

LU-24-027 IN-PERSON TESTIMONY SUBMITTAL COVER SHEET

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FROM:	<u>E. Amira Thompson</u> @ 3:22 pm
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Dear Commissioners,

Oregon is a fascinating place to engage with land use law, and while I do not actively practice law, I'm grateful for the decade of experience I amassed working on state and local policies with my background in zoning and land use law.

In reviewing verbal testimony given during hearings for LU-24-027 on October 22 and 23, I noticed one fact that the applicant, county staff, and opponents could all agree on — the term 'Adjacent Property,' while central to the criteria for approving a property's conditional use, is not formally defined in Benton County's code.

As you heard hundreds of times, Benton County Code 53.215 criteria states that "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."

Common aspects of the term "adjacent property" in land use applications are widely accepted to include properties that "share a boundary, properties that are separated by a right of way, and properties that share common ownership".

In testimony provided on October 23 in opposition to LU-24-027 by Benton County Planning Commissioner Catherine Biscoe, she suggests:

"County precedent in evaluating 'adjacent' can be seen in recent land use decisions ... reflecting far greater historical and current interpretations of the word adjacent.

...

The definition of adjacent includes 'nearby'. Nearby counties, acreage, cities, special districts, neighborhoods? In the Webster's dictionary it cites 'the city and adjacent suburbs' suggesting that adjacent is not simply a matter of shared property lines.

It does refer to 'in close proximity.' How do we define 'close'? Areas subject to impact? 'Not necessarily limited to adjoined or contiguous' is also cited in the Webster."

Ms. Biscoe's suggestion that a range of applications for 'adjacent property' have been accepted in land use decisions since Benton County's charter was approved in 1972 is plausible.

But to imagine out loud that based on this range of interpretations, "adjacent property" in BCC 53.215 could include "nearby counties, acreage, cities, special districts, neighborhoods" is not plausible nor reasonable based on the plain definition of "adjacent".

I live 5 miles from an airport, and sometimes my dog gets woken up by airplanes — does that make my property adjacent to the airport where I would have recourse for excessive noise? No. I live within 5 miles of downtown – does that mean I live downtown? No.

Ms. Biscoe's speculation that ***"without the landfill sited at this location the neighborhoods, farmlands, vineyards, small businesses, communities would not be experiencing the same impact"*** imagines "adjacent" to mean "remotely impacted".

Adjacent does not mean areas subject to impact or impacted at a distance.

These thought experiments to broaden the scope of "adjacent" in BCC 53.215 go far beyond any reasonable interpretation and is a slippery slope that could have wide impacts on Benton County's past and future land use decisions.

I urge you to think rationally on the meaning of "adjacent" within this context and not go beyond what is common sense.

Sincerely,

E. Amira Thompson, JD