([Record ID. BC016 \(Exhibit E45\), p. 2215 - 2218](#)), the proposed landfill expansion is below the height of the Tampico ridgeline to the south, and areas to the south will be screened from the landfill by topography and mature vegetation.

Based on the evidence provided, the proposed expansion will be much less visible overall than the existing landfill. While some elements of the proposed expansion may be visible from the west or east, as of the writing of this Staff Report, Staff have seen no evidence or reason to conclude that the visibility of some elements of the proposed landfill expansion from adjacent roadways will "seriously interfere" with uses on adjacent properties.

Staff recommends Conditions **P2-5**, **OP-6**, **OP-7**, and **OP-8**, limiting landfill expansion height to 450 feet above mean sea level, limiting site lighting, and installing and maintaining screening trees.

Litter

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 June 23 Cover Letter \(1/2\), p. 131 – 133](#)
- [Record ID. BC016 Proposed Conditions of Approval \(Exhibit E21\), p. 1203](#)

Adjacent Property Owner/Resident Testimony:

- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 168](#))
- J. Searls ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 185](#))

- R. Wilson ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 329](#))
- I. Finn ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 338](#))
- R. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 341](#))
- C. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 344](#))
- D. Hackleman ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 349 – 350, 352](#))
- G. Lind Flak ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 365](#))

Opponent testimony:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 381 – 383](#))

Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 7](#)):

“VII. RESPONSE TO ARGUMENTS REGARDING LITTER

The Applicant responded in detail to the testimony in opposition regarding litter control in Exhibit 65 on page 2, and the Applicant incorporates that response here.

A. Litter control will be substantially more robust. Proposed Condition OP-15 requiring additional fencing and other operation modifications will be substantially more robust than current litter control efforts, adding additional layers of different fencing and additional litter patrol and control measures. These measures will substantially reduce off-site litter dispersion.

B. The Applicant has proposed a new condition requiring the Applicant to clean up litter on the adjacent properties at the request of the property owner. In its July 16, 2025, Submittal in Response to New Testimony, the Applicant has proposed modification to the OP-15(F) (Off-Site Litter Management) to require Applicant to clean up litter on any adjacent property at the request, and subject to the consent, of the property owner. Exhibit 65 at 16. If any litter makes it past the multiple protections and measures required by condition OP-15, the property owner will have direct recourse to the Applicant to remedy the issue.

C. The County will be able to enforce compliance with the litter control conditions. Proposed condition OP-17 will enable the County to directly monitor ongoing compliance requirements.”

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 5](#)):

“The planning commission finds that litter escape from the landfill will seriously interfere with uses on adjacent properties and with the character of the area because litter escape will harm livestock and pets.”

Staff Response, Planning:

Staff included discussion of litter impacts into the June 2025 Staff Report, as it was raised numerous times in both adjacent property testimony and character of the area testimony. Staff also discussed litter in relation to “character of the area”. As with all discussion of impacts relating to BCC 53.215, Staff and reviewers must determine if an identified impact rises to the level of a “serious interference”.

In relation to “uses on adjacent property”, Staff had trouble finding a direct evidentiary line between most of the testimony about seeing trash and how that would “seriously interfere” with an adjacent use. For example, during the PC review, opponent and representative for VNEQS, Mr. Kleinman, raised a hypothetical scenario of a hay farmer dealing with plastic entering their field – but he did not then link that scenario to a specific farm. Dr.

Hackleman, an adjacent property owner or resident, identified the accumulation of plastic materials over the years as a “nuisance” but didn’t explain how this seriously interferes with his use of the property. Others testified they saw trash along roadways, or even on their property, but didn’t explain the impact of this trash in relation to the use of the property.

However, Mr. Wilson provided testimony that: 1. he raises cattle as a business; 2. plastic trash flies from the landfill onto his property; and 3. such trash could be ingested by and kill his cattle. Mr. Wilson wrote that “it is imperative that Republic Services is responsible for the care [of] the material they take into the landfill and should use methods to prevent airborne debris from leaving their site.” While not fully fleshed out in scale and evidence, this is a good example of a potential “serious interference” on an identified adjacent land use.

Additionally, the adjacent property resident, M. Bradley ([Record ID. T0774 Adjacent Property Testimony – M. Bradley](#)), provided testimony at the July 9, 2025, PC hearing that she raises and competitively shows livestock as a member of several 4-H clubs and is similarly affected by litter originating from the landfill.

Staff received an Applicant response to litter impacts and Mr. Wilson and Ms. Bradley’s identified impact ([Record ID. BC016 June 23 Cover Letter \(1/2\), p. 131 – 134](#)). The Applicant describes a robust existing litter abatement program and proposes to improve that program for the landfill expansion.

Following the Applicant response and the conclusion of the PC decision, three owners or residents on adjacent property submitted litter-related testimony into the BOC record²⁰.

The proposed Conditions of Approval reasonably limit expected occurrences of air-blown trash and address identified concerns; the proposed expansion with Conditions of Approval will reduce litter impacts below a level that would “seriously interfere” with adjacent land uses, and below the level of the existing landfill. Staff recognizes adjacent property owner testimony relating to litter concerns and potential impacts on livestock and pets from the existing landfill. Staff notes that the proposed Conditions of Approval for the proposed landfill expansion include increased fencing, litter control, cleanup, and enforcement, as well as a lower landfill height limit. All of these conditions are expected to reduce the potential for litter impacts on adjacent properties to a level that is not serious interference, and provide an improvement from the status quo.

Staff recommends Conditions **OP-9(A-H)** to address air-blown litter concerns in general, and Mr. Wilson and Ms. Bradley’s concerns along Tampico Road and adjacent properties specifically.

Fire Risk

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Fire risk assessment of Coffin Butte Landfill and Addendum \(Exhibit E20\), p. 1182 - 1195](#)
- [Record ID. A0052 Applicant Presentation Slides to Planning Commission](#)
- [Record ID. BC016 Memorandum RE: Fire Risk Testimony \(Exhibit E44\), p. 2212 – 2214](#)
- [Record ID. BC016 Response to VNEQS Fire Risk Comments \(Exhibit E56\), p. 2263 – 2269](#)

Adjacent Property Owner/Resident Testimony:

- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 169](#))

²⁰ [Record ID. BOC1 T099 R. Holdorf](#); [Record ID. BOC1 T0152 B. Briskey](#); [Record ID. BOC1 T0196 K. and S. Edwardsson](#).

- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 171, 176 – 180](#))
- P. Morrell ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 323](#))

Opponent Testimony:

- VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 452 – 453](#))

Applicant Response ([Record ID. A0099 Responses to July 8-9 Evidence \(Exhibit E65\), p. 12 - 13](#)):

“Jeffrey L. Kleinman, on behalf of Valley Neighbors for Environmental Quality, asserts that the history of landfill fires at Coffin Butte is significant. Past fires and future fire risks impose serious interference to adjacent property and the character of the area. Monitoring and logging of landfill fires is deficient. (Jeffrey L. Kleinman Memorandum dated July 8, 2025).

- With the exception of the 1999 landfill fire that occurred with the prior operator, no fire has risen to a level of significance, nor has it ever run the risk of migrating off-site. The 1999 fire cannot possibly reoccur at anywhere near that size with the way Republic Services operates Coffin Butte today.
- Republic Services will compile a log and description of any and all landfill fires going forward, no matter how small, and report them to DSAC and ODEQ. The risks of fires at Coffin Butte going forward cannot and will not impose serious interference to adjacent property nor to the character of the area.
- Historical facts on the written record, along with the professional opinion of the landfill fire consultants, both for P&Z Staff and Coffin Butte.”

Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 12](#)):

“Ken Eklund contends that under ODEQ regulation, Republic Services should have replaced landfill gas open flares with an enclosed flare earlier than when they did so. An enclosed flare would have prevented the open flare from causing a grass fire that posed a danger to at least one off-site resident. (Ken Eklund Testimony dated July 9, 2025)

- The open flare was replaced with an enclosed flare timely enough to comply with ODEQ regulations. The grass fire was small and limited in size. It never posed a threat to any off-site properties. Shortly after the grass fire occurred, the grass around the open flare was immediately replaced by gravel, so that a fire like this could not reoccur.
- Facts on written record.”

Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 7 - 8](#)):

“VIII. RESPONSE TO ARGUMENTS THAT THE LANDFILL IS A FIRE RISK

The Applicant responded in detail to the testimony in opposition regarding fire risk in Exhibit 65 on pages 11-13, and the Applicant incorporates that response here.

A. The fire history at the landfill does not support the argument that the expansion presents a significant fire risk. With the exception of the 1999 landfill fire that occurred under the prior operator, no fire has risen to a level of significance, nor has it ever run the risk of migrating off site. As noted by the Applicant’s fire expert, Jim Walsh, that type of fire is not possible given

current operations, including the smaller size of the working face and the daily cover requirement.

[...]

C. A second water truck will be required. In response to concerns about the availability of the water truck to fight fires if it is off site refilling or involved in dust control, the Applicant has proposed an amendment to OP-12(A) that will require the Applicant to maintain two water trucks at the site and impose a requirement that at least one of the trucks be on the landfill property at all times. Exhibit 65 at 16. The Applicant notes that soil cover is the primary method of fighting landfill fires as outlined in the Applicant's fire studies, but the second truck will provide an added layer of protection.

D. The County will be able to enforce compliance with the fire protection conditions. Proposed condition OP-17 will enable the County to directly monitor ongoing compliance requirements."

Planning Commission Decision ([Commissioner Lee Incorporated Findings, Record ID. BC019, p. 18 - 19](#)):

"Whether a fire that started at CBL or a fire that engulfed the region, any fire that included the CBL footprint would seriously impact adjacent uses and the character of the area and be an undue burden on local services.

I am concerned that BC and the Applicant do not seriously consider and plan for the risks associated with fire at CBL, risks that the expansion will enlarge proportionally."

Planning Commission Decision ([Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 52 - 53](#)):

"[...] Republic Services application and testimony regarding fire management and risk, failed to be consistent, responses to Planning Commissioner questions for clarity were evasive or incomplete at times, and the expansion proposal does not adequately address large fire risk, hazardous materials health risks and adverse impacts experienced by first responders, was unable to address response to a methane driven, deep well or gas explosion fire, unable to address mitigations for wind driven sparks from large fires and response capacity to respond to fires fire larger than the basic grass fire, an inability to monitor fires that are currently dependent on reports by drive-bys and neighbors, and lack of adequate training for Coffin Butte Landfill employees."

Applicant Response ([Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 4](#)):

"Staff summary: In response to Incorporated Findings from Commissioner Biscoe, the Applicant disputes claims of frequent fire incidents, noting that Adair Rural Fire & Rescue records from 2013 through July 2025 show only eight fires requiring suppression; eleven additional calls were determined to involve false alarms. This averages to fewer than one "suppression-required fire" per year, all promptly managed without injury or property damage. The Applicant emphasizes that occasional small fires are typical at landfills, are generally manageable, and do not indicate that the landfill poses a significant fire risk."

Staff Response, MFA Engineering:

MFA provided feedback on the Applicant's Fire Risk Response and Fire Risk Assessment in the June 2025 Staff Report. MFA did not identify technical concerns and recommended best industry practices for fire risk management. Of note, MFA strongly recommended that:

“[...] landfill operations prioritize the proper maintenance of LFG management systems and closely monitor for subsurface fire activity, particularly in cases of system failure or interruption.” ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#))

Staff Response, Planning:

As cited above, some concerns regarding fire risks were raised by adjacent property owners or residents and opponents and quoted in the June 2025 Staff Report. In addition, one owner or resident on adjacent property submitted related testimony into the BOC record ([Record ID. BOC1 T0173 Ro. Kipper](#)).

Staff reviewed testimony and concerns, the Applicant’s Fire Risk Assessment Report, and the Applicant’s responses to fire risk concerns.

The Applicant proposes a fire control plan following best practices. The Applicant has responded to opponent testimony with expert testimony. Staff recommends Conditions **OP-2(A-F), OP-4(G), and OP-10(A-D)** to limit accepted waste, maintain two working fire trucks on site, monitor and log, provide records relating to fires, and provide 24-hour on-site surveillance and monitoring of the landfill expansion area on red flag days.

The Applicant has proposed a fire risk management plan consistent with best practices. Staff has seen no evidence that the proposed landfill expansion will increase fire risks. Proposed Conditions of Approval are expected to reduce fire risks below existing conditions on the site.

Wildlife

Applicant Response ([Record ID. A0099 Responses to July 8-9 Evidence \(Exhibit E65\), p. 10 - 11](#)):

“Staff summary: In response to opponent arguments, the Applicant asserts that the proposed fencing and other mitigation measures will not meaningfully disrupt wildlife. The fenced areas are limited to active landfill operations, which are not major wildlife corridors, and do not block the movement of elk, deer, or their predators through Forest Conservation lands. The Applicant also contends that the landfill does not significantly increase predatory bird populations and may help divert them away from sensitive species, including protected herons. Surveys of heron rookeries have followed approved protocols, and any new or relocated rookeries will be appropriately monitored. The project is not expected to interfere with heron flight paths to foraging areas, and additional studies will be conducted if mitigation is needed.”

Planning Commission Decision ([Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 43](#)):

“Undue Burdens and Serious Interference presented by the public in this process, include:

[...]

Ongoing disturbance to Great Blue Heron nesting colony – disparate reporting between public Subject Matter Experts and Applicant’s consultant testimony”

Staff Response, Planning:

Due to neighbor and opposition testimony, the June 2025 Staff Report took a closer look at wildlife impacts as well as Benton County’s Goal 5 (Natural Resources) protection program and code implementation. The June 2025 Staff Report included a section addressing BCC Chapter 87 Fish and Wildlife Habitat and provided detailed responses to address concerns related to heron rookeries. The Applicant addressed opposition testimony relating to heron rookeries and included expert testimony concluding that the proposal will not seriously interfere with active rookeries.

The Applicant's proposed wildlife protection program is consistent with forest practices, ODFW requirements, and County code requirements relating to wildlife protection. See also findings for BCC Chapter 87 in Section VI.

Staff recommends Conditions **P1-8, P2-8, and OP-16** which require the identification and protection of active rookeries during the construction and operation of the proposed landfill expansion.

Air Quality

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 116 – 120](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1620](#)
- [Record ID. BC016 Memorandum Re: Beyond Toxics May 6th Testimony \(Exhibit E37\), p. 1735 – 1737](#)

Agency comments:

- ENRAC ([Record ID. BC015 Compiled Agency Comments, p. 50](#))

Adjacent Property Owner/Resident testimony:

- E. and L. Bradley ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 168](#))
- P. Morrell ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 323](#))
- C. Holdorf ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 343](#))
- B. Briskey ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 355](#))
- G. Lind Flak ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 365](#))

Applicant Response ([Record ID. A0099 Responses to July 8-9 Evidence \(Exhibit E65\), p. 5 - 6](#)):

"Staff summary: In response to opponent testimony, the Applicant explains that the large methane plume observed on April 18, 2025, coincided with active drilling of new gas wells on April 14–15, 2025, as part of routine gas collection system improvements. The early installation of wells—well before the regulatory 60-month timeline—demonstrates a proactive approach to capturing landfill gas and reducing emissions. By April 25, 2025, Carbon Mapper data showed the plume had largely dissipated and remained within the landfill footprint. Daily Construction Quality Assurance reports document these activities."

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 5](#)):

"The planning commission finds that landfill uses will seriously interfere with uses on adjacent properties and the character of the area due to the presence of methane gas plumes and PFAS emissions into the air. The planning commission considered the Applicant's consultants' evidence and the county's third-party reviewers' evidence and considered the evidence submitted by opponents, including but not limited to VNEQS and Beyond Toxics."

Planning Commission Decision ([Commissioner Lee Incorporated Findings, Record ID. BC019, p. 23](#)):

"Poor air quality poses serious interference with livability. Additional health concerns are 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."

Applicant Response ([Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 8](#)):

"Some residents point to increasing cancer clusters in their neighborhood and suggest that poor air quality may be responsible."—Commissioner Lee Opening Statement. This assertion is entirely unsupported by any evidence in the record. No studies, reports, or data were

introduced during the proceedings to substantiate the claim, nor is there any indication that public health authorities have identified or confirmed such a phenomenon in proximity to Coffin Butte Landfill. Moreover, the vagueness of the statement, offered without reference to location, timeframe, or affected population renders it impossible to meaningfully confirm or rebut. Introducing unsubstantiated and undefined allegations of serious public health impacts not only falls outside the evidentiary record but also risks misleading the public and improperly influencing the decision-making process. The Commission’s findings must be based on credible, record-based evidence, not conjecture or generalized fears.”

Staff Response, MFA – Engineering:

MFA did not identify any technical concerns with the Applicant’s Environmental Methane Compliance Report in the June 2025 Staff Report ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#)).

Staff Response, Planning:

As cited above, the June 2025 Staff Report included testimony from adjacent neighbors, opponents, and ENRAC relating to air quality. In addition, five owners or residents on adjacent property submitted related testimony into the BOC record²¹.

Staff understands opponent concerns about landfill gas emissions. However, Staff concurs with the Applicant that County land use review is not the appropriate forum to evaluate and control air quality in relation to concerns such as methane concentrations or public health risk. The landfill must comply with DEQ air quality regulations, which directly address these concerns. DEQ reviews air quality complaints and can require enforcement action in cases of violations. Staff also notes recent legislation (2025 SB 726 directing changes to ORS 468A with an operative date of January 1, 2027) that requires additional rulemaking and air quality monitoring specific to municipal solid waste landfills in Benton County.

Staff recommends Conditions **P1-6(A, C)**, **OP-11**, and **OP-13** requiring maintenance of required local, state, and federal permits, as well as compliance with state and federal regulations relating to methane, PFAS, and air quality.

Meaning of “Character of the area”

As discussed in Issues Overview (Interpretation of Ambiguous Language in the BCC) and above in the Staff Response relating to discretionary language in BCC 53.210, the Boards’ interpretation of ambiguous language is critical to reviewing the application against code criteria.

The third important term used in BCC 53.215(1) relates to the “character of the area”. This term was addressed in BCTT LLU F-9b:

²¹ [Record ID. BOC1_T0147 T. Morrell](#); [Record ID. BOC1_T0152 B. Briskey](#); [Record ID. BOC1_T0155 L. A. Davis](#); [Record ID. BOC1_T0173 Ro. Kipper](#); [Record ID. BOC1_T0196 K. and S. Edwardsson](#).



" [...] Staff reports that in past CUP applications the Planning Official, Planning Commission or Board has considered these factors in determining the character of the area and its extent include:

- The particular attributes of the geographic setting (including existing operations in the vicinity.)*
- Is there a distinct change in the area's physical characteristics beyond a certain point (such as a change from flat land to hills or from one river basin across a ridgeline into another)?*
- What features or elements give the area its character? Is it a homogenous or heterogeneous character (is there a high degree of similarity, or is it mixed)?*
- How far are the effects of the proposed land use likely to extend? This may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa). [...]"*

Applicant prepared an analysis area map based on the BCTT definition above. The area to be evaluated for "character of the area" was based on the extent of mapped effects of the existing use – in this case, the largest area of mapped effects was logged odor complaints (Figure 2 in [Record ID. BC016 Burden of Proof, p. 30](#)). The Applicant prepared findings and evidence based on this area (approximately 90 square miles).

Staff concurred with this area definition, and prepared findings in response to this definition.

Of particular note relating to the definition of the "character of the area" was how to address the existing landfill in the context of the area. See also discussion of "Context of Existing Use vs Proposed Expansion" in the Issues Overview.

Applicant included the existing landfill as an element of the existing character of the area and prepared their application materials consistent with this definition. Staff also considers existing uses to be part of the character of the area, and prepared findings consistent with this definition.

However, an attorney representing opposition to this application disagreed with considering the existing landfill as part of the "character of the area" analysis, and the Planning Commission decision provided additional interpretation of the area context in relation to the landfill. Relevant arguments presented by the Applicant and opposition are linked below.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- Establishing the "area" ([Record ID. BC016 Burden of Proof, p. 28 – 31](#))
- Establishing the area's character ([Record ID. BC016 Burden of Proof, p. 31 – 33, 42 – 43](#))
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1617](#))

Opponent evidence:

- Establishing the area's character (J. Kleinman representing VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 377, 387](#))
- Establishing the "area" (J. Kleinman representing VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 388 – 389](#))

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 4](#)):

“The planning commission finds the character of the area to include urban and rural residential uses with the expansion of those uses northward from the city of Corvallis towards the existing landfill in recent decades, and places more importance on those urban and rural residential uses and less to no importance on the existing landfill use in the area.”

Planning Commission Decision ([Chair Fowler Incorporated Findings, Record ID. BC019, p. 8](#)):

“The landfill has been in operation for more than 50 years so is to be accepted within the character of the area. I do accept and agree that a landfill is a component of the character of the area. However, I do not believe that the current tempo of operations was anticipated or reviewed as a land use action and by extension, the public. The record shows approved CUP for ancillary activities of power generation, stockpiling, transfer, etc. with the last Conditions of Approval in 2015 for stormwater treatment. This was the last successful test of BCC 53.215 but at an operating tempo less than half of today and that of what is proposed going forward. I readily accept the landfill as a part of the character of the area, but I do not accept that all current impacts, especially those correlated to tempo of operations, must be considered as baseline and grandfathered in.”

Staff Response, Planning:

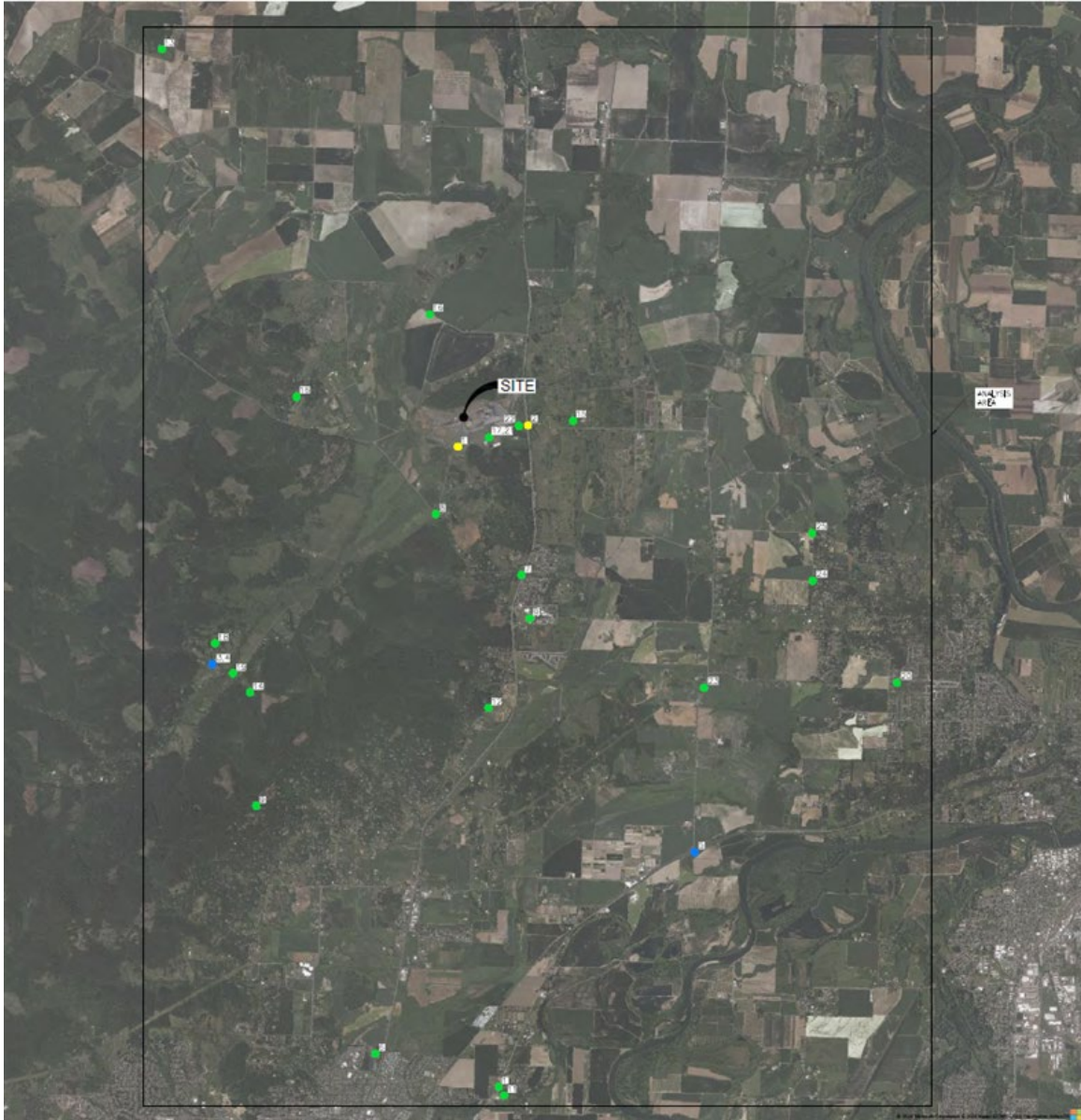
Staff continue to recommend that an evaluation of “character of the area” include the existing uses within the area, including the existing landfill. Staff continues to recommend that evaluation of “serious interference” to that character be focused on the effects of the proposed expansion.

Staff agrees with the Applicant that, in the context of this application, the “area” in this criterion can be defined by the extent of the effects of the existing landfill use (the “base case”) as well as the effects of the proposed landfill expansion.

Staff concurs with opponent testimony that the character of the area covers considerably more territory than adjacent properties.

Staff concurs with the Applicant’s proposed analysis area which, at approximately 90 square miles, is much larger than a typical “character of the area” analysis in conditional use review. Staff find this large area inclusive and sufficient for evaluating compliance with this standard.

Figure 5. Map of Analysis Area ([Record ID. BC016 Burden of Proof, p. 22](#))



Staff does not agree with opponent testimony that the existing landfill should not be considered in a review of the character of the area. See also Context of Existing Use vs Proposed Expansion discussion in Issues Overview. All existing developments and uses, including the existing landfill, define the character of the area. Staff agrees with BCTT findings referenced by the Applicant regarding past interpretation of the factors considered in determining the character of the area.

The character of the area, when considered as a whole, is heterogeneous (there are a mix of characteristics throughout). Nevertheless, common attributes of the geographic setting include – as the Applicant noted in their response – areas with:

- Rural development - Including rural residential land, the Coffin Butte Quarry, and the Coffin Butte Landfill.
- Resource Land – Including land zoned and used for farm and forest.

- Urban development – Including Adair Village and portions of Corvallis and North Albany.
- Varying topography and natural habitats – Features or elements include Coffin Butte, Tampico Ridge, the E.E. Wilson Wildlife Area, and open spaces. In the southwest and central parts of the area (on the edge of which the Coffin Butte Landfill is located), the terrain includes a concentration of steeper slopes and higher altitudes compared to the remaining area.
- “[O]ccasional odors, sounds, noises, and trips from the existing landfill operation and surrounding resource-extraction uses”. As part of the review immediately below this, Staff evaluates the Applicant’s narrative and evidence regarding the current extent of those conditions.

These characteristics make up what Staff consider to be the character of the area. Staff notes that most of the opposition testimony relating to impacts on the character of the area identifies characteristics of the existing landfill. Staff evaluates whether the proposed landfill expansion will change the character of the area enough to “seriously interfere” with it. Due to the existing landfill, this is a relatively high bar.

Relationship between the character of the area and potential impacts

The majority of testimony received that referenced code criteria identified “character of the area” impacts. Staff classified testimony into eight general categories of impacts on the “character of the area”:

- Noise
- Odor
- Traffic
- Water Quality
- Visual Impacts
- Litter
- Wildlife
- Air Quality

Each of these categories are discussed below. Each impact section begins with links to Applicant testimony and evidence, followed by links to adjacent property owner and opposition attorney testimony evaluated in the final Staff Report to the Planning Commission, where applicable.

These links are followed by summaries of Applicant testimony provided in final rebuttal, then the Planning Commission decision, and summaries of Applicant testimony provided in their appeal package, where applicable.

Finally, Staff provides a Staff Response to the evidence presented by all of the above. Staff notes that most of the evidence and testimony relating to “character of the area” mirrors testimony relating to impacts on adjacent properties.

Noise

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 43](#)

Staff Response, Planning:

Due to the presence of existing landfill operations in the immediate vicinity of the proposal, Staff notes that noise from landfill operations is an existing element of the character of the area. Therefore, the question becomes whether the change in noise proposed through this application will “seriously interfere” with the character of the area. As noted in the Applicant’s noise study, noise impacts from the proposed expansion are limited to adjacent

properties and do not extend to a larger area. Essentially, noise produced in one area of the landfill zone will decrease, and noise produced in another area of the landfill zone will increase. The overall character of the area will experience a slight reduction in noise near the current active cell and a slight increase in noise adjacent to the proposed expansion cell.

Staff concur with the Applicant's reasoning that if the proposed change in noise does not seriously interfere with the closest noise-sensitive uses, it will not seriously interfere with the character of the area. As discussed under adjacent land uses, Applicant's revised noise management proposal and recommended **Conditions P2-2 and OP-3** reduce expected noise volumes below existing conditions. This is sufficient to not "seriously interfere" with adjacent uses. There is no evidence that the noise impacts relating to the proposed landfill expansion will extend beyond one adjacent property. Noise impacts of the proposed landfill expansion are not expected to interfere in any way with the "character of the area".

Odor

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 43](#)

Staff Response, Planning:

Odor commentary in opposition primarily focuses on ongoing odor impacts from the existing landfill. The Applicant's updated odor study and expected impacts from the expansion are more thoroughly reviewed under adjacent property impacts. In summary, with proposed Conditions of Approval, odor impacts from the proposed expansion are not expected to negatively impact existing conditions or "seriously interfere" with the character of the area. Expected odor production is modeled to decline from existing conditions.

Staff's conclusion that the landfill expansion will not seriously interfere with uses on adjacent properties or with the character of the area with regard to odor impacts is based on the Applicant's submitted 2025 Odor Study ([Record ID. BC016 June 2025 Odor Study, p. 1623 – 1734](#)). The Applicant's odor study models annual organic waste acceptance of 930,373 tons or less from 2023 to 2052. Accordingly, a condition of approval is authorized by BCC 53.220 and it is appropriate to ensure that the Applicant's modeled amount of waste acceptance is not exceeded on an annual basis.

Recommended **Conditions P2-3(A-B), OP-4 (A-H), and OP-8** limit landfill height, require daily odor monitoring and resolution, third party review and recording of odor monitoring, limit trash intake to assumptions the Applicant used in their supplemental odor study, limit working face area, and require daily cover of areas not actively receiving waste.

Traffic

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 43](#)
- [Record ID. BC016 Traffic Report and Addendum \(Exhibit E15\), p. 984 – 1099](#)

Planning Commission Decision ([Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 46](#)):

"Noise pollution and heavy truck and waste hauling traffic has been a persistent complaint topic regarding current operations of the Coffin Butte Landfill. The expansion application did not address noise concussions, increased heavy truck traffic to remove 2.1 million cubic yards of blast material from the expansion site, and other heavy equipment noises and impacts for the construction of the expansion

area, including removal and mitigation of the current leachate ponds. The combined adverse impacts, undue burden and serious interference of the region due to the noise and traffic increases of the combined current operations and the expansion area were not addressed, including any reasonable mitigation to the region or surrounding properties proposals by Republic Services.”

Staff Response, Planning:

The Applicant’s traffic analyses, including those cited above and responses to the PC decision ([Record ID. BOC1 A0004 PC Decision Responses and Evidence \(Exhibit E67\)](#)) have been evaluated by county engineering and a 3rd party contract engineer. In response to concerns relating to construction traffic, Applicant provided evidence that traffic impacts relating to the proposed expansion, even including construction traffic, are expected not to impact the transportation system and will not “seriously interfere” with the character of the area.

Water Quality

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 43](#)

Planning Commission Decision ([Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 43, 46](#)):

“Undue Burdens and Serious Interference presented by the public in this process, include:

[...]

PFAs in both leachate and in air borne gases; in particular the bio-accumulations in surrounding environment, found in groundwater, surface water, soil aggregates, air that is breathed, equally important is the bioaccumulations in plant materials, in livestock, in wildlife and has not been considered in the application for expansion. (Mary’s River Grange written testimony)

[...]

Environmental Regulation Concerns Noted in the Record

[...]

Leachate and PFAs – The Willamette River is a public facility and provides public services and a source of drinking water for thousands of Oregonians. The current and proposed leachate disposal method is an undue burden and creates a serious interference to surrounding communities and those downstream and regionally adjacent properties of Adair Village, Independence, Sherwood, Wilsonville, Tualatin Valley as regional.”

Staff Response, Planning:

As discussed under the Staff response to water quality impacts on adjacent properties, concerns relating to regulation of landfill water quality impacts are generally beyond the county’s ability to evaluate or regulate but are directly within the regulatory authority of several state and federal agencies. For the county’s land use review purposes, the proposed landfill expansion is not expected to “seriously interfere” with the character of the area in relation to water quality impacts.

Staff recommends **Conditions P1-1(A-B), P1-6(A-B), P2-4(A-B), P2-6(D-E), OP-2(A-F), OP-5(A-B), OP-11, and OP-13** to monitor and ensure compliance with local, state, and federal water quality requirements.

Visual Impacts

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 43](#)
- [Record ID. BC016 Aerial renderings of Coffin Butte Landfill \(Exhibit E18\), p. 1175 - 1179](#)

Opponent evidence:

- J. Kleinman representing VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 389 – 340](#)

Staff Response, Planning:

Staff review and discussion of visual impacts is provided in more detail in the adjacent properties discussion earlier. The proposed expansion area – at full build-out and with their proposed screening or maintenance of existing plantings– may be visible from Coffin Butte Rd, Hwy 99W, and properties “at a higher elevation”. Many opposition comments were submitted to the County relating to the presence of an unattractive landfill on this site. The standard calls for an evaluation of whether the proposal will “seriously interfere” with the character of the area. There has been an active landfill between significant topographical features along Coffin Butte Road for decades; it is highly visible from nearby roadways. For this application, Staff must evaluate the impact of the expansion on the character of the area, not the impact of the existing landfill.

Staff is receptive to the idea that visual impact can be as or more relevant to the character of the area than to adjacent properties. However, the proposal is for an operation that maintains lower elevation than the existing landfill, and at a lower elevation than the surrounding Tampico ridgeline. Moving the active face to the expansion area, as proposed, results in less visibility to the surrounding area than the existing landfill.

While the proposal includes additional development within the landfill zone that will also be visible, major surrounding topographical features will remain and the general views into the landfill area may include slightly less landfill activity than exist today; therefore, Staff concurs with the Applicant that this change will not “seriously interfere” with the character of the area.

Staff recommends **Condition OP-8** limiting height of the landfill to the Applicant’s proposed height (450 feet above mean sea level), which will maintain the top of the landfill below the Tampico crests, which are approximately 515-590 feet above sea level.

Litter

Planning Commission Decision (Commissioner Lee Incorporated Findings, Record ID. BC019, p. 23):

“Litter from the expansion may increase due to the increased transport of trash across CB Road from the North side to the South side as part of the new process. The potential increase in annual tonnage is unclear. The application acknowledges serious interference by addressing it specifically in the COA. Litter on the roadside degrades the environment and the visual impact seriously interferes with the character of the area.”

Staff Response, Planning:

Litter is addressed in greater detail in relation to impacts on adjacent properties. Recommended **Conditions OP-8 and OP-9(A-H)** will limit landfill height and activities on site, improve trash retention on site, and improve cleanup for the surrounding community. The proposed expansion is also lower and more sheltered by both topography and forested areas than the existing landfill. The proposed expansion, with recommended Conditions of Approval, is expected to reduce the amount of litter impacting the community. Therefore, the proposal will not “seriously interfere” with the character of the area in relation to litter.

Wildlife

Staff Response, Planning:

Comments and concerns relating to heron rookeries and regulated wildlife impacts are addressed under Chapter 87 in this Staff Report.

Staff recommends **Conditions P1-8, P2-8, and OP-16**, which require the identification and protection of active rookeries during the construction and operation of the proposed landfill expansion.

Air Quality

Planning Commission Decision ([Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 43](#)):
“Undue Burdens and Serious Interference presented by the public in this process, include:

PFAs in both leachate and in air borne gases; in particular the bio-accumulations in surrounding environment, found in groundwater, surface water, soil aggregates, air that is breathed, equally important is the bioaccumulations in plant materials, in livestock, in wildlife and has not been considered in the application for expansion. (Mary’s River Grange written testimony)”

Staff Response, Planning:

Air quality concerns are described in detail in the Air Quality impacts section relating to impacts on adjacent properties. In the context of “character of the area”, air quality concerns as presented are primarily related to the existing landfill. However, in the technical review of the proposal, Staff did not see evidence that the area's air quality would worsen due to the proposed expansion.

As noted in relation to adjacent properties, Staff understands the testimony and concern about landfill gas emissions. However, Staff concurs with the Applicant that County land use review is not the appropriate forum to evaluate and control air quality in relation to issues such as methane concentrations or public health risk. The landfill must comply with DEQ air quality regulations, which directly address these concerns. DEQ reviews air quality complaints and can require enforcement action in cases of violations.

Staff recommends **Conditions P1-6 (A, C), OP-11, and OP-13**, requiring maintenance of required local, state, and federal permits, as well as compliance with state and federal regulations relating to methane, PFAS, and air quality.

“Purpose of the zone”

Finally, BCC 53.215(1) requires that the landfill expansion not seriously interfere with the **Zone's purpose**. As the development area is within the LS and FC zones, the responses regarding each zone’s purpose are detailed below.

CHAPTER 60 – FOREST CONSERVATION (FC)

PURPOSE

60.005 Forest Conservation Zone.

- (1) The Forest Conservation Zone shall conserve forest lands, promote the management and growing of trees, support the harvesting of trees and primary processing of wood products, and protect the air, water, and wildlife resources in the zone. Resources important to Benton County and protected by this chapter include watersheds, wildlife and fisheries habitat, maintenance of clean air and water, support activities related to forest management, opportunities for outdoor recreational activities, and grazing land for livestock. Except for activities permitted or allowed as a conditional use, non-forest uses shall be prohibited in order to minimize conflicts with forest uses, reduce the potential for wildfire, and protect this area as the primary timber producing area of the County.*
- (2) The provisions of this chapter are not intended to regulate activities governed by the Forest Practices Act and Rules.*
- (3) The provisions of this chapter are based on the mandatory standards related to land use activities on forest land specified under Oregon state statutes, and Goal 4 of the Oregon Land Use Planning*

Program and the implementation requirements adopted by the Land Conservation and Development Commission pursuant to Chapter 660, Division 6 of the Oregon Administrative Rules.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 44](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1621](#)

Opponent evidence:

- J. Kleinman representing VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 392 – 393](#)

Planning Commission Decision (Commissioner Lee Incorporated Findings, Record ID. BC019, p. 24 - 25):

“Forest Conservation Zone wildlife (migration):

The construction and operating conditions on FC zone result in changes in grazing habitat and migration corridor used by a variety of wildlife species. The Applicant proposes use of fencing around the expansion area with no evidence of the impact of the fencing.

The GBH [Great Blue Heron] analysis relies on the assumption of the birds’ habituation to noise.

[COA] P2-3 states that the Applicant will identify a buffer of 300 ft. but does not specify if it is a buffer of 300 ft surrounding the sensitive area or in a specific direction

The COA includes no mitigation for GBH during the operation of the landfill.

The Applicant only addresses Great Blue Heron concerns. Either that condition should be expanded to include other wildlife or additional conditions should be added. Testimony from the public indicates numerous other potential wildlife impacts.

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.”

Staff Response, Planning:

Landfills are specifically identified as a conditional use in the FC zone and therefore any argument that landfills are inherently incompatible with the FC zone is a collateral attack on the zoning, which has already been decided by the county in adopting the allowed uses in the zone. The standards contained within the Forest Conservation zone directly implement the purpose of the FC zone by evaluating and limiting impact on forest uses, addressing fire risk, and regulating site development to limit impacts on forest resources. Staff evaluates the application’s consistency with FC Zone requirements under Chapter 60 findings below.

The FC zone conditional use criterion BCC 60.220(1)(c) requires consistency with BCC 53.215. As discussed above, the proposal can meet BCC 53.215 requirements with proposed Conditions of Approval. As discussed under the full Chapter 60 findings later in this Staff Report, the proposal can meet all FC zone standards with recommended Conditions of Approval. Of note in relation to Commissioner Lee’s concern about fencing, the fencing condition has been revised to require fencing around the working face within the LS zone, not the FC zone. Therefore, with recommended **Conditions P1-3, P2-7, and OP-10**, the application will not “seriously interfere” with the purpose of the FC zone.

Additionally, there is no evidence or argument in the record pointing to other mapped wildlife resources that might be impacted by the landfill uses on the FC zoned property.

CHAPTER 77 – LANDFILL SITE (LS)

77.005 Purpose.

The Landfill Site Zone shall establish a specific landfill area in Benton County.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 44](#)

Staff Response, Planning:

Landfill expansion onto land in the Landfill Site Zone is directly consistent with the stated purpose of the LS Zone and would not seriously interfere with that purpose.

53.215 (1) Conclusion:

Staff Response, Planning:

As detailed in Staff comments above, planning Staff evaluated whether the proposal would “seriously interfere” with “adjacent property”, the “character of the area”, and the “purpose of the zone”.

- **Adjacent Property:** Staff finds that the proposal can be conditioned to not “seriously interfere” with adjacent uses when evaluating noise, odor, traffic, water quality, well water impacts, visual impacts, litter, fire risk, wildlife, and air quality. Staff recommends **Conditions P1-1(A-B), P1-5(A-H), P1-6(A-C), P1-8, P1-9(A-F), P2-1(A-C), P2-2(A-B), P2-3(A-B), P2-4(A-B), P2-5, P2-6(D-E), P2-8, OP-1(A-D), OP-2(A-F), OP-3(A-C), OP-4(A-H), OP-5(A-B), OP-6, OP-7(A-C), OP-8, OP-9(A-H), OP-10(A-D), OP-11, OP-12, OP-13, OP-14, and OP-16** to limit and mitigate potential impacts that could “seriously interfere” with uses on adjacent properties.
- **Character of the Area:** Staff finds the proposal can be conditioned to not “seriously interfere” with the character of the area. Staff recommends **Conditions P1-1(A-B), P1-6(A-C), P1-8, P2-2, P2-3(A-B), P2-4(A-B), P2-6(D-E), P2-8, OP-2(A-F), OP-3, OP-4(A-F), OP-5(A-B), OP-8, OP-9(A-H), OP-11, OP-13, and OP-16** to limit and mitigate potential for “serious interference” to the character of the area.
- **Purpose of the Zone:** Staff finds the proposal can be conditioned to not “seriously interfere” with the purpose of the Landfill Site Zone or the Forest Conservation Zone. Staff recommends **Conditions P1-3, P2-7, and OP-10** to ensure consistency with the purpose of the FC Zone.

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

Meaning of “Undue Burden”

As discussed in Issues Overview (Interpretation of Ambiguous Language in the BCC) and above in the Staff Response relating to discretionary language in BCC 53.210, finding a common understanding of language is critical to reviewing the application against code criteria.

BCC 53.215(2) uses the words “undue burden” in relation to public improvements, facilities, utilities or services available to the area. The Applicant developed their application narrative and evidence based on guidance from the BCTT Workgroup related directly to this term (BCTT LLU F-9c):

BCTT Formal
Workgroup
Polling

LLU F-9c

Unanimous

"[...] Staff has stated that in past CUP applications the Planning Official, Planning Commission or Board has considered a "burden" on public infrastructure and service is likely "undue" if it overloads the system or causes significant degradation in terms of quality, effectiveness or timeliness of infrastructure or service. Lesser burdens may also be "undue" if the effect jeopardizes people's health, safety, or welfare. Burdens that the County has typically not considered "undue" include those that can be mitigated through planned improvements, that are incremental service additions[footnote] consistent with that generated by other uses in the area or that fall below an established threshold (such as road classification standards). For planned improvements to be relied upon in determining that a burden is not undue, the implementation of those improvements must be certain, such as through a condition of approval specifying the improvement and the timeline for implementation."

Staff concurred with this definition and prepared Staff findings in response to this definition.

However, the Planning Commission disagreed with using the BCTT definition, and the Planning Commission decision redefined the words "undue burden" to mean:

"A situation where a requirement or action is excessively difficult, costly, or impractical to fulfill, effectively preventing or significantly hindering someone from exercising a right or fulfilling an obligation".

Relevant arguments presented by the Applicant and opposition are linked below.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 45](#)

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 5](#)):

"Preliminarily, the planning commission interprets the undefined phrase "undue burden" in BCC 53.215(2) to mean "A situation where a requirement or action is excessively difficult, costly, or impractical to fulfill, effectively preventing or significantly hindering someone from exercising a right or fulfilling an obligation" as proposed by Commissioner Fulford."

Applicant Response ([Record ID. BOC1 A0003 Code Interpretation Memorandum from Miller Nash \(Exhibit E66\), p. 2](#)):

"The Applicant analyzed BCC 53.215 in Section III of its Burden of Proof using [the BCCT] framework, relying on Webster's to construe terms such as "adjacent" and relying on the historical interpretation of terms such as "seriously interfere" and "undue burden" as analyzed by Benton County Staff during the Benton County Talks Trash ("BCTT") process. Benton County's independent consultants concurred with this interpretation in the initial and amended Staff reports.

The Planning Commission decision ignored these analyses and failed to offer a reasonable alternative interpretation."

Staff Response, Planning:

Staff continues to recommend that the Board of Commissioners use guidance on terminology established in the BCTT workgroup, as it is contextually appropriate to the code criterion, as well as logical, carefully crafted, and defensible for either approval or denial of the application.

Traffic

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1621](#)
- [Record ID. BC016 Response to VNEQS Traffic Comments \(Exhibit E54\), p. 2252 - 2257](#)

Agency comments

- ENRAC ([Record ID. BC015 Compiled Agency Comments, p. 51](#))
- ODOT Region 2 ([Record ID. BC015 Compiled Agency Comments, p. 109](#))

Opponent evidence:

- J. Kleinman representing VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 393 – 394](#)

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 5](#)):

“The planning commission concludes that the landfill use, and in particular traffic from construction activities associated with construction of the new cell, will unduly burden transportation facilities. The planning commission considered the Applicant’s traffic consultant’s evidence and the county’s third party reviewer’s evidence and considered the evidence and testimony submitted by opponents.”

Planning Commission Decision ([Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 45](#)):

“Undue Burdens and Serious Interference presented by the public in this process, include:

[...]

Hidden costs vs benefits of lower cost waste services – (emissions, leachate, groundwater contamination, transportation, regulations, testing, real estate values, livability, TBD. (Jan Napack, April 21, 2025)”

Staff Response, Public Works:

In the June 2025 Staff Report, County Public Works provided the following feedback:

Coffin Butte Road, and the easterly segment of Soap Creek Road carry the functional classification of Major Collector. Neither facility meets current standards for this classification as specified in the TSP. [...] Improvement of Coffin Butte Road to this standard will provide additional lane width and wide shoulders for vehicle stops and to accommodate bicycle, pedestrian, and emergency access where this function is currently very limited. [...]

Benton County Staff have cooperated with Kellar Engineering in this review process, and we concur with their findings and conditions regarding the Traffic Impact Analysis.” ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 30 – 32](#))

Staff Response, Kellar Engineering (Attachment A, p. 11):

In the June 2025 Staff Report, Kellar Engineering provided feedback recommending that Transight Consulting respond to comments provided by Mark Yeager (April 21, 2025 - [Record ID. BCO15, p. 368 – 372](#)) and respond to the claim the Knife River traffic is substantially different from landfill traffic. Kellar Engineering also confirmed that projected traffic levels are within typical rural collector parameters. ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 30 – 32](#))

Kellar Engineering reviewed the Applicant's updated traffic submission and provided additional responses:

- Kellar Engineering (KE) has reviewed [[Record ID. BOC1_A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 4 – 6](#)], Commissioner comment responses. KE does not have objections to the comment responses provided in the document.
- Kellar Engineering (KE) has also reviewed the formal response to transportation comments #1 and #2 in a P.E. stamped memorandum (memo) dated August 25, 2025, by Transight Consulting, LLC ([[Record ID. BOC1_A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 42 – 44](#)]). KE does not have objections to the comment responses provided by Transight Consulting, LLC in the memorandum. The responses in the memo follow industry standard methods for traffic impact analysis."

Staff Response, Planning:

The Applicant's traffic analyses, including those cited above and responses to the PC decision ([Record ID. BOC1_A0004 PC Decision Responses and Evidence \(Exhibit E67\)](#)) have been evaluated by county engineering and a 3rd party contract engineer.

Applicant has provided qualified expert responses to the detailed issues raised by VQNES and public testimony²². Staff concurs with engineering and transportation comments, as well as the Applicant's evidence. Transportation impacts from the proposed landfill expansion are minimal, do not reach a threshold of impact to the transportation system, and are not expected to cause an "undue burden".

Water Quality

Staff have revised the "Leachate" title for this section, as used in the June 2025 Staff Report, to more broadly discuss water quality.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 117](#)

Opponent evidence:

- VNEQS, [Record ID. BC015 Compiled Testimony from Opponents, p. 448](#)

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 6](#)):

"Water Facilities: The planning commission concludes that the proposed use will be an undue burden on the City of Adair Village's water facilities, due to transmission into the Willamette River of leachate processed by the Corvallis wastewater treatment plant. The planning commission considered the Applicant's consultants' evidence and the third party reviewers' evidence and considered the evidence and testimony of opponents.

Wastewater Treatment Facilities: The planning commission concludes that the proposed use will be an undue burden on the city of Corvallis' wastewater treatment plant, which currently treats the landfill's transported leachate under an agreement that expires at the end of this year. The planning commission considered the Applicant's consultants' evidence and the third party reviewers' evidence and considered the evidence and testimony of opponents."

Planning Commission Decision ([Chair Fowler Incorporated Findings, Record ID. BC019, p. 9](#)):

"PFAS is an emergent issue that we must consider in protection of our water quality. Coffin Butte leachate is processed at the Corvallis municipal water treatment center that expels into the Willamette River, a source of drinking water for many downstream communities, and we have no evidence that such

²² [Record ID. BOC1_A0003 Code Interpretation Memorandum from Miller Nash \(Exhibit E66\); Record ID. BOC1_A0004 PC Decision Responses and Evidence.](#)

treatment mitigates PFAS. Does treatment of PFAS represents an undue burden on facilities? The proposed Conditions of Approval do not mitigate PFAS. The natural surface drainage for Coffin Butte is Calloway Creek that also flows into the Willamette. Wash off, aerosol deposits, and storm overflows migrate to the Willamette. Submitted evidence indicates there is no safe level of PFAS. I do not see sufficient Conditions of Approval around risk of PFAS contamination to our watersheds.”

Planning Commission Decision ([Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 41, 45](#)):

“Discharge of leachate into wastewater treatment plants is not regulated by DEQ (Mark Yeager, May 29, 2025) – Salem and Corvallis wastewater treatment plants are unable to adequately treat leachate...which is then passed through to the Willamette River as effluent.

[...]

Undue Burdens and Serious Interference presented by the public in this process, include:

[...]

Future liability of leachate estimated at 40-60m gallons/year - - insufficient bonding to cover this unknown cost (Keith Lembke GOP chair)”

Applicant Response ([Record ID. BOC1_A0004 PC Decision Responses and Evidence \(Exhibit E67\), p. 9](#)):

“The Conditional Use Permit review is not the forum for regulating PFAS treatment technology at municipal wastewater facilities. Instead, PFAS monitoring and treatment are governed under state and federal water quality regulations through the Department of Environmental Quality and the Clean Water Act’s permitting framework. The Applicant’s responsibility under this proceeding is to demonstrate compliance with Benton County Code criteria—specifically, that landfill operations will not create undue adverse impacts to surrounding uses.

The record demonstrates that leachate is properly managed, transported, and treated under valid permits, and there is no evidence of noncompliance. For this reason, Commissioner Fowler’s assertion that “we have no evidence” of PFAS treatment is not relevant evidence under the law: Land use decisions must rest on competent, material evidence, not conjecture about matters already regulated under separate environmental programs.”

Staff Response, MFA Engineering:

MFA provided feedback on the Applicant’s Leachate Management Summary in the June 2025 Staff Report and recommended that the County be copied on the ODEQ submittal and noted that Coffin Butte Landfills currently has agreements with Corvallis and Salem wastewater treatment plants to dispose of leachate. ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#))

Staff Response, Planning:

Staff understands concerns raised in opposition to the proposed expansion regarding leachate and groundwater quality. All parties agree that past practices relating to leachate, under different management, were inconsistent with current best practices. However, technical review of the proposal indicates consistency with current best practices for leachate management, and the evidence provided by the Applicant in the form of expert testimony addresses the concerns that were raised. In addition, and more importantly, DEQ is the regulatory agency that addresses, through permit review and enforcement, public health concerns relating to groundwater and leachate.

Staff concurs with the Applicant that this land use proceeding is not an appropriate forum to evaluate whether the Applicant’s proposed leachate disposal methods are consistent with the regulatory framework currently in

place. Further, there is no evidence that proposed leachate disposal methods are inconsistent with best practices or any adopted regulation.

Fire Risk

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Memorandum RE: Fire Risk Testimony \(Exhibit E44\), p. 2212 - 2213](#)
- [Record ID. BC016 Response to VNEQS Fire Risk Comments \(Exhibit E56\), p. 2263 - 2269](#)

Agency Response:

- Adair Rural Fire District ([Record ID. BC015 Compiled Agency Comments, p. 74 – 76](#))

Opponent evidence:

- VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 454 – 455](#))

Applicant Response ([Record ID. A0099 Responses to July 8-9 Evidence \(Exhibit E65\), p. 11 - 12](#)):

“Staff summary: In response to opponent testimony, the Applicant maintains that the proposed expansion will not increase fire risk beyond current conditions and that existing fire prevention and response measures are sufficient. Landfill Staff have an established cooperative relationship with the Adair Fire Department, reaffirmed in a March 2025 meeting where both parties agreed to continue coordinated efforts. At that meeting, Adair Fire expressed no concerns about its capability to support the proposed expansion. The Applicant has also committed to maintaining a comprehensive log of all fire incidents—regardless of size—and to submitting these reports to DSAC and ODEQ for ongoing oversight.”

Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 8 - 9](#)):

“VIII. RESPONSE TO ARGUMENTS THAT THE LANDFILL IS A FIRE RISK

The Applicant responded in detail to the testimony in opposition regarding fire risk in Exhibit 65 on pages 11-13, and the Applicant incorporates that response here.

[...]

B. The expansion will have no impact on the Adair Fire Protection District’s tax base. The Adair fire chief’s concern about the property-value impact of the landfill reducing the Fire District’s tax base is unsupported by citation to the fire chief’s authority, making it difficult for the Applicant to address or substantiate the argument. The Applicant notes that there is a 70-year history of a landfill at this location and expansion will not change that situation.

The Applicant has always had a good working relationship with Adair Fire and hopes to continue that relationship.”

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 5 - 6](#)):

“The planning commission concludes that the landfill use will unduly burden fire services provided by the Adair Rural Fire District, which is small and comprised largely of volunteers. The planning commission considered the testimony of the Fire Chief and the evidence and testimony of opponents and considered the Applicant’s consultants’ evidence and the third party reviewers’ evidence.”

Planning Commission Decision ([Commissioner Lee Incorporated Findings, Record ID. BC019, p. 19, 25](#)):
“Staff summary: Commissioner Lee contends that the proposed landfill expansion would significantly increase fire risk, creating an undue burden on public services and infrastructure. The Commissioner mentions testimony from nearby property owners expressing concern that a fire on the expanded site could threaten schools, cultural resources, and emergency access routes. Commissioner Lee further argues that the landfill’s steep slopes and canyon-like design would make firefighting hazardous and amplify fire intensity. The Commissioner references former Adair Fire Chief Kevin Higgins’ testimony and Adair Fire’s recommendation to deny the expansion based on inadequate fire protection and potential health impacts.”

Planning Commission Decision ([Commissioner Biscoe Incorporated Findings, Record ID. BC019, p. 42, 44, 52](#)):

“Undue Burdens and Serious Interference presented by the public in this process, include:
August 2024? – Republic Services reported to Board of Commissioners that they do not have a way to monitor for fires after hours...(Virginia Scott, May 8, 2025) – noting that fire risk occurs 24 hours at the landfill which exists 24 hours a day.
[...]

- Coffin Butte Landfill is not assessed or inventoried in Benton County’s Community Wildfire Protection Plan (CWPP) and in testimony is reported as being intentionally left from this document and planning process. (McClelland Fields, May 6, 2025 as read by Ken Ekland)”

Staff Response, MFA Engineering:

MFA provided feedback on the applicant’s Fire Risk Response and Fire Risk Assessment in the June 2025 Staff Report. MFA did not identify technical concerns and recommended best industry practices for fire risk management. Of note, MFA strongly recommended that:

“[...]landfill operations prioritize the proper maintenance of LFG management systems and closely monitor for subsurface fire activity, particularly in cases of system failure or interruption.” ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 1 – 24](#))

Staff Response, Planning:

Staff has reviewed opposition testimony in relation to this standard, as well as Applicant responses. Staff notes there is considerable overlap between concerns related to fire risk on adjacent property uses, and on public services. Please also see discussion of fire risk on adjacent properties.

Staff notes that the Adair Rural Fire District (ARFD) is a public service agency, and, as mentioned above, its Chief, Harris, provided comments during the PC review process that are discussed below.

- Property tax impacts: Land identified as adjacent to (or nearby) the landfill expansion area is already adjacent to or nearby the existing landfill. Staff notes the proposed expansion will be less visible than the existing landfill due to topography and a conditioned limit on height. It is not clear why this proposal would create a greater impact on property values than the existing landfill. It is also not clear why, even if property values were impacted, those impacts would equate to an “undue burden” on public facilities or services.
- Increase in truck trips: Applicant has provided expert analysis and evaluation of expected traffic volumes in relation to roadway capacity and safety. Staff recommends **Conditions OP-4(G) and OP-12** to ensure traffic impacts remain consistent with TIS assumptions related to the proposed expansion.
- Fire risk: Chief Harris asked if Staff had evaluated fire safety south of Coffin Butte Road. Staff engineers evaluated the fire plan and it is consistent with best practices. Please see fire risk discussion under adjacent property impacts. Staff recommends **Conditions OP-2(A-F), OP-4(G), and OP-10(A-D)** to limit accepted waste, maintain two working fire trucks on site, monitor and log, provide records relating to fires, and provide 24-hour on-site surveillance and monitoring of the landfill expansion area on red flag

days. Staff is open to inclusion of additional Conditions of Approval related to fire risk and the proposed fire plan or site plan from ARFD.

- Volunteer fire fighters: Chief Harris notes volunteer fire fighters have been dropping in number from over 20 to the current 12. However, that testimony does not take the position that 12 volunteers is an insufficient number for firefighting purposes or explain the significance of the drop in volunteers. The connection between the landfill expansion proposal and the number of volunteer fire fighters is not clear from the testimony.

Staff has conducted an independent review of engineering evidence submitted. Staff concurs with Applicant expert testimony and engineering review findings and concludes that the proposed use will not cause an undue burden on fire services.

Staff also recommends **Conditions OP-11, OP-12, OP-13, and OP-15** to limit potential impacts on public facilities and services to those proposed and evaluated.

County Monitoring and Enforcement

This issue was raised during the Planning Commission decision, as a basis for denial in Commissioner Lee's Incorporated Findings (see below). Therefore, this was not a section in the June 2025 Staff Report.

Applicant Response ([Record ID. A0100 Applicant's Final Rebuttal, p. 3](#)):

"The County has powerful enforcement tools up to and including revocation of the CUP if the Applicant fails to comply with the Conditions of Approval. As Planning Director Petra Schuetz testified, the County currently relies on a complaint-based enforcement mechanism and is planning to hire a code enforcement officer. But, as she noted, enforcement is always an allocation-of-resources issue. As part of its July 16, 2025, Response to Evidence, the Applicant proposed a new condition OP-17 which will require the Applicant to reimburse the County up to \$80,000 per year for the cost of consultants to monitor compliance with the CUP approval. See Applicant's Exhibit 65 at 17. This proposed condition is powerful evidence of the Applicant's commitment to comply with the Conditions of Approval and will give the County the resources and access to the expertise it needs to ensure compliance.

For these reasons, the conditions will ensure compliance with the applicable criteria, as concluded by the County's third-party experts

Planning Commission Decision ([Record ID. BC019 Planning Commission Decision, p. 6](#)):

"The planning commission concludes that the proposed use will be an undue burden on county services because the county lacks monitoring and enforcement personnel, and that the Applicant's proposed condition to provide \$80,000 to the county in annual funding for monitoring and enforcement personnel is insufficient to mitigate that burden."

Planning Commission Decision ([Chair Fowler Incorporated Findings, Record ID. BC019, p. 9](#)):

"Unless the county and regulatory authorities can fund regular monitoring and have enforcement resources, my confidence is very low that the proposed 80 something Conditions of Approval will actually achieve mitigation of the risks. The risks to land quality, water and air quality, and even public health are too great not to regularly monitor and have the capacity for enforcement. Evidence in the record indicates state and federal regulators neither have the resources or expertise to effectively monitor the landfill."

Planning Commission Decision ([Commissioner Lee Incorporated Findings, Record ID. BC019, p. 20 - 22](#)):

“Staff Summary (of arguments not already raised above):

Commissioner Lee argues that the conditional use application and the review process are evidence of existing undue burden to county resources, and that the actual proposed landfill expansion will continue to cause undue burden.

Commissioner Lee argues that the application is an undue burden given the county’s lack of resources and capacity to:

- Internally monitor or enforce COAs
- Enforce BCC 77.401
- Internally process the conditional use application
- Involve or require regional government support, and
- Legislatively implement environmental protections”

Staff Response, Planning:

Staff understands concerns raised by the public and Planning Commission. The Applicant has proposed a direct solution to these concerns – funding for the County to monitor and ensure landfill conditions are met. Staff notes funding for compliance review of landfill activities will also provide benefits to the County, adjacent land owners, and area residents in relation to complaints about the existing landfill, which may be a greater concern than the proposed expansion application.

Staff has also revised proposed Conditions of Approval to be clearer in language and purpose. Many of the conditions ensure the proposed landfill is developed and operated consistent with the proposal, as well as County and State regulations. Some of the conditions are to mitigate impacts. The updated conditions format is intended to clarify these distinctions, as well as provide more clarity in the phasing of approved activities on the site. See also Section VIII. Proposed Conditions of Approval.

With the proposed conditions, monitoring and enforcement relating to landfill activities will be improved over existing conditions, without “undue burden” on County resources.

(3) The proposed use complies with any additional criteria which may be required for the specific use by this code.

Staff Response, Planning:

The Staff Report includes review and response to all other relevant criteria for this conditional use review.

53.220 Conditions of Approval.

The County may impose conditions of approval to mitigate negative impacts to adjacent property, to meet the public service demand created by the development activity, or to otherwise ensure compliance with the purpose and provisions of this code. On-site and off-site conditions may be imposed. An applicant may be required to post a bond or other guarantee pursuant to BCC 99.905 to 99.925 to ensure compliance with a condition of approval. Conditions may address, but are not limited to:

- (1) Size and location of site.*
- (2) Road capacities in the area.*
- (3) Number and location of road access points.*
- (4) Location and amount of off-street parking.*
- (5) Internal traffic circulation.*
- (6) Fencing, screening and landscape separations.*
- (7) Height and square footage of a building. A limit on height is unnecessary.*

- (8) Signs.
- (9) Exterior lighting.
- (10) Noise, vibration, air pollution, and other environmental influences.
- (11) Water supply and sewage disposal.
- (12) Law enforcement and fire protection.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 46 – 47](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1617 – 1618](#)

Opponent evidence:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 377](#))

Planning Commission Decision ([Commissioner Lee, Incorporated Findings, Record ID. BC019, p. 26](#)):

“Generally, the application’s COA are hollow gestures that require extensive work to assure they can be enforced to assure mitigation of the serious interference or undue burden. Monitoring is not enforcement. Reporting is not mitigation.”

Applicant Response ([Record ID. BOC1 A0003 Code Interpretation Memorandum from Miller Nash \(Exhibit E66\), p. 5 - 6](#)):

“Almost every land use decision includes at least some Conditions of Approval. An assumption that conditions will be ignored or not enforced is speculative and is not an appropriate basis for denial. These Conditions of Approval will give the County the means and methods to ensure that the expansion will not have negative impacts on the adjacent properties or the area.”

Staff Response, Planning:

Staff concurs with BCTT guidance quoted below; proposed Conditions of Approval are provided in Section VIII of this Staff Report, with additional discussion and guidance relating to imposition of conditions. As noted above under “undue burden”, proposed conditions include funding a compliance officer for the County to monitor and enforce landfill conditions (**Condition P1-9**). This addresses compliance enforcement concerns and is an improvement over existing conditions.



“[...] Conditions of approval must relate to approval criteria. To be approved, an applicant must demonstrate compliance with all discretionary approval criteria. Conditions of approval cannot substitute for compliance with applicable criteria but may be imposed to ensure the criteria are met. The county may find compliance with approval criteria by establishing that compliance is feasible, subject to compliance with a specific condition(s) of approval. A preponderance of the evidence must support a finding that the condition is “likely and reasonably certain” to result in compliance. [...]”

"[...] Generally, the new proposal must be evaluated on its own merits relative to the approval criteria. However, the current non-compliance of an existing land use condition could provide information that the Planning Commission considers in developing a condition on a new application. If an application is made to expand an existing land use that is currently out of compliance with a condition of approval of a previous decision, and that noncompliance is causing issues for surrounding land uses, noncompliance of the original land use decision is not in itself grounds to deny the new application. However, the decision-maker could potentially look at the fact of existing noncompliance in evaluating whether that noncompliance is causing the existing land use to "seriously interfere" with uses on surrounding properties. That fact can then be used as evidence in evaluating whether the proposed land use complies with the review criteria because the same land use in a similar location was seriously interfering with surrounding uses even though it was subject to conditions of approval. If the language in a condition of a past decision was unclear or insufficient to ensure compliance with an approval criterion, in evaluating a new application the decision maker could craft and impose a condition on a new decision that more clearly describes the measures necessary to ensure compliance. Past conditions superseded by subsequent decisions or changes in the law could not form a basis for such analysis."

53.230 Period of Validity. Unless otherwise specified at the time of approval, a conditional use permit for a single-family dwelling shall be valid for ten (10) years from the date of decision and other conditional use permits shall be valid for a period of two (2) years from the date of decision.

As specified in Section VIII, this application will require approval from multiple agencies prior to any ground disturbance on the site (Phase 1 Conditions of Approval). Therefore, Staff proposes a validity timeframe of four years from the date of decision to begin construction activities on the site.

VI. OTHER APPLICABLE STANDARDS

Aside from updated references and citations, the following Staff findings remain unchanged from those in the June 2025 Staff Report. Staff did not revise these findings because:

- The Planning Commission did not discuss them as a basis for denial
- Neither the Applicant nor members of the public submitted consequential new material into the record

To provide the Board context, Staff have included the code text, pre-PC decision evidence citations, and repeated Planning Staff findings. For additional information – including the full Applicant and opponent responses – refer to the June 2025 Staff Report ([Record ID. BC014 June 2025 Supplemental Staff Report](#)).

CHAPTER 60 - FOREST CONSERVATION (FC)

APPLICATION OF THE ZONE

60.020 Application. The Forest Conservation Zone is applied to areas designated Forestry on the adopted Comprehensive Plan Map in compliance with Statewide Planning Goal 4 and OAR 660. This zone consists of areas containing forest soils which are not otherwise subject to an exception of the statewide planning goals. The Forest Conservation Zone is also applied to other lands necessary to preserve and maintain forest uses consistent with existing and future needs for forest management. Forest land capability is indicated by the nature and type of soil,

slope, size and location of the property, the suitability of the terrain, and other similar factors. The Forest Conservation Zone is also applied to intervening lands which are suitable for forest management related uses or needed to protect forest land.

60.050 Notice of Pending Action. Notice of all land use applications for new permanent dwellings and land divisions in the Forest Conservation Zone shall be mailed to the Department of Land Conservation and Development and the Department of Forestry at their Salem office at least 10 days prior to the date of decision or permit issuance. The information shall contain the information set forth in BCC 51.615.

Staff Response, Planning:

As noted by the Applicant ([Record ID. BC016 Burden of Proof, p. 59](#)) proposed development within the FC zone includes: “an 1,800-square-foot employee building and parking, access road modifications, the relocation of leachate ponds, leachate loadout, leachate sump, an outbound scale, portions of the perimeter landfill road, cut activities for landfill, and a shop/maintenance [building] to support the landfill.” Staff reviews proposed development within the FC zone below.

CONDITIONAL USES

60.215 Conditional Uses Subject to Review by the Planning Commission.

[...]

(11) Disposal site for solid waste approved by the Benton County Board of Commissioners and the Oregon Department of Environmental Quality together with equipment, facilities, or buildings necessary for its operation.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 58](#)

Staff Response, Planning:

Proposed development is identified as a conditional use within the FC zone. Staff reviews the proposal against FC zone conditional use criteria below.

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;

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 59](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 111 - 114](#)
- [Record ID. BC016 June 23 Cover Letter \(1/2\), p. 133 – 134](#)
- [Record ID. BC016 Engineering Plans \(Exhibit E2\), Sheet 6, p. 148](#)
- [Record ID. A0052 Applicant Presentation Slides to Planning Commission](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1621 – 1622](#)
- [Record ID. BC016 Memorandum Re: Groundwater Testimony \(Exhibit E49\), p. 2223 – 2242](#)
- [Record ID. BC016 Response to VNEQS Groundwater and Leachate Comments \(Exhibit E55\), p. 2258 – 2262](#)

Opponent evidence:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 395 – 396](#))

Staff Response, Planning:

Staff concurs with the Applicant that farm and forest uses have operated on and adjacent to an active landfill use on this site for decades. Staff concurs with opponent, representative for VNEQS, Mr. Kleinman, that the language of the FC zone reflects 215.296(1), because FC is a resource zone. Staff notes that development within the FC zone should be reviewed against FC zone standards. Staff is not aware of opponent testimony that has clearly defined concerns specifically relating FC-zone development with expected farm impacts. However, proposed leachate ponds are within the FC zone and subject to this test, and leachate has been a major topic of concern. The Applicant responded to leachate concerns raised in testimony in multiple exhibits prior to the issuance of the June 2025 Staff Report (as cited above). The Applicant responded specifically to leachate ponds in the FC Zone as cited from [Record ID. BC016 June 23 Cover Letter \(1/2\)](#) above, and is proposing best management practices for leachate storage on site.

The Applicant has provided sufficient expert testimony and evidence to respond to raised concerns and show that proposed development within the FC zone will not force a significant change in, or significantly increase the cost of, accepted farm and forest practices. Staff recommends **Condition OP-13** relating to compliance with state and federal regulations.

(b) Will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 60](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 112](#)
- [Record ID. BC016 Engineering Plans \(Exhibit E2\), Sheet 6, p. 148](#)

Staff Response, Planning:

Staff concurs with the Applicant's findings and conclusion, as supported by 3rd party engineering review findings ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 2 - 37](#)). Staff did not see fire risk concerns raised with the development proposed within the FC zone (i.e., leachate ponds, employee building, shop/maintenance area, driveways, etc.). See also discussions of Fire Risk under BCC 215(1) and (2) above. FC zone siting requirements are discussed below; Staff recommends **Conditions P2-7 and OP-15**, ensuring consistency with FC zone fire break standards.

(c) Complies with criteria set forth in BCC 53.215 and 53.220.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 60](#)

Staff Response, Planning:

This standard refers to conditional use and Conditions of Approval criteria referenced in BCC Chapter 53. These criteria were addressed earlier in Section V. Staff determined that the application can comply with BCC 53.215 with the recommended Conditions of Approval. Therefore, this criterion can also be met with the proposed Conditions of Approval.

60.220 (1) Conclusion:

Staff Response, Planning:

Staff finds that the limited development within the FC zone can be conditioned to meet FC zone requirements.

(2) As a condition of approval of a conditional use permit, the owner shall sign the following 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: [...]

Staff Response, Planning:

This standard requires that final approval of this conditional use application must include a COA requiring the above statement from the Applicant. The Applicant acknowledged this requirement in their BOP ([Record ID. BC016 Burden of Proof, p. 1 – 90](#)) and included this as a proposed preliminary COA, PA-3, ([Record ID. BC016 Proposed Conditions of Approval \(Exhibit E21\), p. 1198](#)). Staff recommends **Condition P1-3** to meet this requirement.

CREATION OF NEW PARCELS OR LOTS; PROPERTY LINE ADJUSTMENTS, BCC 60.305 through 330

Staff Response, Planning:

The standards within these sub-sections of BCC Chapter 60 apply to the creation of new lots or proposed parcels. This application does not propose any such activity. Therefore, **these standards do not apply.**

SITING STANDARDS

60.405 Siting Standards and Requirements. All new structures allowed in the Forest Conservation Zone shall be sited in compliance with BCC Chapter 99 and the following standards designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks, and to conserve values found on forest lands:

- (1) The owner of any new structure shall maintain a primary and secondary fuel-free fire-break surrounding the structure on land that is owned or controlled by the owner, in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.*

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 62](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 112](#)
- [Record ID. BC016 Engineering Plans \(Exhibit E2\), Sheet 6, p. 148](#)

Staff Response, Planning:

Staff concurs with the Applicant that the proposed structures shown on Sheets 5 and 6 of the Engineering Plans ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 147 – 148](#)) provide the opportunity for a feasible firebreak and Staff recommends **Conditions P2-7 and OP-15** requiring the Applicant to maintain a primary and secondary fuel-free fire-break surrounding the structure on land that is owned or controlled by the owner, in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.

(2) Non-residential structures shall be located at least 20 feet from a parcel or lot line, except no setback is required for a structure of 120 square feet or less. A required side or rear setback for a non-residential structure may be reduced to 3 feet if the structure:

(a) Is detached from other buildings by 5 feet or more;

(b) Does not exceed a height of 20 feet; and

(c) Does not exceed an area of 500 square feet.

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 62](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 112](#)
- [Record ID. BC016 Engineering Plans \(Exhibit E2\), Sheet 6, p. 148](#)

Staff Response, Planning:

Staff confirms the proposed employee building and maintenance building are shown over 20 feet away from all property lines on Sheets 5 and 6 of the Engineering Plans ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 147 – 148](#)).

(3) A structure which is not a water dependent use shall be placed at least 50 feet from the ordinary high water line of any river or major stream. In the case of a creek or minor stream, a structure which is not a water dependent use shall be placed at least 25 feet from the ordinary high water line.

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 63](#)

Staff Response, Planning:

Staff concurs with the Applicant; no water-dependent use is proposed, nor do river or stream water features exist within the proposed development area. Therefore, this standard does not apply.

(4) All new development approved by Benton County shall have a site specific development plan addressing emergency water supplies for fire protection which is approved by the local fire protection agency. The plan shall address:

(a) Emergency access to the local water supply in the event of a wildfire or other fire-related emergency;

(b) Provision of an all-weather road or driveway to within 10 feet of the edge of identified water supplies which contain 4,000 gallons or more and exist within 100 feet of the driveway or road at a reasonable grade (e.g. 12% or less); and

(c) Emergency water supplies shall be clearly marked along the access route with a Fire District approved sign.

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 63](#)

Staff Response, Planning:

Staff concurs with the Applicant's findings and evidence provided in the Applicant's Fire Risk Assessment Report ([Record ID. BC016 Fire risk assessment of Coffin Butte Landfill and Addendum \(Exhibit E20\), p. 1182 - 1195](#)). This standard is met.

(5) All buildings shall have roofs constructed of materials defined under the Uniform Building Code as either Class A or Class B (such as but not limited to composite mineral shingles or sheets, exposed concrete slab, ferrous or copper sheets, slate shingles, clay tiles or cement tiles).

Staff Response, Planning:

The Applicant has not included detailed plans for the proposed employee building nor the proposed maintenance building. Following a conditional use approval, the Applicant would be required to receive approved building permits prior to their construction. At that time, Benton County Building Division reviews the submitted plans to ensure compliance with BCC Chapter 11. Benton County Building Code.

The Applicant has stated that they will finalize the building plans and ensure that the roof design conforms to these requirements. Staff considers this feasible; this standard can be met.

(6) All new structures shall be sited on the lot or parcel so that:

(a) They have the least impact on forest operations and accepted farming practices on nearby or adjoining lands;

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 63 – 64](#)

Staff Response, Planning:

The Applicant identified two “structures” proposed within the FC zone. Staff determined that “structure” is not defined within the BCC. Benton County has commonly determined “structure” to mean “building”, and Staff concurs with continuing that approach for review of the proposal.

The proposed employee building is on Tax Lot 1101. As described by the Applicant, the existing uses on adjacent lots (not including other Tax Lots in the Development Area) include:

- Tax Lot 1104 (FC zone) has existing landfill areas or accessory uses, as well as vacant or residential and farm or forest uses
- Tax Lot 1105 (EFU zone) is leased to Agri-industries for farm and forest uses

As shown on Sheet 6 of the Engineering Plans ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 148](#)), the proposed employee building and associated parking are proposed adjacent to the west of the existing building on the lot, in a somewhat central location on the lot. The location is farther away from forested lands to the east, and closer to farmed lands to the west. However, Tax Lot 1101 is not large, and Staff concurs with the Applicant that the location of the employee building efficiently located on the lot and not likely to impact nearby farm or forest uses.

Figure 6. 2023 Aerial Imagery of Tax Lot 1101

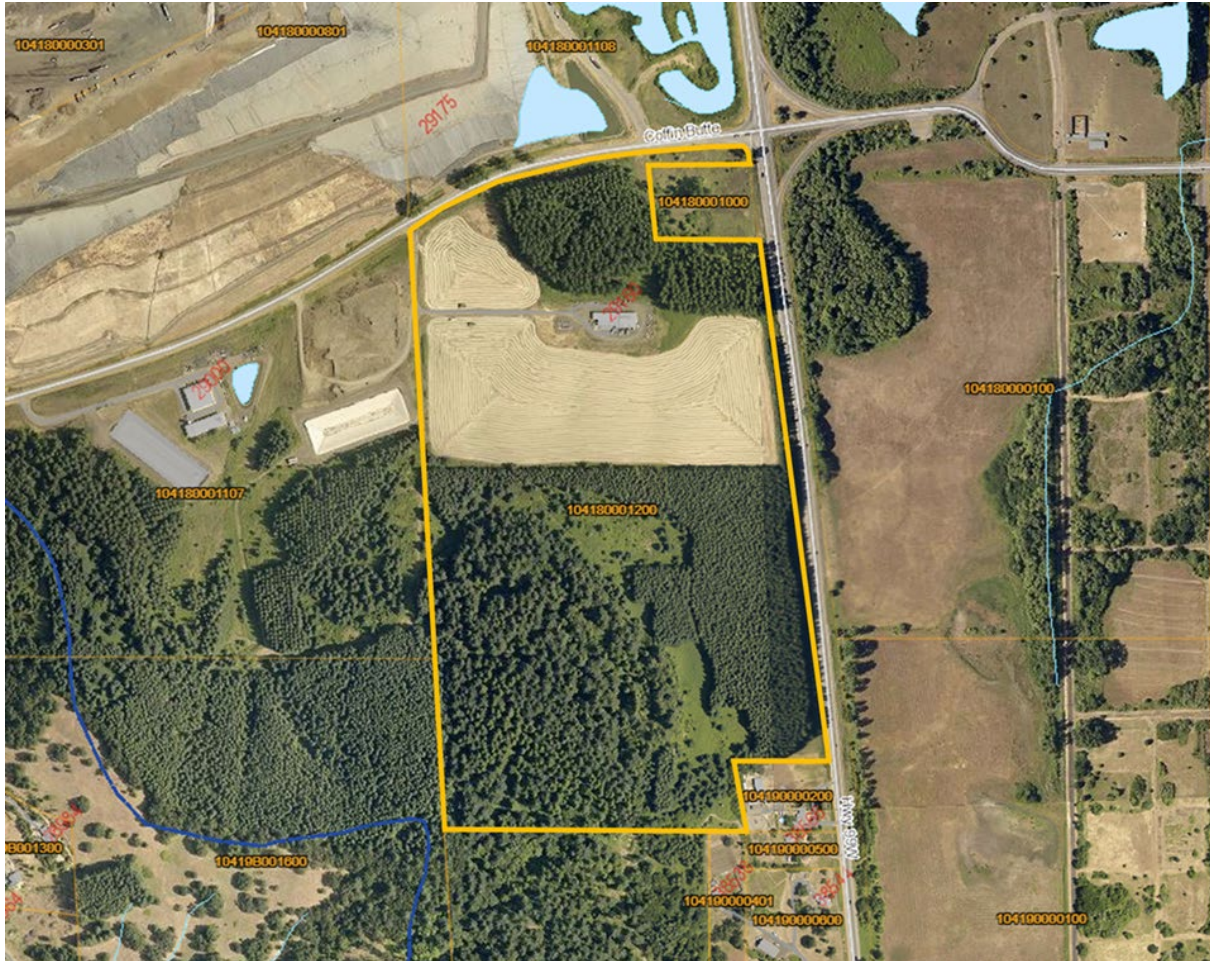


The proposed maintenance building is located on Tax Lot 1200. As described by the Applicant and residents or owners of the property, the existing uses on adjacent lots (not including other Tax Lots in the Development Area) include:

- Tax Lot 1000 (FC zone) has existing landfill areas and accessory uses
- Tax Lot 100 (OS zone) is part of the E. E. Wilson Wildlife Area, open to the public year-round for birding, hiking, limited hunting, and fishing, and managed for wildlife habitat
- Tax Lot 200 (RR zone) is described by the Applicant as vacant or residential. Testimony from the owner/resident ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 167 – 180](#)) includes discussion of their use of their Rural Residential zoned property that includes a dwelling, a barn, and hobby livestock. Staff notes that this is not considered an “accepted farm use” as this only applies to resource zone (EFU and FC).
- Tax Lot 500 (RR zone) is vacant or residential
- Tax lot 401 (RR zone) is vacant or residential. Testimony from the owner/resident ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 181 – 186](#)) includes discussion of their use of the Rural Residential zoned property that includes a dwelling and farming of perennial and annual crops Staff notes that this is not considered an “accepted farm use” as this only applies to resource zone (EFU and FC).
- Tax Lot 402 (RR zone) is vacant or residential
- Tax Lot 600 (RR zone) is vacant or residential

Therefore, Tax Lot 1200 does not directly border any EFU or FC lots not owned by the Applicant. The closest EFU or FC lot not owned by the Applicant is Tax Lot 1103, approximately 2,000 feet west of the proposed maintenance building, across the proposed landfill expansion cell. Therefore, Staff concurs with the Applicant that the location of the maintenance building is efficiently located on the lot and not likely to impact nearby farm or forest uses.

Figure 7. 2023 Aerial Imagery of Tax Lot 1200



(b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 58](#)

Staff Response, Planning:

The proposed employee building is on Tax Lot 1101. As described by the Applicant, there are no forest operations or farm activities on the lot nor adjacent Applicant-owned properties.

The proposed maintenance building is on Tax Lot 1200. As described by the Applicant, 20 acres in the center of the lot are leased by Agri-Industries, Inc. for farming grass and row crops ([Record ID. BC016 Burden of Proof, p. 14 – 17](#)). In their response above ([Record ID. BC016 Burden of Proof, 63 – 64](#)), the Applicant stated that approximately eight acres will remain available for farming on Tax Lot 1200 and that the impact would be mitigated by the fact that Agri-Industries, Inc. leases other properties over three quarters of a mile away. Due to the relatively small footprint of the proposed 10,000 square-foot maintenance building and its siting near the west property line of Tax Lot 1200, Staff find that it would play an insignificant role in this impact to these farming practices. As described by the Applicant, there are no other forest operations or farm activities on the Applicant-owned lots adjacent to Tax Lot 1200.

(c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 64 – 65](#)

Staff Response, Planning:

Staff concurs with the Applicant. As shown on Sheet 5 of the Engineering Plans ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 147](#)), proposed locations of access roads, service corridors, and the employee building structure provide for efficient use of land with very little impact on forested areas. As shown on Sheet 6 of the Engineering Plans ([Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 148](#)), proposed leachate ponds, the scale house, and the maintenance building provide for efficient land use and Staff finds no reason to doubt the Applicant's argument that the development is appropriately sized.

(d) The risks associated with wildfire are minimized.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 65](#)

Staff Response, Planning:

The Applicant provided a fire risk assessment ([Record ID. BC016 Fire risk assessment of Coffin Butte Landfill and Addendum \(Exhibit E20\), 1182 – 1195](#)); this was reviewed by 3rd party fire experts ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 2 – 37](#)). Both confirmed that the proposed Fire Mitigation Plan is sufficient to minimize fire risk for the proposed development. This criterion is met.

(7) To satisfy the criteria in BCC 60.405(6), the Planning Official may require that new structures be sited close to existing roads, clustered near existing structures, and sited on that portion of the parcel least suited for growing trees.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 65](#)

Staff Response, Planning:

As discussed above, Staff finds that the proposed employee building structure is separated from forested areas and included in a robust fire mitigation plan for the site. Furthermore, Staff finds that the siting of the proposed maintenance building is sufficient to meet the criteria of BCC 60.405(6).

CHAPTER 77 - LANDFILL SITE (LS)

BCC 77.010 Application. The Landfill Site Zone recognizes the existing site in the Coffin Butte area, and allows for its continued use pursuant to Oregon Department of Environmental Quality (DEQ) permits, Benton County Code Chapter 23, and an approved Site Development Plan.

BCC 77.105 Permitted Uses. The following uses are allowed in the Landfill Site Zone:

(1) Municipal solid waste disposal, in accordance with a Solid Waste Disposal Franchise and an approved Site Development Plan.

[...]

- (5) Structures normally associated with the operation of a landfill.
- (6) Operation of equipment in conjunction with landfill operations.
- (7) Installation and operation of monitoring devices as required by DEQ such as leachate sample equipment, leachate treatment facilities, and vector control systems.
- (8) Landfill gas monitoring and recovery systems.

Staff Response, Planning:

Chapter 77 applies to development in the LS zone, and the permitted uses are limited to landfill operations and uses accessory to a landfill, so long as approved uses comply with the requirements of DEQ permits, the BCC Chapter 23 (Solid Waste Management), and an approved site development plan.

The Applicant stated in the BOP ([Record ID. BC016 Burden of Proof, p. 49](#)) that the current development in the zone operates under Oregon DEQ permit #306 and, upon approval, they will seek to modify this permit to include the development area.

This chapter is applicable to the application.

BCC 77.305 Conditional Uses Approved by the Planning Commission. Any proposal to expand the area approved for a landfill within the Landfill Site Zone is allowed by conditional use permit approved by the Planning Commission. The Benton County Environmental Health Division and the Solid Waste Advisory Council shall review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative. The Oregon Department of Environmental Quality shall be given an opportunity to review and comment on any proposal which may affect this site.

Benton County Environmental Health Division recommendations

BCC 77.305 is a procedural requirement that was adopted in 1990. It does not contain substantive criteria for reviewing the Site Development Plan Map and narrative.

At the time BCC 77.305 was adopted, administration of solid waste programs was housed in the Environmental Health Division of the Benton County Health Department.

Sometime in 2020 or 2021, Benton County transferred its solid waste program to its Community Development Department. Environmental Health no longer has any involvement in the solid waste programs, review of land use applications involving the landfill, or administration of the landfill or collection franchise agreements. Because those responsibilities have been moved to the Community Development Department, Environmental Health cannot provide a recommendation to the Planning Official.

ENRAC (in lieu of SWAC) recommendations

This standard requires the county SWAC provide recommendations to the Planning Official and Planning Commission regarding the application narrative and site plan. As detailed in the I. Findings of Fact section and the Agency Comments section of this Staff Report, the Benton County Board of Commissioners delegated this duty to the county Environmental and Natural Resource Advisory Committee (ENRAC) through Order #D2024-048 in July of 2024.

April 16, 2025, ENRAC Chair Jason Schindler submitted a letter ([Record ID. BC015 Compiled Agency Comments, p. 50 – 72](#)) in which the Chair states that the committee recommended that the Planning Commission deny LU-24-027. Furthermore, the letter included a list of the major topics that informed the ENRAC recommendation. These topics broadly included air pollution, methane emissions, water pollution, leachate, impact on local residents and community, economics, and regional impacts and

coordination. Citing that the existing landfill already has an overestimated lifespan, the committee urged that end-of-life planning and closure strategies be addressed before any expansion is approved.

Finally, the Chair refers to an attached report, which includes supplemental documentation and statements or comments from individual members.

The ENRAC recommendation for denial did not include hypothetical (COAs) should the Benton County Planning Commission ultimately recommend approval²³.

ODEQ comments

The County provided notice of this application to ODEQ on March 20, 2025 ([Record ID. BC015 Benton County Notice to Outside Agencies, p. 114 – 118](#)). The County did not receive a response from ODEQ.

Staff Response, Planning:

Any proposed expansion to the landfill in the LS zone – such as this application – may be approved as a conditional use by the Planning Commission. In addition to the general review standards and criteria for conditional use applications set forth in BCC Chapter 53, this standard requires that the Benton County Environmental Health Division and the Solid Waste Advisory Committee (SWAC) provide recommendations and the Oregon DEQ are given opportunity to provide comment. Staff reviewed the standards and criteria of BCC Chapter 53 in this Staff Report. Staff found that conditional use standards can be met with conditions; therefore, Staff recommends approval with conditions of the proposed landfill expansion.

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;*

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 51](#)

Staff Response, Planning:

The Applicant provided narrative findings addressing adjacent land uses; Staff responds to the Applicant's submission on adjacent land uses in this Staff Report under Chapter 53 and Chapter 60.

- (b) *Future use of site as reclaimed, and impacts of that reclamation on adjacent uses;*

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 51](#)

²³ In the attached notes ("ENRAC Deliberations for CUP Expansion Application"), individual committee members used a work sheet to note their thoughts on potential conditions of approval (COAs). However, as stated at the beginning of the document regarding these notes, "No effort was made to aggregate language or find consensus per topic."

Staff Response, Planning:

The Applicant's Reclamation Plan is provided in [Record ID. BC016, p. 1206 – 1217](#); in the absence of contradictory testimony relating to impacts on adjacent uses from the reclamation plan, Staff concurs with the Applicant's conclusion that the proposed reclamation will not impact adjacent uses.

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

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 51 – 52](#)

Staff Response, Planning:

This section requires the Applicant to describe provisions for screening, which the BOP ([Record ID. BC016 Burden of Proof](#)) provides. This standard is met.

(d) Egress and ingress; and

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 52](#)

Staff Response, Planning:

Staff Transportation comments by County and Contract engineers are provided in [Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 2 – 37](#). Staff concurs with the Applicant and engineering responses; the proposed egress and ingress are feasible as proposed.

(e) Other information as required by the Planning Official.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 52](#)

Staff Response, Planning:

Staff has conducted a careful review of submitted materials and provided multiple rounds of completeness and evidentiary feedback resulting in numerous additional materials submissions by the Applicant from July of 2024 through June of 2025, as shown by the record.

- (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.

Staff Response, Planning:

BCC 77.310(2) and (3) have been provided as [Record ID. BC016 Engineering Plans \(Exhibit E2\), p. 142 – 170 and Vesting deeds to the tax lots contained in the Development Site, p. 171 – 185](#). BCC 77.310(4) only applies to changes to a site plan map and reclamation plan; the proposal provides a new site plan and reclamation plan and therefore BCC 77.310(4) does not apply.

CHAPTER 87 – GOAL 5 RESOURCES

SENSITIVE FISH AND WILDLIFE HABITAT OVERLAY (/FW)

87.200 - Purpose. The Sensitive Fish and Wildlife Habitat Overlay Zone shall protect sensitive habitats not protected by other programs such as the Willamette River Greenway Program, the Oregon Forest Practices Act or the "Cooperative Agreement between the Board of Forestry and the Fish and Wildlife Commission." The zone shall protect areas that have been identified by Oregon Department of Fish and Wildlife or Oregon Department of Forestry as containing a significant nesting, or roosting site or watering habitat for species that are classified as threatened or endangered and areas designated as sensitive bird nesting, roosting, or watering sites. Habitat protection shall be achieved through the use of site specific management plans that ensure that proposed uses and activities will not destroy or result in the abandonment of these areas.

[Ord. 91-0080; Ord. 93-0098]

87.210 - Application.

- (1) The Sensitive Fish and Wildlife Habitat Overlay Zone shall be applied to all Northern Bald Eagle nests and roosts, Spotted Owl nests, Osprey nests, Great Blue Heron rookeries, and Band-tailed Pigeon mineral springs.*
- (2) Unless alternatively identified by using cultural boundaries, waterways, topography, or through a site specific evaluation of significant habitat components, an established Sensitive Fish and Wildlife Habitat Overlay Zone shall include the area:*
 - (a) Within 600 feet of a Great Blue Heron rookery or Band-tailed Pigeon mineral spring.*
 - (b) Within ¼ mile of a Northern Bald Eagle nest or roosting site, Spotted Owl nest, or Osprey nest; or The County shall initiate a review of the application of this zone at the request of the property owner or ODFW if a significant change in habitat has occurred.*

87.220 - Development Permit Review Required.

Within the Sensitive Fish and Wildlife Habitat Overlay Zone, the removal of trees, except for public safety or erosion control, or any development activity which requires a permit shall be subject to the review procedure and evaluation criteria set forth in BCC 87.230. The provisions of this chapter do not apply to land use actions that are under the jurisdiction of the Oregon Forest Practices Act.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 66, 85](#)
- [Record ID. BC016 Wildlife habitat assessment and surveys \(Exhibit E4\), p. 192 – 193, 280](#)

Agency comments:

- ODFW ([Record ID. BC015 Compiled Agency Comments, p. 45 – 48](#))

Adjacent Property Owner/Resident Testimony:

- D. and N. Johnson ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 362](#))

Staff Response, Planning:

Staff finds that the **text** of BCC Sections 87.200 and 210, which has been acknowledged as complying with Statewide Planning Goal 5, states that heron rookeries identified by ODF or ODFW as having a significant nesting or roosting site are protected by the Sensitive Fish and Wildlife Habitat Overlay.

“The zone shall protect areas that have been identified by Oregon Department of Fish and Wildlife or Oregon Department of Forestry as containing a significant nesting, or roosting site or watering habitat for species that are classified as threatened or endangered and areas designated as sensitive bird nesting, roosting, or watering sites. [...] (1) The Sensitive Fish and Wildlife Habitat Overlay Zone shall be applied to all Northern Bald Eagle nests and roosts, Spotted Owl nests, Osprey nests, Great Blue Heron rookeries, and Band-tailed Pigeon mineral springs.”

In response to the proposal, ODFW provided a letter to this effect ([Record ID. BC015 Compiled Agency Comments, p. 47 – 48](#)). Therefore, Staff evaluates compliance with relevant provisions of BCC Sections 87.220 through 230 below.

87.230 - Review Procedure and Evaluation Criteria.

- (1) The County shall notify Oregon Department of Forestry (ODF) and Oregon Department of Fish and Wildlife (ODFW) of any permit proposal or tree removal within the Sensitive Fish and Wildlife Habitat Overlay Zone within 7 days of the permit request. ODF and ODFW shall review the request and submit a determination of impact report to the County within 14 days of the date of notification. The report shall include conclusions regarding the consequences of allowing the proposed use to occur. If ODF and ODFW provide a finding of no impact, or if no response is received by the end of the 14-day comment period, the provisions of this section do not apply.*
- (2) Submittal of a report concluding that a significant impact may occur from the proposed use shall be supported by findings that either: (a) The proposed use would be located within 600 feet of Northern Bald Eagle nest or roosting site, Spotted Owl nest, or Osprey nest or within 300 feet of a Great Blue Heron rookery or a Band-tailed Pigeon mineral spring; or (b) Due to unique site conditions such as topography, a proposed use located outside the area established in BCC 87.210(2) but within the overlay zone will impact the habitat. ODFW shall provide the basis for such a finding in its determination of impact report.*
- (3) A site specific habitat management plan shall be submitted to the County by ODF or ODFW within 14 days of the determination of impact report. The plan shall consider nesting trees, critical nesting periods, roosting sites, buffer areas, and any other relevant factors and shall also identify measures that would specifically limit the proposed use in a manner consistent with BCC 87.200. ODF and ODFW shall consult with the permit applicant, site landowners, and other persons and agencies in developing the management plan.*
- (4) If a determination of impact is made, the County shall review the applicant's development plan, the habitat management plan, and other relevant information. The County shall impose conditions on the proposed use in order to ensure that it will not destroy the sensitive habitat or result in abandonment of the area. The County shall deny the application if such impacts of the proposed use can not be mitigated and that the development may lead to destruction or abandonment of the sensitive habitat.*

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Wildlife habitat assessment and surveys \(Exhibit E4\), p. 197 – 198](#)
- [Record ID. BC016 Cover Letter from Miller Nash RE: June 6th File Submissions, p. 120](#)
- [Record ID. BC016 Memorandum RE: Wildlife and Habitat Testimony \(Exhibit E43\), p. 2210 - 2211](#)
- [Record ID. BC016 Response to VNEQS Traffic Comments \(Exhibit E54\), p. 2252 – 2254](#)

Agency comments:

- ODFW ([Record ID. BC015 Compiled Agency Comments, p. 45 – 48](#))

Adjacent Property Owner/Resident Testimony:

- J. Geier, Ph.D. ([Record ID. BC015 Compiled Testimony from Adjacent Property Owners/Residents, p. 311](#))

Staff Response, Planning:

The County provided notice to ODFW regarding the landfill expansion proposal on March 20, 2025. This notice stated that comments from ODFW were due no later than April 11, 2025.

In a letter dated April 11, 2025, Joe Stack of ODFW responded to the notice provided by the County and confirmed that the two heron rookeries are identified on ODFW and ODF maps and therefore are subject to the County Sensitive Fish and Wildlife Overlay. Mr. Stack determined that (a) the landfill could have a significant impact on the heron rookeries, and (b) described the regulatory standards of preparation of a mitigation plan. Upon learning that the Applicant had prepared a mitigation plan, Mr. Stack provided a positive review of the plan and recommended monitoring of the eastern rookery to confirm that it had been abandoned. Thus, Staff concludes that the Applicant, in coordination with ODFW, has met the substantive requirements of BCC Section 87.230.

Staff recommends **Conditions P1-8, P2-8(A-B) and OP-16(A-B)**, which require the identification and protection of active rookeries during the construction and operation of the proposed landfill expansion.

CHAPTER 99 - GENERAL DEVELOPMENT STANDARDS**SENSITIVE LAND*****99.105 Description of Sensitive Land.***

Certain land characteristics may render a site "sensitive" to development. Sensitive land includes, but is not limited to:

- (1) Land having geologic hazard potential or identified by the Oregon Department of Geology and Mineral Industries in Geologic Hazards of Eastern Benton County or Preliminary Earthquake Hazard and Risk Assessment and Water-Induced Landslide Hazard in Benton County, Oregon, hereby incorporated by reference.*
- (2) Land containing soils subject to high erosion hazard when disturbed, or lands containing soils subject to high shrink-swell potential as identified by the USDA Soil Conservation Service in the Soil Survey of Benton County Area, Oregon, or the Soil Survey of Alsea Area, Oregon, hereby incorporated by reference, or by a successor document produced by the USDA Soil Conservation Service or a successor agency.*

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 67](#)

Staff Response, Planning:

The subject property contains sensitive land; geotechnical review of the proposal was provided by the Applicant and reviewed by 3rd party engineers.

99.110 Consideration.

An applicant for a land division or building permit shall consider the geology, topography, soils, vegetation and hydrology of the land when designing a parcel or lot, or siting improvements. The Planning Official or Building Official may impose conditions or modifications necessary to mitigate potential hazards or otherwise provide for compliance with adopted Comprehensive Plan policies, and may require an erosion and sediment control permit. The Planning Official or Building Official shall consider the recommendation of the County Engineer, municipal officials within urban growth boundaries, and other technical sources in the determination of sensitive land conditions and mitigating measures.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 68](#)

Staff Response, Planning:

This standard does not apply, as the proposal is not an application for a land division or building permit.

99.225 Development Activities in Wetlands.

(1) If the subject property is situated wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory on file in the office of the Benton County Community Development Department, and if a permit from the Department of State Lands has not been issued for the proposed activity, the Planning Official shall provide notice to the Division of State Lands, the applicant, and the owner of record within five days of receipt of the following types of applications:

- (a) Subdivisions, planned unit developments.*
- (b) Building permits for new structures.*
- (c) Conditional use permits and variances that involve physical alterations to the land or construction of new structures.*
- (d) Other development permits and approvals that allow physical alteration of the land, including development in the floodplain.*

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 69](#)
- [Record ID. BC016 Legal Arguments Memo from Miller Nash \(Exhibit E35\), p. 1622](#)

Opponent evidence:

- J. Kleinman representing VNEQS ([Record ID. BC015 Compiled Testimony from Opponents, p. 397](#))

Staff Response, Planning:

On-site are a Freshwater Emergent Wetland, a Freshwater Pond, and Freshwater Forested/Shrub Wetland. Benton County notified DSL of the complete application on March 20, 2025, following the 58-day extension requested by the Applicant ([Record ID. BC015 Benton County Notice to Outside Agencies, p. 114 – 118](#)). The County did not receive a response from DSL.

Staff recommends **Condition P1-4**, requiring the Applicant to prepare and obtain approval from DSL of a wetland delineation prior to site ground-disturbance activities.

PARCEL AND LOT DESIGN

Staff Response, Planning:

The standards in BCC 99.305 through 315 apply to applications proposing the creation of new lots or parcels or lot adjustments. This application proposes no new parcels or lots. Therefore, the **standards in this section do not apply.**

FRONTAGE

99.405 General Rule of Frontage.

- (1) Every new dwelling and new structure designed for commercial, industrial or public occupancy which is not part of an existing use on a parcel or lot shall be sited on a parcel or lot which has a minimum of 25 feet of frontage along an improved public road.*

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 62, 70](#)
- [Record ID. BC016 Cover Letter for Jan 15th Supplemental Materials, p. 97](#)

Staff Response, Planning:

As shown on the Development Plan cited in the Applicant Responses above ([Record ID. BC016 Engineering Plans \(Exhibit E2\), Sheet 5, p. 147](#)), the proposed employee building is located on Tax Lot 1101, which has over 25 feet of frontage on both Coffin Butte and Soap Creek roads. The proposed shop/maintenance area is located on Tax Lot 1200, which has over 25 feet of frontage on Coffin Butte. This standard is met.

ROADS AND DRIVEWAYS

99.510 Road Approach Permits.

- (1) If a new road approach is proposed, the applicant shall obtain a road approach permit prior to construction of the road approach. If the proposed road approach would connect to a State highway, the permit shall be obtained from the State Highway Division. If the proposed road approach would connect to any other public road, the permit shall be acquired from Benton County. A road approach permit is not required for the construction of an approach connecting with a private road or street.*
- (2) A new road approach shall be constructed in accordance with the specifications prescribed by the County Engineer or the State Highway Division. The specifications shall be related to the use of the driveway, the nature of the adjoining public road, and the characteristics of drainage structure at the selected location.*
- (3) An occupancy permit or final inspection approval required in accordance with the State Building Code shall not be issued for any structure on a parcel or lot with a road approach which was installed in violation of permit requirements, specifications or conditions.*

99.515 Road Design and Construction Standards.

- (1) Schematic layout of proposed public and private roads or streets shall adhere to the following general guidelines:*
 - (a) Streets should be aligned to join with planned collector and arterial streets and/or existing streets.*
 - (b) Streets should be designed to respect topography and meet all applicable engineering standards.*

- (c) *Intersections shall be approximate or actual right angles.*
- (d) *Surface drainage shall be toward the intersecting street or through a drainage easement on abutting parcels or lots.*
- (e) *Cul-de-sacs shall end with a minimum turning radius of 45 feet; however, for cul-de-sacs less than 200 feet in length within areas zoned for single-family residential use, an alternative design ("T", "Y", or other) or location may be approved by the County Engineer.*
- (f) *Cul-de-sacs in excess of 900 feet in length within commercial or industrial areas or which serve more than 20 residential parcels or lots shall provide a secondary means of access for emergency use (fire lane).*
- (g) *Dead-end streets shall be designed to connect with future streets on adjacent property. A temporary turn-around may be required.*
- (h) *The County may reserve a 1-foot-wide strip of public road right-of-way adjoining private land for the purpose of controlling access.*
- (i) *Development containing more than 20 parcels or lots shall contain multiple points of access into the development.*
- (j) *Geometric design will follow AASHTO: A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS & STREETS, 1984 ED., standards, except when the County Engineer finds terrain or other conditions making it impossible or unfeasible to do so.*

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 71 – 73](#)

Agency comments:

- ODOT Region 2 ([Record ID. BC015 Compiled Agency Comments, p. 109](#))

Staff Response, Planning:

Staff concurs with County and Contract engineering review indicating feasibility of the proposed access point ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 2 - 37](#)). Furthermore, ODOT had no comment on the proposal (see [Record ID. BC015 Compiled Agency Comments, p. 109 – 111](#)). Staff recommends **Conditions P1-5(A-H), and P2-6(A-E)** relating to public works and roadway construction requirements.

(2) All roads within existing or proposed public rights-of-way located outside an Urban Growth Boundary shall be designed and constructed pursuant to the Rural Design Criteria identified in Table I and Figure II. Plans and construction shall be approved by the County Engineer.

(5) For the protection of the public interest, the County Engineer may require improvements in excess of adopted standards, if terrain or other conditions warrant such a change.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 73 – 74](#)

Staff Response, Planning:

Staff concurs with county and transportation engineering review comments ([Record ID. BC015, p. 34 – 36](#)); the proposed roadway improvements are feasible and consistent with county standards.

99.520 Improvements in a Public Right-of-Way.

An applicant intending to construct or upgrade a roadway within a public right-of-way shall be responsible for design and installation of all improvements within the public road right-of-way. Such improvements shall commence from an existing improved public roadway and continue to the subject property and 25 feet along the frontage of the proposed parcel or lot, or to the private driveway serving the building site, whichever is greater. Required plans and construction of improvements shall be inspected and approved by the County Engineer.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 75](#)

Staff Response, Planning:

As noted by the Applicant in the submitted BOP ([Record ID. BC016 Burden of Proof, p. 75](#)), the Applicant understands that it will be responsible for design and installation of all improvements, and that these improvements must be inspected and approved by the County Engineer.

FIRE PROTECTION

BCC 99.605

Staff Response, Planning:

The standards in BCC 99.605 apply to applications proposing the creation of new lots or parcels or lot adjustments. This application proposes no new parcels or lots. Therefore, the **standards in this section do not apply.**

STORMWATER MANAGEMENT

99.660 Erosion and Sediment Control

(2) Applicability. The provisions of this section shall apply to all unincorporated areas of Benton County.

(3) Activities Requiring Erosion and Sediment Control Permit.

(a) The responsible party shall obtain an Erosion and Sediment Control (ESC) Permit from Benton County prior to initiation of ground-disturbing activities , if both (A) and (B) are met. Ground-disturbing activities listed in subsection (4) of this section are exempt from ESC permitting requirements.

(A) The ground-disturbing activities are associated with:

(i) Construction or land uses that require a permit or other review by Benton County; and

(ii) Any of the following:

(a) Construction of a public or private road, driveway, or structure; or

(b) Site preparation, associated installations (such as a septic system drainfield, ground-source heat pump, or tennis court), landscaping, and other ground-disturbing activities related to such construction.

(B) The total area disturbed will be 0.25 acre (10,890 square feet) or more.

(b) All activities shall comply with the Benton County Illicit Discharge Detection and Elimination Code, whether or not the activity requires an Erosion and Sediment Control Permit.

- (c) *The responsible party shall also comply with other local, state and federal erosion control regulations that may apply. Ground disturbance that is part of a common plan of development is required to comply with DEQ permitting even if the ground disturbance alone is below the threshold for requiring a Benton County ESC Permit.*

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 76](#)

Staff Response, Planning:

Erosion and sediment control permits are not required for the current conditional use application review, but will be required prior to site development, should the conditional use application be approved.

99.670 Post-Construction Stormwater Management

(2) Applicability. Land development within unincorporated Benton County shall comply with the requirements of this section.

(3) Permit Required. A property owner increasing or replacing the impervious surface on a property shall comply with this section and the technical standards outlined in the Stormwater Support Documents. [...]

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 81 – 82](#)

Staff Response, Planning:

Staff concurs with Applicant and engineering comments relating to stormwater management ([Record ID. BC015 Compiled County Engineering and Public Works Comments, p. 2 - 37](#)). Staff recommends **Conditions P1-5(E), P1-6(B) and P2-6(D-E)** requiring submission of additional stormwater and erosion control permitting materials for review and approval by the county prior to development.

SEWAGE DISPOSAL

99.705 Sewage Disposal.

Each proposed dwelling, parcel, lot, or place of public occupancy shall be served by a sewage disposal system which complies with the requirements of the Oregon Department of Environmental Quality requirements.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 82](#)

Staff Response, Planning:

The Applicant states in the BOP ([Record ID. BC016 Burden of Proof, p. 17](#)) that the existing VLI offices (on TL 1101) are served by a septic system and the planned new employee building would be served by a holding tank that would not be connected to the existing septic system. The Applicant states that the proposed maintenance building on Tax Lot 1200 will be served by a 400-gallon septic tank (shown in [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 112](#)).

Following Conditional Use approval, Benton County Environmental Health would be notified at the time of building permit application and would review, comment, and provide conditions for commercial sewage disposal. Furthermore, if the use warrants it, DEQ would review and approve new holding tanks. This standard is not applicable.

WATER SUPPLY

BCC 99.800 through 99.850

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 82](#)

Staff Response, Planning:

The Applicant states in the BOP ([Record ID. BC016 Burden of Proof, p. 17](#)) that the landfill is not served by a domestic water service and that it is not needed for the proposed landfill expansion. They state that the existing VLI offices (on TL 1101) are served by a well, as is the planned new employee building. The details of the two wells used for water production at the landfill are attached to the application as [Record ID. BC016 Well logs for PW-2 and Berkland wells \(Exhibit E6\), p. 595 – 601](#).

Following Conditional Use approval, Benton County Environmental Health would require standard testing for the wells prior to connection. Ultimately, DEQ is the primary governing agency for potable water at facilities like Coffin Butte Landfill. This standard is not applicable.

The Applicant states in [Record ID. BC016 Cover Letter from Miller Nash RE: New Materials and Staff Report responses, p. 112](#) that there is no well or other water source on Tax Lot 1200 and that Applicant will truck in potable water for the proposed maintenance building.

IMPROVEMENTS AGREEMENT

BCC 99.905 Improvements Agreement.

When required as a condition of development for a conditional use, partition, subdivision, planned unit development, or stormwater management permit, the applicant shall execute a standard improvements agreement provided by the County Engineer guaranteeing the construction of any required public improvements. [...]

99.915 Performance Guarantee.

(1) The applicant shall file with the County Engineer a performance guarantee to assure full and faithful performance. [...]

(2) The guarantee shall ensure that the applicant has funds committed in the amount determined by the County Engineer for the purpose of covering the cost of the improvements and repairs, including related engineering and incidental expenses. In the event of default by the applicant, the guarantee shall ensure that the County shall have, upon demand, funds to construct, complete or pay for all improvements or incidental expenses, including improvements full or partially constructed by the County, and bills which are outstanding for work done thereon by any party.

Pre-Planning Commission Decision, evidence cited by Staff:

Applicant evidence:

- [Record ID. BC016 Burden of Proof, p. 84](#)

Staff Response, Planning:

As noted by the Applicant, should the proposal be approved, a standard improvement agreement will be required prior to development.

VII. RECOMMENDATION

Based on findings in the Staff Report and information in the record, Staff concludes that Applicant has provided sufficient evidence to show that, with proposed Conditions of Approval, the application can meet all relevant standards. Therefore, **Staff recommends the Board of Commissioners approve LU-24-027 to expand the Coffin Butte Landfill, with conditions as detailed in Section VIII.**

VIII. PROPOSED CONDITIONS AND PERFORMANCE REQUIREMENTS

Imposing Conditions

ORS 215.416(4) authorizes the County to impose Conditions of Approval of a land use permit. Benton County Code 53.220 also allows the County to impose Conditions of Approval on a Conditional Use Permit.

An evidentiary basis for a condition must exist, such that the “evidence in the record could lead a reasonable person to conclude that considering the impacts of the proposed development there is a need for the condition to further a legitimate planning purpose.”²⁴ Conditions of Approval are not a substitute for compliance with approval criteria,²⁵ and must relate to approval criteria.²⁶ The decision maker does not have authority to impose conditions unrelated to the criteria.²⁷

Conditions of Approval may be imposed to provide the details of how compliance will be achieved “and assure criteria are met.”²⁸ The county may find compliance with approval criteria by establishing compliance is feasible, subject to compliance with specific Conditions of Approval.²⁹ If the applicant demonstrates feasibility of compliance, the County then has authority and obligation to impose Conditions of Approval to ensure compliance with these criteria. (For example, if limited hours of operation are necessary to establish that a use will not seriously interfere with uses on adjacent property, the decision maker may find that compliance with the criteria is feasible, subject to a condition that requires that the hours of operation be limited to a specified time period.) If a condition of approval is imposed to ensure compliance with an approval criterion based on a finding of feasibility, a preponderance of the evidence in the record must support a finding that the condition is “likely and reasonably certain” to result in compliance.³⁰

Planning Commission Decision

The Planning Commission denied the Coffin Butte Landfill expansion application, finding that it did not meet BCC 53.215 Conditional Use criteria (1) and (2). The decision, including the Incorporated Findings of individual Commissioners, found serious interference with adjacent uses and the character of the surrounding area, due to concerns about odor, noise, construction, litter, air quality, groundwater, fire and safety risks, and overall incompatibility with nearby residential growth. It also found that the use would place undue burdens on local services, including transportation, fire protection, water and wastewater systems, and county monitoring and enforcement capacity. It further noted that proposed mitigation measures were inadequate, citing unresolved compliance issues with past Conditions of Approval and county enforcement challenges.

Planning Commissioner findings, Applicant proposals, County Staff and third-party consultant feedback, and public testimony all played key roles in finalizing the following recommended conditions.

²⁴ Sherwood Baptist Church v. City of Sherwood, 24 Or LUBA 502, 505 (1993); Skydive Oregon v. Clackamas County, 25 Or LUBA 294 (1993).

²⁵ See, e.g., Hodge Or. Props. v. Lincoln County, 194 Or App 50 (2004)

²⁶ Harra v. City of West Linn, 77 Or LUBA 136 (2018).

²⁷ Caster v. City of Silverton, 56 Or LUBA 250, 256-60 (2008).

²⁸ Rhyne v. Multnomah County, 23 Or LUBA 442, 447 (1992).

²⁹ Meyer v. City of Portland, 7 Or LUBA 184 (1983), aff'd, 67 Or App 274 (1984).

³⁰ Gould v. Deschutes County, 227 Or App 60, 606-607 (2009).

Proposed Conditions and Requirements

The Applicant's proposal is hereby granted Conditional Use Approval. Applicant shall adhere to the following conditions and requirements under the terms of approval of this conditional use permit.

1. **Phase 1 Pre-Construction Conditions** – These conditions include requirements that the Applicant obtain relevant permit approvals (e.g., Benton County Public Works and Building departments, ODEQ, DSL, DOGAMI) and establish baseline monitoring data prior to construction activities. Only those activities necessary to complete these conditions are authorized until all of these Phase 1 Conditions have been met.

In the context of these conditions, “construction activity” means any earth-moving or ground-clearing activity.

The Applicant must submit documentation confirming that all Conditions in Phase 1 have been satisfied. Upon verification, the Planning Official will issue a formal **Satisfaction of Phase 1 Conditions notice**. Only after receiving this notice may Applicant begin construction of the approved development, which remains subject to the Phase 2 Conditions and the Ongoing Performance Requirements outlined below.

2. **Phase 2 Pre-Commercial Operations Conditions** – These conditions include site preparation and public facilities improvements. Only those activities necessary to complete these conditions are authorized until all these Phase 2 Conditions have been met.

The Applicant must submit documentation confirming that all Conditions in Phase 2 have been satisfied. Upon verification, the Planning Official will issue a second, formal **Satisfaction of Phase 2 Conditions notice**. Only after receiving this notice may Applicant begin commercial operations for the approved development, which remains subject to the Ongoing Performance Requirements outlined below.

3. **Ongoing Performance Requirements** – Upon issuance of the Satisfaction of Phase 2 Conditions notice, and throughout the duration of the use, Applicant shall comply with the Ongoing Performance Requirements. Failure to comply with the Ongoing Performance Requirements may result in revocation of the Conditional Use Permit.

Pursuant to BCC 53.230, Phase 1 and 2 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 Phase 1 and Phase 2 Conditions within the period of validity shall render this Conditional Use Permit void. All of these conditions are binding on Applicant's successors and assigns.

Phase 1 – Pre-Construction Conditions of Approval

Phase 1 General Conditions – Only those activities necessary to complete the following conditions are authorized until all of these Phase 1 Conditions have been met. Failure to maintain compliance with these conditions may result in enforcement action or review of permit approval, at the discretion of Benton County.		
Ref.	Recommended COA	Applicable code citation
P1-1	Groundwater. (A) Well Impacts. The Applicant shall establish baseline water level, aquifer level, and water quality: (i) Borings. At least two years in advance of construction activities, the Applicant shall advance at least four borings to an elevation below the bottom of the neighboring water supply wells and perform a hydrogeologic investigation of the CBL expansion footprint and surrounding vicinity. The results of this investigation should, at a minimum, include the following information: • Characterization of the locations and depths of any water-bearing zones underlying the CBL expansion footprint and neighboring properties. • Characterization of all fracture zones within the basalt bedrock, including determination of whether each fracture zone is water-bearing. • Characterization of confining or semi-confining layers present between water-bearing zones. • Characterization of static water levels associated with each water-bearing zone. • Identification of which water-bearing zone(s) supply water to neighboring property owners. • Characterization of major aquifer parameters for water-bearing zones that have the potential to supply groundwater to neighboring properties. This should include hydraulic conductivity and transmissivity. • Comparison of the locations and depths of the identified water-bearing zones relative to the proposed excavation extent and depths. (ii) Develop CBL Groundwater Monitoring Program. The Applicant shall use the results of the investigation outlined in Condition P1-1(A)(i) to develop a groundwater monitoring program to be conducted before, during, and after construction of the CBL expansion. • The monitoring program shall include, at a minimum, four sentry/monitoring wells screened within the same water-bearing zones as the water supply wells on neighboring properties and located between the CBL expansion footprint and the water supply wells. • The precise locations and depths of the monitoring wells shall be informed by the results of the hydrogeologic investigation described in Condition P1-1(A)(i).	53.215 (1) Adjacent Properties and Character of the Area - Water Quality 53.215(2) Water Quality 60.220(1)(a) Farm Impacts

	• Static water levels in these wells shall be monitored at least twice monthly for a minimum of two years before the start of construction, to establish a robust baseline data set. • The Applicant shall submit the baseline water level information data set to document that this Condition has been satisfied. Additionally, the Applicant may demonstrate future compliance with this Condition by providing the County with the DEQ-approved annual groundwater evaluation reports. (iii) Final Design. The final landfill design shall maintain a minimum of 10 feet of separation between the base of the excavation and any water-bearing zone that supplies water to neighboring properties. In the event that this separation cannot be documented, the Applicant shall maintain 10 feet of separation above the maximum static water level observed during seasonal wet conditions in the sentry/monitoring wells. Prior to construction, the Applicant shall submit a justification for the proposed bottom elevation in the landfill demonstrating that this Condition has been satisfied. (B) Well Quality Impacts/Arsenic. The four sentry/monitoring wells noted above will also be used to obtain background water quality data. (i) In addition, the Applicant, subject to property-owner approval, will sample the domestic water wells immediately south of the landfill (i.e., along Blaze Drive and Ploughshares Road) for arsenic once a year to track levels. This sampling program will begin at least two years before landfill construction to establish a baseline for arsenic concentrations in those wells.	
P1-2	Site Plan Map. Applicant shall submit to the Planning Official a final site plan map per County specifications 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.	77.310(2) LS Zone Conditional Use Review.
P1-3	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.	60.220(2) FC Zone Conditional Use Criteria.
P1-4	Wetlands. On Tax Lot 1200, Applicant shall prepare and obtain approval from the Oregon Department of State Lands (DSL) of a wetland delineation. Applicant shall not locate any portion of the project within the mitigation wetland and required buffer of the mitigation wetland as shown in Attachment B (Record ID. BC016 Engineering Plans (Exhibit E2), p. 148).	99.255(1) Development Activities in Wetlands.

P1-5	Public Works. (A) Applicant, the County and ODOT must work cooperatively to analyze and address requirements for modification of the Coffin Butte Road/Hwy 99W intersection, if deemed necessary. (B) Applicant shall provide calculations, design, and specifications for all proposed public infrastructure to County Public Works Staff for review and approval. (C) Applicant shall apply and obtain approval for a Permit to Perform Work in the County Right of Way. The permit will be issued when construction drawings are approved, and all supporting documentation has been provided to the County. (D) Applicant shall provide the County with a unit price cost estimate for the work to be performed within the 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) Applicant shall obtain a DEQ 1200-C permit, and a County Erosion and Sediment Control (ESC) permit prior to start of land disturbing activities. (The Applicant may wish to consider including the work within the Benton County right of way in the 1200-C application.) (F) Applicant shall obtain approval for all required local, state and federal permits prior to start of road improvements. (G) Construction of improvements to Coffin Butte Road will require a Miscellaneous Permit to Perform Work on the County Right of Way. Issuance of this permit may require the Applicant to enter into an Agreement for Improvements (AFI) to secure the proposed work. (H) Applicant shall provide the County with a detailed construction and sequencing plan for accomplishment of these Conditions of Approval.	53.215 (1) Adjacent Properties and Character of the Area - Traffic
P1-6	ODEQ. (A) Applicant must provide copies of ODEQ permits from the last 10 years to the County prior to beginning site preparation or grading activities. (B) Prior to the ODEQ solid waste permitting submittal, Applicant shall prepare the stormwater report and all related designs for the detention and conveyance features utilizing the most recent version of the Benton County Stormwater Support Documents. (C) Applicant must obtain an approved ODEQ air quality permit before commencement of solid waste disposal south of Coffin Butte Road.	53.215(1) Adjacent Properties and Character of the Area, Water Quality, Air Quality
P1-7	DOGAMI. Prior to any use of explosives on the expansion landfill site, Applicant must obtain permit approval from DOGAMI and submit this permit to the County Planning Official.	53.215(1) Adjacent Properties, Water Quality, Noise

P1-8	Active Rookery Protection. Applicant shall hire a qualified biologist annually to monitor active rookeries throughout the critical nesting period of February 15 through July 31 to determine site-specific nesting chronology, nest productivity, the degree of habituation to disturbance, and nearby foraging habitat. Applicant or Applicant's biologist shall: (i) Submit a rookery location map of active rookeries by January 1 of each year to the County Planning Official and ODFW. (ii) Identify and map a buffer of 300 feet around the primary nest zone of active rookeries and limit activities to maintain alternate nest trees, allow for growth of the colony, protect against windthrow, and prevent harassment.	Chapter 87 Sensitive Wildlife Habitat
P1-9	Compliance Enforcement. To assist the County in evaluating Applicant and its compliance with construction and performance requirements, beginning on the date this decision becomes final, following any appeals, and annually on or before March 1 thereafter, Applicant shall compensate the County in an amount of \$80,000, adjusted annually by the United States Bureau of Labor Statistics West Region CPI, to enable the County to perform the following tasks: (A) Review compliance with the Pre-Construction Phase, Pre-Commercial Phase and Ongoing Performance Phase Requirements. (B) Review sentry/monitoring well records. (C) Provide Coffin Butte Landfill expertise to assist the county in monitoring on-going landfill activities and related community concerns. (D) Perform inspections of the expansion area to assess compliance or to address complaints or compliance issues. (E) Perform such other service related to Coffin Butte Landfill as may be required. (F) Produce an annual report on subject matters (A) through (E) by June 30 of each calendar year. This condition of approval shall commence on the date the decision is final, following any appeals, and will cease four years from the date the Oregon Department of Environmental Quality issues a landfill closure permit which includes the expansion area.	

Phase 2 – Pre- Commercial Operations Conditions of Approval

Phase 2 Pre-Commercial Operations. Only those activities necessary to complete these conditions are authorized until all these Phase 2 Conditions have been met. Failure to maintain compliance with these conditions may result in enforcement action or review of permit approval, at the discretion of Benton County.

Ref.	Recommended COA	Applicable code citation
P2-1	Construction Phase. During construction of the expansion area, Applicant shall: (A) Conduct all blasting pursuant to its approved permit issue by the Oregon Department of Geology and Mineral Industries (DOGAMI) Limit construction to the hours of 6 a.m. to 6 p.m. (B) Comply with all applicable DEQ regulations applicable to the work. (C) Limit any required blasting to the hours of 12 p.m. to 5 p.m.	Construction conditions – not responding to CU criteria 99.110 Sensitive Land consideration.
P2-2	Noise. (A) Applicant shall replace all tonal back-up alarms on its on-site equipment with ambient sensing back-up alarms. (B) After completion of P2-2(A), Applicant shall verify by field measurement using a Type 1 sound level meter and overseen by a licensed engineer in the State of Oregon that sound levels of on-site equipment have been reduced by at least 10 dB compared to levels in Attachment C – Table 5.3 of the Noise Study dated September 25, 2023 (Record ID. BC016 (Exhibit E11), p. 831). The Applicant shall conduct sound measurements for onsite equipment using the same methodology that was used to establish the baseline data in the 2023 noise assessment. The study will analyze noise during the expansion area’s normal operating hours. Reduction measures could include but would not be limited to upgraded engine mufflers, quieter equipment, and local noise barriers around stationary equipment.	53.215(1) Adjacent Properties and Character of the Area – Noise
P2-3	Odor. (A) Applicant shall establish at least four odor survey points along the site perimeter. (B) Applicant shall assign and train two personnel to conduct the daily odor surveys required by Ongoing Performance Requirement OP-4(B).	53.215(1) Adjacent Properties and Character of the Area – Odor
P2-4	Groundwater. (A) Well Impacts. The Applicant shall monitor potential groundwater impacts to wells on adjacent properties through construction. (i) Sentry/monitoring Wells. Maintain the sentry/monitoring wells required by Phase 1 Condition P1-1(A)(ii). (ii) Water levels in these four wells shall continue to be monitored at least twice monthly as part of the CBL groundwater monitoring program established in Condition P1-1(A)(ii).	53.215 (1) Adjacent Properties and Character of the Area - Water Quality 53.215(2) Water Quality 60.220(1)(a) Farm Impacts

	(iii) Should any of the four new wells show four successive decreases demonstrating a 10% decrease in the potentiometric surface over the baseline established prior to excavation, or a dramatic change across two events (not associated with local climactic conditions or residential water use), the Applicant will request the ability to evaluate yield and water levels at residential wells. As part of this analysis VLI may install additional sentry/monitoring wells to the south of the four new monitoring wells. (iv) If the sentry/monitoring wells show a decrease that is affecting adjacent properties' well levels that is unrelated to local climate conditions or changes in residential use, VLI will conduct outreach to those property owners to evaluate and implement mutually agreeable solutions at VLI's expense. (v) The Applicant shall observe soil conditions during excavation for the presence of upwelling groundwater (not including limited shallow perched groundwater). If groundwater is suspected to be present, the Applicant's hydrogeologist shall prepare an analysis of potential sources and remedies that would allow the construction of the landfill to the proposed bottom elevation; otherwise, Applicant shall place necessary backfill to maintain the 10 feet of separation above the static water level that is required in Condition P1-1(A)(iii). • The Applicant shall notify the County of construction observations of groundwater and proposed remedies within 2 weeks of initial observance, otherwise a construction summary prepared by the Applicant's Oregon-registered hydrogeologist shall document their conclusion that groundwater was not encountered. (B) Well Quality Impacts/Arsenic. The four sentry/monitoring wells noted above will also be used to monitor water quality data prior to placement of waste in the new cell. (i) In addition, the Applicant, subject to property-owner approval, will sample the domestic water wells immediately south of the landfill (i.e., along Blaze Drive and Ploughshares Road) for arsenic once a year to track levels. As established in Phase 1 Condition P1-1, this sampling program will begin two years prior to landfill construction to establish a baseline for arsenic concentrations in those wells. (ii) If changes in arsenic concentrations above baseline levels are measured and can be attributed to landfill operations, the Applicant will immediately remedy the condition.	
P2-5	Screening. Applicant shall install the landscape screening as shown in Attachment D (Record ID. BC016 Engineering Plans (Exhibit E2), p. 161) and the Site Development Plan. The trees shall be at least eight feet tall upon planting and be of a species to reach a height of at least 40 feet upon maturity.	53.215(1) Adjacent Properties and Character of the Area, Visual Impacts

P2-6	Public Works. (A) Applicant shall survey, design, and construct improvements to Coffin Butte Road between Hwy 99W and milepost 0.377 to, at minimum, to the Major Collector design standard. (B) To accommodate westbound left turns into the new facility, Applicant shall construct a center turn lane with a turn pocket storage capacity of four (4) standard semi-trailer trucks (~180 feet) with islands and 30:1 tapers to match existing. (C) Historically, the County has employed a section of 5" of HMAC over 17" of CAB for facilities that receive heavy truck traffic. The Applicant shall complete a pavement design analysis in conformance with the AASHTO Guide for Design of Pavement Structures to determine if the above section is adequate on Coffin Butte Road given the high volume and loaded weights of the heavy truck traffic. The Applicant shall construct either the section identified in the analysis or a minimum 5" of HMAC over 17" CAB, whichever is more restrictive. (D) Applicant shall design and construct Coffin Butte Road drainage ditches, stormwater conveyances, connections to off-right of way conveyances, and detention facilities to accommodate runoff using ODOT standards, details and methodologies. (E) Construction and post-construction storm drainage discharge shall conform to the standards and tenets established by Oregon Drainage Law and shall conform to all ODEQ and County Stormwater Support Documents, erosion and sediment control details, and best management practices. The Applicant shall apply, pay fees, and obtain approval for a County Post-Construction Stormwater Management (SWM) Permit.	General 53.215 (1) Adjacent Properties and Character of the Area – Traffic; Water Quality 99.510 Road Approach Permits. 99.515 Road Design and Construction Standards.
P2-7	Structures within the FC zone. Applicant shall maintain a primary and secondary fuel-free fire-break surrounding each structure on land within the FC zone that is owned or controlled by the owner, in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry (ODF).	60.405(1) FC Zone Fire Break

P2-8	Active Rookery Protection. (A) Applicant shall hire a qualified biologist to monitor active rookeries throughout the critical nesting period of February 15 through July 31 to determine site-specific nesting chronology, nest productivity, the degree of habituation to disturbance, and nearby foraging habitat. Applicant or Applicant’s biologist shall: (i) Submit a rookery location map of active rookeries by January 1 of each year to the County Planning Official and ODFW. (ii) Identify and map a buffer of 300 feet around the primary nest zone of active rookeries and limit activities to maintain alternate nest trees, allow for growth of the colony, protect against windthrow, and prevent harassment. (B) Applicant shall not engage in construction within a quarter mile of an active rookery during the critical nesting period from February 15 through July 31.	Chapter 87 Sensitive Wildlife Habitat
P2-9	Compliance with Archeological Report Conditions. Applicant shall comply with the performance requirements set forth in Attachment E (Record ID. BC016 Archaeological report (Exhibit E26), p. 1356 – 1358).	General

Ongoing Performance Requirements

Ongoing Performance Requirements.. Monitoring of Ongoing Performance Requirements will be subject to BCC Title 31. Enforcement. Failure to maintain compliance with these conditions may result in enforcement action or review of permit approval, at the discretion of Benton County.		
Ref.	Recommended Ongoing Performance Requirements.	Applicable code citation
OP-1	Hours of Operation. Operating hours for disposal of waste in the landfill shall be as follows: (A) Monday through Saturday, the site may open to commercial customers using the commercial tipping area starting at 5 a.m. and to all other customers starting at 8 a.m. The site shall close to both commercial and other customers at 5 p.m. (B) On Sunday, the site will not open to any customers before 12 p.m. and will close no later than 5 p.m. (C) Internal operations, including opening and closing of the site and equipment preparation and inspection, shall start no earlier than one hour prior to opening the site for commercial customers and shall conclude no later than two hours after closing the site to all customers. (D) Following the start of commercial operations in the expansion area, scheduled infrastructure construction projects, such as new cell and gas facilities construction and road and driveway improvements, will be limited to the hours that the landfill is open to commercial customers. Emergency construction may occur outside these hours. An “emergency” is any unforeseen site condition that could result in	53.215(1) Adjacent Properties and Character of the Area – Noise

	property damage, affect site safety, or create negative off-site impacts. Landfill management shall notify the County within 24 hours of any emergency construction activity. (E) Staff or consultants may be on site or visit the site after the hours listed in sections A through D above for security, when necessary to respond to complaints or concerns, for equipment cleaning and maintenance, or to ensure that leachate disposal is adequately managed. (F) During an emergency or when requested by a federal, state, or Benton County agency, Applicant may open the landfill outside the hours listed in sections A through D above.	
OP-2	Site Operations. (A) The working face (area of active disposal operations) shall not exceed two acres in size unless it is necessary to increase the size to accommodate disposal due to a natural disaster such as a fire or other event requiring a larger working face to meet public health needs. (B) Applicant shall install daily cover over the working face at the conclusion of every day that the area is open to the public. (C) Applicant shall provide interim daily cover of twelve inches of compacted soil on all areas of the expansion area not actively receiving waste in compliance with applicable rules and regulations. (D) Applicant shall keep all landfill infrastructure in good repair, and shall repair within 48 hours any disabled, damaged, or nonworking infrastructure. (E) Applicant shall not develop a use, construct any structures, or make any site improvements that are not contained in Attachment F, the approved site plan (Record ID. BC016 Engineering Plans (Exhibit E2), p. 147 – 146, 150 – 153), unless such uses or facilities are outright permitted uses in the zone. Any other structures, uses, or site improvement not shown in the approved site plan will require a conditional use permit to modify the site plan. (F) Applicant shall not accept regulated hazardous waste as defined in 40 CFR 258.20(b) at the site.	53.215(1) Adjacent Properties and Character of the Area – Odor, Litter, Fire Risk, Water Quality, Visual Impacts

OP-3	Noise. To ensure equipment sound levels remain 10 dB below the levels shown in the Noise Study (Attachment C): (A) Sound levels from on-site equipment will be measured during normal operating hours at least once each week using a sound level meter or application installed on a mobile device. (B) Additional measurements will be made every three years after commencement of operations in the expansion area, conducted during normal operating hours, using a Type 1 sound level meter, and overseen by a licensed engineer in the state of Oregon. These triennial measurements will be used to prepare updated noise studies. Updated noise studies shall be submitted to the County Planning Official by December 31 of every third year following the start of commercial operations. (C) The Applicant shall conduct sound measurements for onsite equipment using the same methodology that was used to establish the baseline data in the said 2023 Noise Study. The study shall be conducted during normal operating hours.	53.215(1) Adjacent Properties and Character of the Area – Noise
OP-4	Odor. (A) During the first 48 months of landfill operations, the Applicant shall employ, at its cost, the services of a qualified third-party for an independent verification of the daily odor surveys conducted using certified inspectors with training in how to appropriately use a Nasal Ranger Field Olfactometer. Applicant is required to perform independent third-party verification at least once every 30 days and the third-party survey shall be documented and recorded. The standard D/T dial settings for a Nasal Ranger Field Olfactometer are set to 2, 4, 7, 15, 30, and 60. If independent verification results in a measured D/T of 4 or greater, Applicant shall immediately take steps to mitigate the odor level measured by independent verification. In addition, if Applicant measures lower D/T values than the independent third-party more than three times in any calendar year, County shall extend the requirement for independent third-party verification surveys an additional 12 months each year this occurs. (B) Daily, and throughout the duration of the use, Applicant shall monitor according to the following requirements: (i) Monitor from the survey points assigned as a result of Phase 2 Condition P2-3. (ii) Assign two trained personnel to conduct the daily odor surveys. (iii) Use a Nasal Ranger Field Olfactometer or equivalent technology. (iv) Record survey data including time, location, weather, odor intensity, and description. (v) Investigate any detected odors; if attributed to the Project, implement mitigation measures. (vi) Equip survey personnel with a portable hydrogen sulfide (H₂S) monitor set to an appropriate threshold (0.05 ppm).	53.215(1) Adjacent Properties and Character of the Area – Odor

	(vii) Elevated readings shall be logged investigated, and mitigated if the source is located onsite. (C) Applicant or current landfill management shall maintain all odor survey and mitigation documentation for a minimum of five years. (D) Applicant shall include a summary of odor survey findings and mitigation actions in the Applicant's Annual Report to the County. (E) Along with the Annual Report, submit a separate odor survey report to the County Planning Official evaluating the effectiveness of odor mitigation efforts. (F) Applicant shall: (i) Maintain a log of odor complaints received via phone, email, website, or ODEQ, including (if available): date, time, complainant name, and odor location. (ii) Retain complaint records for at least five years. (iii) Investigate and remediate verified complaints . (iv) Submit a report to the County Planning Official summarizing complaint trends, response actions, and evaluating the effectiveness of mitigation efforts. (G) Applicant's evidence submitted to support the conclusion that the proposed expansion will not seriously interfere with uses on adjacent properties or with the character of the area with regard to odor impacts is based on Applicant's submitted odor studies' assumption that the maximum organic waste acceptance will be no more than 41,110,068 tons by 2052. Accordingly, upon approval of this Conditional Use Permit, Applicant shall comply with the following waste acceptance limits on annual waste deposited in the landfill evaluated on a twelve-month average basis: Municipal solid waste (MSW) shall not exceed 1.0 million tons per year, and total solid waste inclusive of MSW shall not exceed 1.3 million tons per year. This does not include non-deplete waste (waste that is not deposited in the cell, such as cover materials). With written County Administrator approval these waste acceptance limits may be exceeded when an extraordinary event, such as fire, floods, and similar events results in increased waste. (H) The Applicant shall continue to enhance the existing gas collection system by installing new gas wells in areas with elevated emissions.	
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OP-5	Groundwater. (A) Well Impacts. The Applicant shall conduct sampling and tracking of potential groundwater impacts to wells on adjacent properties. (i) Sentry/monitoring Wells. Maintain the sentry/monitoring wells required by Phase 1 Condition P1-1. (ii) Water levels in these four wells will be monitored at least twice monthly as part of the CBL groundwater monitoring program established in Condition P1-1(A)(ii). (B) Well Quality Impacts/Arsenic. The four sentry/monitoring wells noted above will also be used to sample water quality data throughout the duration of the use, at least once every three months. (i) In addition, the Applicant, subject to property-owner approval, will sample the domestic water wells immediately south of the landfill (i.e., along Blaze Drive and Ploughshares Road) for arsenic once a year to track levels. As established in Phase 1 Condition P1-1(A)(ii), this sampling program will begin before landfill construction to establish a baseline for arsenic concentrations in those wells. (ii) If changes in arsenic concentrations above baseline levels are measured and can be attributed to landfill operations, the Applicant will work with property owners to remedy the condition.	53.215 (1) Adjacent Properties and Character of the Area - Water Quality 53.215(2) Water Quality 60.220(1)(a) Farm Impacts
OP-6	Maintenance of Tree Buffer. Applicant shall reestablish within one year and maintain the existing tree buffer along Hwy 99W, and the new screening measures required in Phase 2 Condition P2-5. Applicant will replace any dead trees annually during the rainy season between October 1 and April 30.	53.215(1) Adjacent Properties and Character of the Area – Visual Impacts
OP-7	Outdoor Lighting. (A) All outdoor lighting fixtures shall be fully shielded and directed downward to prevent light trespass and skyglow. (B) Fixtures must utilize beam angles and shielding that confine light to the intended area, with no upward light emission. (C) Lighting shall comply with the Five Principles for Responsible Outdoor Lighting: (i) All light shall have a clear purpose. (ii) Light shall be directed only where needed. (iii) Light levels shall be no higher than necessary. (iv) Lighting shall be used only when useful. (v) Warmer color temperatures ($\leq 3000\text{K}$) shall be used where possible	53.215(1) Adjacent Properties and Character of the Area – Visual Impacts
OP-8	Maximum Elevation. The ‘top of waste grade’ (TOWG) of the new landfill expansion area shall not exceed 450 feet above mean sea level in elevation. The top of the final cover shall not exceed 453 feet above mean sea level in elevation. (TOWG) refers to the elevation and contour of the uppermost surface of compacted waste in a landfill cell before it is covered. It defines the final shape and slope of the waste mass, ensuring proper drainage, stability, and compliance with landfill design specifications).	53.215(1) Adjacent Properties and Character of the Area – Noise, Odor, Visual Impacts, Litter

OP-9	Litter Control. (A) General Compliance. The Applicant shall implement and maintain all current litter control measures as described in Attachment G (Record ID BC016 June 23 Cover Letter (1/2), p. 131 – 134) including all measures applicable to the expansion area. (B) Working Face Fencing. (i) The Applicant shall ensure continuous deployment of bull fencing around the entire landfill working face to minimize windblown litter. (ii) A secondary line of bull fencing shall be deployed behind the existing line along the entire landfill working face, providing an added barrier for litter containment. (C) Perimeter Fencing and Containment. The Applicant shall install and maintain Defender Fencing in appropriate high-risk areas as identified in operational plans. (D) The main haul road shall have continuous deployment of wire fencing reinforced with orange snow fencing to control roadside litter. (E) The expansion area of the landfill, as shown in Attachment H (Record ID. A0096 Applicant Presentation to Planning Commission – July 8, 2025, p. 12), shall be enclosed with a chain link fence to mitigate off-site litter dispersion. (F) Off-Site Litter Management. (i) Applicant shall expand its litter collection program to include Tampico Road and Soap Creek Road. Applicant shall conduct daily patrols and clean-up operations to address litter along these routes. Applicant shall track and evaluate the effectiveness of these efforts and submit a report to the County Planning Official detailing patrol activities, litter volumes collected, and any observed trends or improvements. (ii) Subject to the request and written consent of the property owner, Applicant shall clean up litter on a weekly basis on any property that is an “adjacent property” as defined in the Staff Report at a time and day mutually agreeable to Applicant and the property owner. Applicant will ensure that Applicant’s employees or contractors are adequately insured and will sign an access agreement to defend and indemnify the property owner for any damage to their property caused by Applicant’s employees or contractors while on the property. (G) Private Delivery Requirements. To prevent litter originating from uncovered private vehicles, Applicant shall implement and enforce a policy that prohibits acceptance of any trash delivery unless fully covered or secured in accordance with DEQ standards and site-specific requirements. (H) Monitoring and Reporting. Applicant shall document litter control efforts and submit semi-annual reports to the County Planning Official demonstrating compliance with these conditions, including photographic evidence, inspection logs, and corrective actions taken.	53.215(1) Adjacent Properties and Character of the Area – Litter
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OP-10	Fire Protection. (A) Applicant shall maintain at least two 4000-gallon+ water trucks in good repair, with at least one truck present at the landfill site at all times to help extinguish fires. At such time as Applicant may replace or update the water trucks or other firefighting infrastructure in the expansion area, such new truck or equipment will provide protection equal to or better than the truck or equipment being replaced. (B) Applicant shall maintain a log of all fire incidents on Applicant's property used for landfill activities and accessory uses. Applicant will provide a verbal report of any fire events that have occurred since the last meeting at each Benton County Disposal Site Advisory Committee (DSAC) meeting. Applicant shall report all fire incidents to DEQ. (C) Applicant shall conduct semi-annual fire-protection and emergency preparedness training of its on-site personnel. (D) Applicant shall provide 24-hour per day on-site surveillance and monitoring of the landfill expansion area during red flag days.	53.215(1) Adjacent Properties and Character of the Area – Fire Risk
OP-11	Environmental Regulations. Applicant shall comply with all applicable regulations adopted by DEQ, the United States Environmental Protection Agency (EPA), or any other agency of competent jurisdiction regarding PFAS/PFOA, methane, and any other landfill gas component.	53.215(1) Adjacent Properties and Character of the Area – Water Quality, Air Quality
OP-12	Compliance with Application Materials. Applicant shall construct and operate the expanded landfill as described in the application materials, except as modified by these Conditions of Approval.	General 53.215(1) Adjacent Properties and Character of the Area – Traffic
OP-13	Maintenance of Other Required Permits. Applicant shall obtain and maintain all required federal, state, and County permits for construction and operation of the landfill. Applicant shall file copies of all such permits with the County Planning Division within seven (7) days of permit receipt.	General 53.215(1) Adjacent Properties and Character of the Area – Water Quality, Air Quality
OP-14	Working Face. Applicant shall not dispose of waste north of Coffin Butte Road during the Development Area's operation. Only one working face shall operate at a time. However, Applicant will be allowed to utilize two working faces during a short-term, three-month-or-less "transition period" when the Development Site first becomes operational. This transitional period is part of an industry-wide best practice to place municipal solid waste on the bottom of the new cell before disposing of any materials (such as construction or demolition) that could potentially impact the integrity of the liner system. Applicant shall proactively notify the County of the date the transition period is scheduled to begin, and again when it ends.	General

OP-15	Structures within the FC zone. Applicant shall maintain a primary and secondary fuel-free fire-break surrounding each structure on land within the FC zone that is owned or controlled by the owner, in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry (ODF).	60.405(1) FC Zone Fire Break
OP-16	Active Rookery Protection. Applicant shall hire a qualified biologist to monitor active rookeries throughout the critical nesting period of February 15 through July 31 to determine site-specific nesting chronology, nest productivity, the degree of habituation to disturbance, and nearby foraging habitat. Applicant or Applicant's biologist shall: (A) Submit a rookery location map of active rookeries by January 1 of each year to the County and ODFW. (B) Identify a buffer of 300 feet around the primary nest zone of active rookeries and limit activities to maintain alternate nest trees, allow for growth of the colony, protect against windthrow, and prevent harassment.	53.215(1) Adjacent Properties and Character of the Area – Wildlife Chapter 87

IX. MOTIONS

I move that the Conditional Use Permit for expansion of the Coffin Butte Landfill be:

- A) **APPROVED**, based on evidence in the record and findings in favor in the Staff Report, and subject to the recommended Conditions of Approval contained in the Staff Report.

OR,

- B) **APPROVED WITH MODIFICATIONS**, based on evidence in the record and findings in favor in the Staff Report as modified at the public hearing, and subject to recommended Conditions of Approval contained in the Staff Report modified as follows: [specify].

OR,

- C) **DENIED**, based on evidence in the record and findings in opposition and conclusions developed at the public hearing.

X. INDEX OF MATERIAL REFERENCED

Applicant submissions, agency comments, public testimony, and Benton County material make up the record, which was open during the PC review process and again for the BOC review. Throughout the findings in this Staff Report, Staff use a “Record ID” consistent with County records to cite material. An index of the material Staff reference in this report, and the respective Record IDs, are located below. Items submitted to the record will be available on the Benton County web page for at least the duration of the BOC hearing process.

PC RECORD MATERIALS			
TITLE	PC RECORD ID	PAGE IN RECORD (IF APPLICABLE)	DATE
June 2025 Staff Report	BC014		6/26/2025
June 2025 Staff Report - <u>Compiled Applicant Exhibits</u>	BC016	1-2272	6/26/2025
Cover Letter for Jan 15th Supplemental Materials	BC016	96-110	1/15/2025
Burden of Proof	BC016	1-90	1/15/2025
ADDENDUM to Burden of Proof	BC016	91-95	3/14/2025
Application form and fees (Exhibit E1)	BC016	138-141	10/30/2024
Engineering Plans (Exhibit E2)	BC016	142-170	3/14/2025, 04/29/2025 addendum
Vesting deeds to the tax lots contained in the Development Site (Exhibit E3)	BC016	171-185	10/30/2024
Wildlife habitat assessment and surveys (Exhibit E4)	BC016	186-286	10/30/2024
Phase II geotechnical exploration report narrative (Exhibit E5N)	BC016	287-338	10/30/2024
Appendix A to phase II geotechnical exploration report (Exhibit EA)	BC016	339-427	10/30/2024
Appendix B to phase II geotechnical exploration report (Exhibit E5B)	BC016	428-478	10/30/2024
Appendix C & D to phase II geotechnical exploration report (Exhibit E5CD)	BC016	479-496	10/30/2024
Appendix E to phase II geotechnical exploration report (Exhibit E5E)	BC016	497-588	10/30/2024
Appendix F to phase II geotechnical exploration report (Exhibit E5F)	BC016	589-594	10/30/2024
Well logs for PW-2 and Berkland wells (Exhibit E6)	BC016	595-601	10/30/2024
Letter from CEC regarding Oregon DEQ permits and regulations (Exhibit E7)	BC016	602-812	10/30/2024

Map and list of adjacent and nearby properties (Exhibit E8)	BC016	813-815	10/30/2024
Map defining analysis area and showing odor complaints (Exhibit E9)	BC016	816-817	10/30/2024
Aerial image of topography and roads surrounding the landfill area (Exhibit E10)	BC016	818-819	10/30/2024
Noise study (Exhibit E11)	BC016	820-851	10/30/2024
Findings on odor (Exhibit E12)	BC016	852-858	10/30/2024
Memorandum regarding odor, methane, and hydrogen sulfide control at Coffin Butte Landfill (Exhibit E13)	BC016	859-926	10/30/2024
2024 Odor study (Exhibit E14)	BC016	927-983	10/30/2024
Traffic Report and Addendum (Exhibit E15)	BC016	984-1099	4/29/2025, 10/30/2024 addendum
Environmental and operational considerations (Exhibit E16)	BC016	1100-1116	3/14/2025
Preliminary drainage report (Exhibit E17)	BC016	1117-1171	3/14/2025
Aerial renderings of Coffin Butte Landfill (Exhibit E18)	BC016	1172-1179	10/30/2024
Site lighting summary (Exhibit E19)	BC016	1180-1181	10/30/2024
Fire risk assessment of Coffin Butte Landfill and Addendum (Exhibit E20)	BC016	1182-1195	09/24/2024, 01/15/2025 addendum
Proposed Conditions of Approval (Exhibit E21)	BC016	1196-1205	6/13/2025
Reclamation plan for expansion area (Exhibit E22)	BC016	1206-1217	10/30/2024
Oregon DEQ permit #306 materials (Exhibit E23)	BC016	1218-1245	10/30/2024
Oregon DEQ permit work plan (Exhibit E24)	BC016	1246-1353	10/30/2024
Oregon DEQ approval of work plan (Exhibit E25)	BC016	1354-1355	10/30/2024
Archaeological report (Exhibit E26)	BC016	1356-1358	10/30/2024
Leachate management summary (Exhibit E27)	BC016	1359-1361	1/15/2025
Republic Services letter to the Benton County Board of Commissioners regarding methane emissions and Addendum (Exhibit E28)	BC016	1362-1367	10/30/24, 1/15/2025 addendum
Republic Services letter to the Benton County Board of Commissioners relating to arsenic and Addendum (Exhibit E29)	BC016	1368-1371	10/30/24, 1/15/2025 addendum
Proposed Coffin Butte Landfill seismic design (Exhibit E30)	BC016	1372-1374	10/30/2024
Farm Lease between VLI and Agri-Industries, Inc. (Exhibit E31)	BC016	1375-1382	1/15/2025

Photos of farm and forest uses on adjacent properties (Exhibit E32)	BC016	1383-1407	1/15/2025
2025 Odor study (Exhibit E33)	BC016	1408-1522	3/14/2025
Benton County business database (Exhibit E34)	BC016	1523-1616	3/14/2025
Cover Letter from Miller Nash RE: New Materials and Staff Report responses	BC016	111-114	4/29/2025
Applicant Presentation to Planning Commission – April 29, 2025	A0052	1 - 51	4/29/2025
Cover Letter from Miller Nash RE: June 6th File Submissions	BC016	115-128	6/16/2025
Legal Arguments Memo from Miller Nash (Exhibit E35)	BC016	1617-1622	6/6/2025
June 2025 Odor Study (Exhibit E36)	BC016	1623-1734	6/6/2025
Memorandum Re: Beyond Toxics May 6th Testimony (Exhibit E37)	BC016	1735-1737	6/6/2025
Memorandum Re: Proposed Noise Mitigation (Exhibit E38)	BC016	1738-1740	6/6/2025
ODEQ 2019 Memorandum Re: CAOPR (Exhibit E39)	BC016	1741-1745	6/6/2025
Employee Exposure Report of Findings (Exhibit E40)	BC016	1746-1956	6/6/2025
Environmental Methane Compliance Report of Findings (Exhibit E41)	BC016	1957-2205	6/6/2025
Memorandum RE: Traffic Testimony (Exhibit E42)	BC016	2206-2209	6/6/2025
Memorandum RE: Wildlife and Habitat Testimony (Exhibit E43)	BC016	2210-2211	6/6/2025
Memorandum RE: Fire Risk Testimony (Exhibit E44)	BC016	2212-2214	6/6/2025
Cross Sections of Expansion Height (Exhibit E45)	BC016	2215-2218	6/6/2025
May 2025 Aerial Image of Existing Tarps (Exhibit E46)	BC016	2219	6/6/2025
Memorandum Re: Construction Sequencing Testimony (Exhibit E47)	BC016	2220-2221	6/6/2025
Memorandum Re: Dry Climate Landfill Testimony (Exhibit E48)	BC016	2222	6/6/2025
Cover Letter from Miller Nash RE: June 12th File Submissions	BC016	129-130	6/12/2025
Memorandum Re: Groundwater Testimony (Exhibit E49)	BC016	2223-2242	6/12/2025
Map of Groundwater Monitoring Network (Exhibit E50)	BC016	2243	6/23/2025
June 23 Cover Letter (1/2)	BC016	131-134	6/23/2025
Odor Study Supplemental Information (Exhibit E51)	BC016	2244-2246	6/23/2025

June 23 Cover Letter (2/2) on VNEQS Comments	BC016	135-137	6/23/2025
Response to VNEQS Noise Comments (Exhibit E52)	BC016	2247-2249	6/23/2025
Response to VNEQS Odor Comments (Exhibit E53)	BC016	2250-2251	6/23/2025
Response to VNEQS Traffic Comments (Exhibit E54)	BC016	2252-2257	6/23/2025
Response to VNEQS Groundwater and Leachate Comments (Exhibit E55)	BC016	2258-2262	6/23/2025
Response to VNEQS Fire Risk Comments (Exhibit E56)	BC016	2263-2269	6/23/2025
Response to VNEQS Wildlife Comments (Exhibit E57)	BC016	2270-2272	6/23/2025
June 2025 Staff Report - <u>Compiled Benton County Exhibits</u>	BC015	1-510	6/26/2025
Compiled County Engineering and Public Works Comments	BC015	1-37	6/26/2025
Compiled Agency Comments	BC015	38-111	6/26/2025
Map of Testimony from within Analysis Area	BC015	112-113	6/26/2025
Benton County Notice to Outside Agencies	BC015	114-118	6/26/2025
Benton County Reviewing Consultants' Credentials	BC015	119-161	6/26/2025
Property Zoning Map	BC015	162-163	6/26/2025
Compiled Testimony from Adjacent Property Owners/Residents	BC015	164-365	6/26/2025
Compiled Testimony from Opponents	BC015	366-510	6/26/2025
Planning Commission Decision	BC019		7/30/2025
Adjacent Property Testimony - M. Bradley	T0774		7/9/2025
Applicant Presentation to Planning Commission – July 8, 2025	A0096		7/8/2025
Cover Letter from Miller Nash RE: July 16 Submittal	A0097		7/16/2025
Responses to July 8 – 9 Evidence (Exhibit E65)	A0099		7/16/2025
Applicant's Final Rebuttal	A0100		7/21/2025
APPEAL TO BOC RECORD MATERIALS			
TITLE	BOC RECORD ID	PAGE IN RECORD (IF APPLICABLE)	DATE
Appeal Submission	BOC1 A0001		8/12/2025
Cover Letter from Miller Nash RE: September 12 Submittal	BOC1 A0002		9/12/2025
Code Interpretation Memorandum from Miller Nash (Exhibit E66)	BOC1 A0003		9/12/2025
PC Decision Responses and Evidence (Exhibit E67)	BOC1 A0004		9/12/2025

Groundwater Modeling Memorandum (Exhibit E68)	BOC1_A0005		10/7/2025
Adjacent Property Testimony - R. Holdorf	BOC1_T0099		10/3/2025
Adjacent Property Testimony - J. Morrell	BOC1_T0146		10/5/2025
Adjacent Property Testimony - T. Morrell	BOC1_T0147		10/5/2025
Adjacent Property Testimony - B. Briskey	BOC1_T0152		10/6/2025
Adjacent Property Testimony - L. A. Davis	BOC1_T0155		10/6/2025
Adjacent Property Testimony - Ro. Kipper	BOC1_T0173		10/6/2025
Adjacent Property Testimony - Ri. Kipper	BOC1_T0174		10/6/2025
Adjacent Property Testimony - K. and S. Edwardsson	BOC1_T0196		10/7/2025
Adjacent Property Testimony - J. Geier	BOC1_T0215		10/7/2025
Opponent Testimony - M. Yeager	BOC1_T0244		10/7/2025
Opponent Testimony - M. Yeager	BOC1_T0245		10/7/2025