



**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, Chapter 99.
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:	Not active
STAFF CONTACT:	Petra Schuetz, petra.schuetz@bentoncountyor.gov

Summary of Staff Conclusion: Staff Recommends **Denial** of the proposed Conditional Use application due to odor and noise impacts expected to “seriously interfere” with adjacent land uses and the character of the area.

Table of Contents

Executive Summary	2
Exhibits.....	4
Figures.....	6
I. FINDINGS OF FACT.....	7
II.PROJECT DESCRIPTION	8
Background	8
Proposal	9
Public Notice	13
Agency Reviews.....	13
IV.COMMENTS.....	15
AGENCY COMMENTS	15
PUBLIC COMMENTS	16
V.APPLICABLE CODE REVIEW	17
Relevant Code Chapters.....	17
VI.RECOMMENDATION	76
VII.MOTIONS	76

Executive Summary

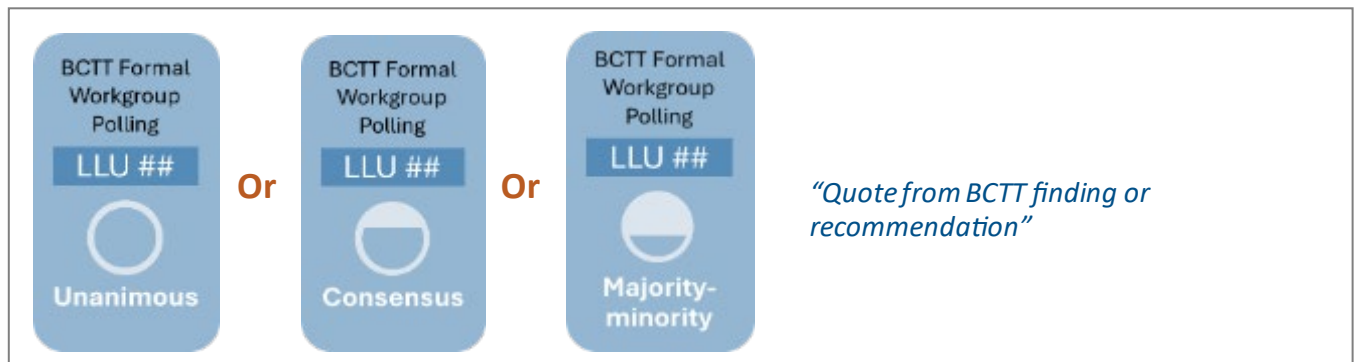
Valley Landfills, represented by Jeffrey G. Condit of Miller Nash LLP., submitted a conditional use application to expand an existing landfill (LU-24-027). In this report, Benton County staff do the following:

- **Describe the proposal and land use background.**
- **Describe the process for reviewing the proposed land use application.**
 - o Expansion of an existing landfill in the LS zone requires Conditional Use approval, as does the proposed development (employee building, shop, leachate ponds, and associated drives) ancillary to the landfill use in the FC zone.
 - o *Approval of a CUP by the County is only the initial step in the process to expand the landfill. VLI must also obtain permits from the Oregon Department of Environmental Quality (DEQ). (Exhibit BOP p.5)*
- **Provide findings specific to the proposal in response to all applicable standards and criteria of the Benton County Code (BCC).** Staff cite facts of the proposal and detail how and why, given those facts, each standard or criterion has or has not been met. Staff determined the application submission did not provide sufficient evidence to support a finding that odor and noise impacts would not “seriously interfere” with adjacent land uses.

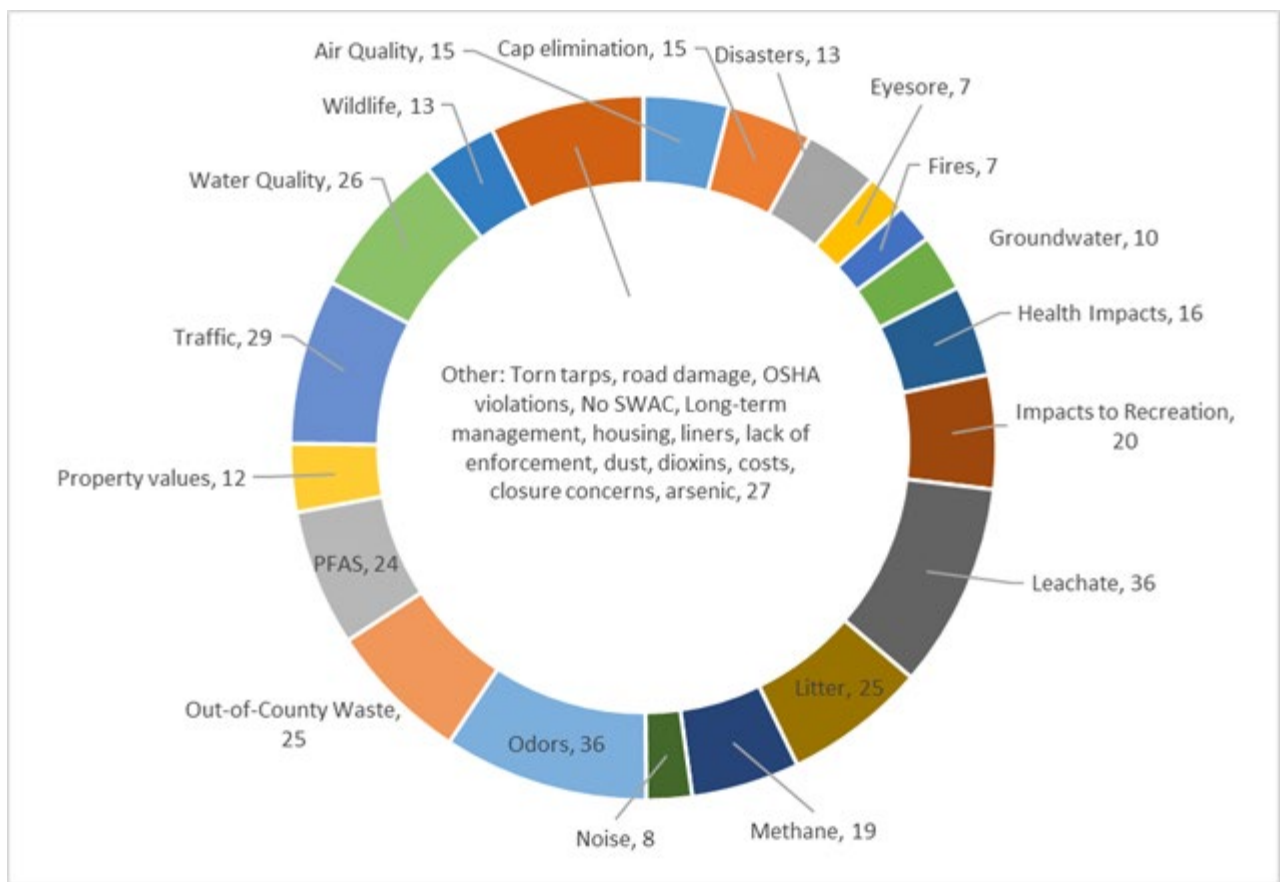
Planning Staff have included findings and recommendations from the 2021 Benton County Talks Trash (BCTT) report as supplemental evidence regarding code interpretations. The BCTT Legal Issues and Land Use Review subcommittee’s findings and recommendations are the result of subcommittee member polling and are accompanied by more comprehensive discussions within the larger 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 1. Example BCTT Findings Result Graphic



- **Recommend that the Benton County Planning Commission deny the application.**
- At the time this report was written, there were 135 written comments. Following is a thematic graphic referencing the different comment topics and relative number of time or weight of the topics raised.



Exhibits

Applicant Exhibits		
In-text Citation	Date Submitted	Title
CL	1/15/2025	Cover Letter for Jan 15th Supplemental Materials
BOP	1/15/2025	Burden of Proof
BOPA	3/14/2025	ADDENDUM to Burden of Proof
E1	10/30/2024	Application form and fees
E2	3/14/2025	Engineering Plans Cover Sheet (Sheet 1) Benton County Tax Lots and Zoning (Sheets 2 and 2A) Existing Conditions (Sheet 3) Demolition Plan (Sheet 4) Overall Development Plan (Sheet 5) Development Area Layout (Sheet 6) Coffin Butte Road Proposed Rights-of-way (Sheet 7) Left Turn Traffic Plan (Sheet 8) North Road Plan (Sheet 9) Parking Infrastructure Plan (Sheet 10) Development Area Top of Waste Grades (Sheet 11) Development Area Phase 1 (Sheet 12) Development Area Phase 2 (Sheet 13) Top of Waste Phase 1 (Sheet 14) Top of Waste Phase 2 (Sheet 15) Top of Waste Phase 3 (Sheet 16) Top of Waste Phase 4 (Sheet 17) Stockpile Plan (Sheet 18) Landscape Plan (Sheet 19) South Stormwater Basin (Sheet 20) Wetpond-Detention Pond Combination Plan (Sheet 21) Wetpond-Detention Pond Combination Profiles (Cross-Sections AA and BB) (Sheet 22) Wetpond-Detention Pond Combination Profiles (Cross-Sections CC and DD) (Sheet 23) Cross-Sections (Sheets 24, 25, and 26) Traffic Details (Sheet 27) Development Area Layout (Sheet 28)
E3	10/30/2024	Vesting deeds to the tax lots contained in the Development Site
E4	10/30/2024	Wildlife habitat assessment and surveys
E5N	10/30/2024	Phase II geotechnical exploration report narrative
E5A	10/30/2024	Appendix A to phase II geotechnical exploration report
E5B	10/30/2024	Appendix B to phase II geotechnical exploration report
E5CD	10/30/2024	Appendix C & D to phase II geotechnical exploration report
E5E	10/30/2024	Appendix E to phase II geotechnical exploration report
E5F	10/30/2024	Appendix F to phase II geotechnical exploration report
E6	10/30/2024	Well logs for PW-2 and Berkland wells

E7	10/30/2024	Letter from CEC regarding Oregon DEQ permits and regulations
E8	10/30/2024	Map and list of adjacent and nearby properties
E9	10/30/2024	Map defining analysis area and showing odor complaints
E10	10/30/2024	Aerial image of topography and roads surrounding the landfill area
E11	10/30/2024	Noise study
E12	10/30/2024	Findings on odor
E13	10/30/2024	Memorandum regarding odor, methane, and hydrogen sulfide control at Coffin Butte Landfill
E14	10/30/2024	2024 Odor study
E15	10/30/2024	Traffic report
E16	3/14/2025	Environmental and operational considerations
E17	3/14/2025	Preliminary drainage report
E18	10/30/2024	Aerial renderings of Coffin Butte Landfill showing proposed expansion area view corridors
E19	10/30/2024	Site lighting summary
E20	09/24/24 + 01/15/25	Fire risk assessment of Coffin Butte Landfill + ADDENDUM
E21	1/15/2025	Applicant proposed conditions of approval
E22	10/30/2024	Reclamation plan for expansion area
E23	10/30/2024	Oregon DEQ permit #306 materials
E24	10/30/2024	Oregon DEQ permit work plan
E25	10/30/2024	Oregon DEQ approval of work plan
E26	10/30/2024	Archaeological report
E27	1/15/2025	Leachate management summary
E28	10/30/24 + 1/15/2025	Republic Services letter to the Benton County Board of Commissioners regarding methane emissions + ADDENDUM
E29	10/30/24 + 1/15/2025	Republic Services letter to the Benton County Board of Commissioners relating to arsenic + ADDENDUM
E30	10/30/2024	Proposed Coffin Butte Landfill seismic design

E31	1/15/2025	Farm Lease between VLI and Agri-Industries, Inc.
E32	1/15/2025	Photos of farm and forest uses on adjacent properties
E33	3/14/2025	2025 Odor study
E34	3/14/2025	Benton County business database
Benton County Exhibits		
In-text Citation	Title	
BC1	Compiled County Engineering and Public Works Comments	
BC2	Compiled Agency Comments	
BC3	Compiled Written Public Comments through April 22, 2025	
BC4	Benton County Notice to Outside Agencies	
BC5	Benton County Reviewing Consultants' Credentials	
BC6	Property Zoning Map	

Figures

Figure 1. Example BCTT Findings Result Graphic

Figure 2. Development Area Map (Exhibit E2 Sheet 6)

Figure 3. Application Submittal Timeline

Figure 4. Written Comment Topics as of April 22, 2025

Figure 5. 2023 Aerial Imagery of Tax Lot 1101

Figure 6. 2023 Aerial Imagery of Tax Lot 1200

Subject Property and Surrounding Area Zoning Map (Exhibit BC6)

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 in 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 1983¹, 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 1994², 1997³, 2011⁴, 2013⁵, and 2015⁶.
5. In 2021, the property owners applied for Conditional Use 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 an order made on July 2, 2024, the BOC delegated the landfill land use application review duties and responsibilities of SWAC to the Environmental and Natural Resources Advisory Committee (ENRAC)⁷. These duties and responsibilities are assigned in BCC 77.305 and charges 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 to widen 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 will be halved. The applicant is no longer proposing that portions of the landfill’s working face⁸ or supporting infrastructure be located in any zones other than Landfill Site (LS) and Forest Conservation (FC).

¹ Local case file PC-83-07/L-83-7

² Local case file S-94-3, Approval of a 2.2 megawatt power generation facility on T10S, R4W, Section 18, Tax Lot 1100

³ Local case file S-97-58, Approval to expand the generating capacity of the power generation facility

⁴ Local case file LU-11-016, Approval for the construction of recycling and refuse transfer facility on T10S, R4W, Section 18, Tax Lot 801

⁵ Local case file LU-13-061, approval to use [T10S, R4W, Section 18] Tax Lots 1101 & 1104 as a stockpile and staging area

⁶ Local case file LU-15-001, approval to enhance a stormwater treatment facility on T10S, R6W, Section 13, Tax Lot 800

⁷ Order #D2024-048

⁸ In their application (Burden of Proof document), 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.”

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 Lots⁹ 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 (Exhibit BOP p. 8 – 10):

- **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 on Exhibit BOP p. 11 that row crops are also farmed on the 20 acres of this Tax Lot that is leased to Agri-Industries, Inc.

⁹ 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 with US Highway 99W to the east and Soap Creek Road to the west. Coffin Butte Rd 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 properties¹⁰ 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;
- **Tax Lot 104180001200** - Relocation of leachate ponds, loadout, sump, an outbound scale, portions of the perimeter landfill road, and a shop/maintenance area; and

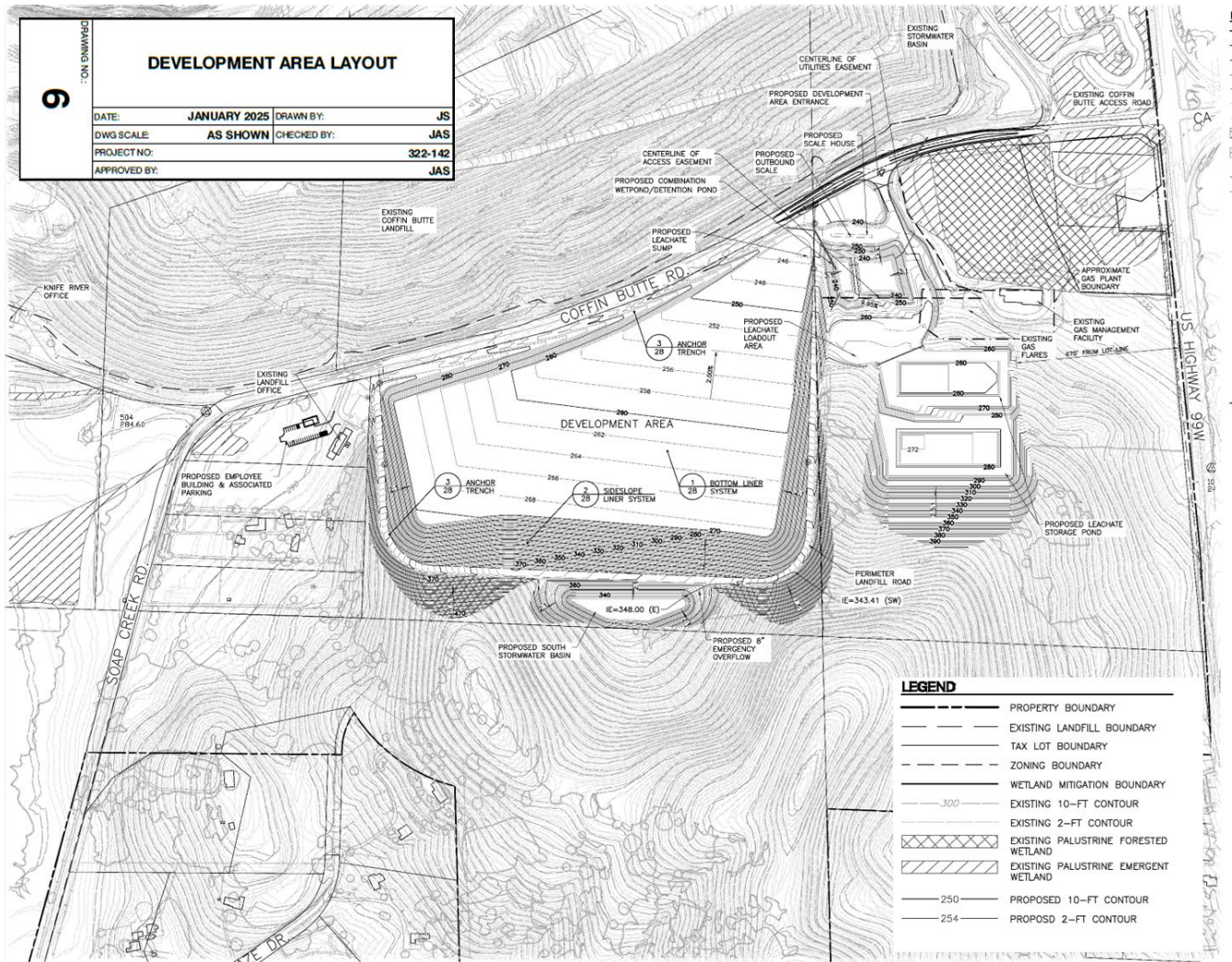
Removal of existing landfill and leachate activities on the east side of the subject property within the FC zone.

To avoid confusion on definitions of site and ownership, this staff report identifies the “**development area**” as the five Tax Lots¹¹ (264 total acres) of the subject property where the conditional use is proposed (Figure 2 and Exhibit E2). The applicant refers to the development area as the “Development Site” in their Burden of Proof.

¹⁰ See Section V findings for BCC 53.215(1) for a comprehensive description of the “adjacent property”.

¹¹ The proposed development work will take place on Tax Lots 801, 1101, 1107, 1108, 1200.

Figure 2. Development Area Map (Exhibit E2 Sheet 6)

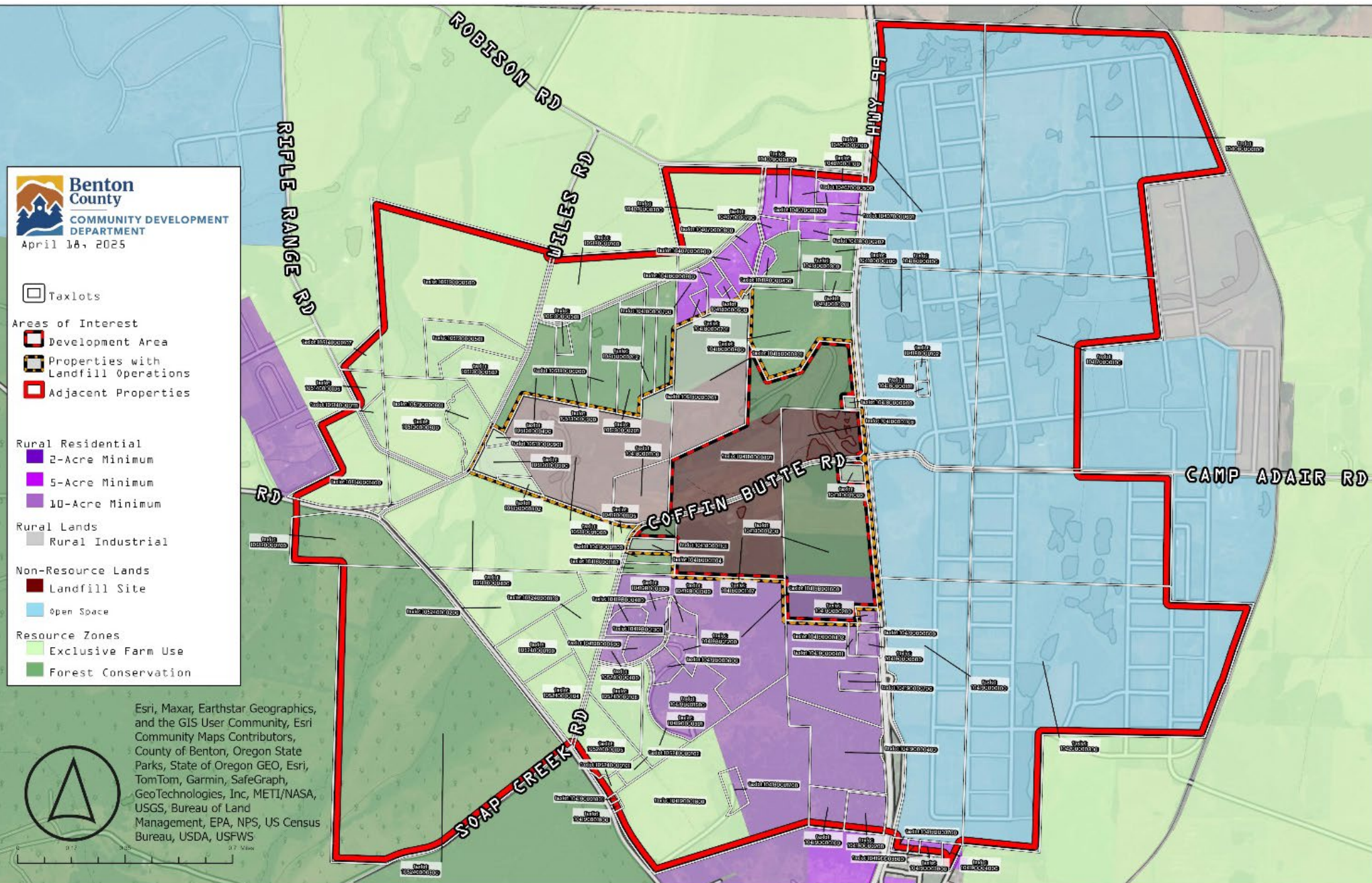


Regarding the phasing of disposal operations in the development area, the applicant states (Exhibit BOP p.4):

When the Development Site is ready for waste disposal operations, the working face of the landfill will move from north of Coffin Butte Road to the Development Site. Disposal of waste will not be occurring north of Coffin Butte Road during the operation of the Development Site. The size of the working face at the Development Site will be roughly the same as the existing operation, 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. As mentioned, the development area activities are accessed from Coffin Butte Rd, a Major Collector roadway.

Subject Property and Surrounding Area Zoning Map (Exhibit BC6)



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. The requirements for application and public notice are detailed in BCC Chapter 51, and relevant standards are detailed in the sections below.

The application-submittal and completeness timeline is displayed in **Figure 3**.

As shown in Figure 3, while the application was submitted in July of 2024, due to multiple rounds of Completeness Review and a 58-day review timeframe extension request by the applicant, the beginning of the application review period was March 14, 2025. Land use hearings are normally scheduled 60-90 days from the beginning of the application review period. A review period beginning in March would have an expected hearing date in late May through late June. Due to Planning Commissioner absences in much of May and June, the expectation of multiple Planning Commission hearings, and an expected appeal to the Board of Commissioners, the first Planning Commission meeting is set for April 29, 2025. This expedited hearing date resulted in reduced staff ability to review and incorporate public comments into the staff report and coordinate for clarity on agency comments. It also did not allow time for the Environment and Natural Resources Committee (ENRAC) commentary (received the evening of April 21, 2025) to be evaluated and included in the staff report. For these reasons, the initial staff report is focused primarily on a technical evaluation of the applicant's submission.

Four Planning Commission hearings are tentatively scheduled: April 29 (definite), May 1, May 6, and June 17. Opportunity to submit new evidence will be available through the May 6 hearing, and possibly beyond should the record be held open. The June 17 hearing will be limited deliberation on the submitted record. An additional staff report will be prepared after close of the record and prior to the June 17 hearing; that staff report will incorporate and evaluate all the information received, and will not contain new evidence.

The 150-day time limit to reach a final decision on the proposed application is August 11, 2025.

Figure 3. Application Submittal Timeline

Event	Date	Additional Information
Pre-application conference	June 27, 2024	CDD requests additional information
Conditional Use application received by CDD	July 19, 2024	
CDD deems application to be incomplete	August 16, 2024	CDD requests additional information and provides advisory comments
Completeness response from applicant is received by CDD	October 30, 2024	
CDD requests additional information	December 11, 2025	CDD requests additional information and provides advisory comments
Additional information and a request to begin review is received by CDD	January 15, 2025	Applicant notifies CDD they would like review to begin
Applicant requests a 58-day review extension	January 15 – March 14, 2025	Applicant says they will provide additional information and request an extension to do so
CDD deems application to be “complete”	January 15, 2025	The application review period begins. CDD awaits additional information from applicant
Additional information from applicant is received by CDD	March 14, 2025	End of the requested 58-day extension, the 150-day application review period begins (ending August 11, 2025)

Public Notice

A Conditional Use Application is reviewed as a quasi-judicial land use action, which requires notification of properties within at least 750 feet of the subject property if it is in the FC zone¹². According to directions from the Planning Commission, staff expanded the mailed notice perimeter to a quarter-mile (1,320 feet). The schedule for the public hearing was mailed to surrounding property owners, along with other relevant agencies and County departments, on March 19, 2025. The number of adjacent property owners that were notified is 35. A legal ad¹³ was published in the Gazette Times on April 17, 2025.

Agency Reviews

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 solid waste programs for Benton County. That responsibility was transferred to the Community Development Department. Accordingly, the Environmental

¹² BCC 51.610(1)(c).

¹³ BCC 51.610(3)

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 not available to contract staff planners in time for inclusion within this staff report but will be included with staff evaluation in the updated staff report. 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), Oregon Department of Transportation (ODOT), the Army Corps of Engineers, the City of Corvallis, and Adair Village. Comments from these agencies¹⁴ were not submitted to Benton County nor to contract staff planners in time for inclusion within this staff report. Nevertheless, all agency comments received by Noon on April 22 are compiled and attached in Exhibit BC2. The updated staff report will include all agency comments received through the open record period.

¹⁴ Aside from DOGAMI, which communicated they had no comments on April 9, 2025.

IV.COMMENTS

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

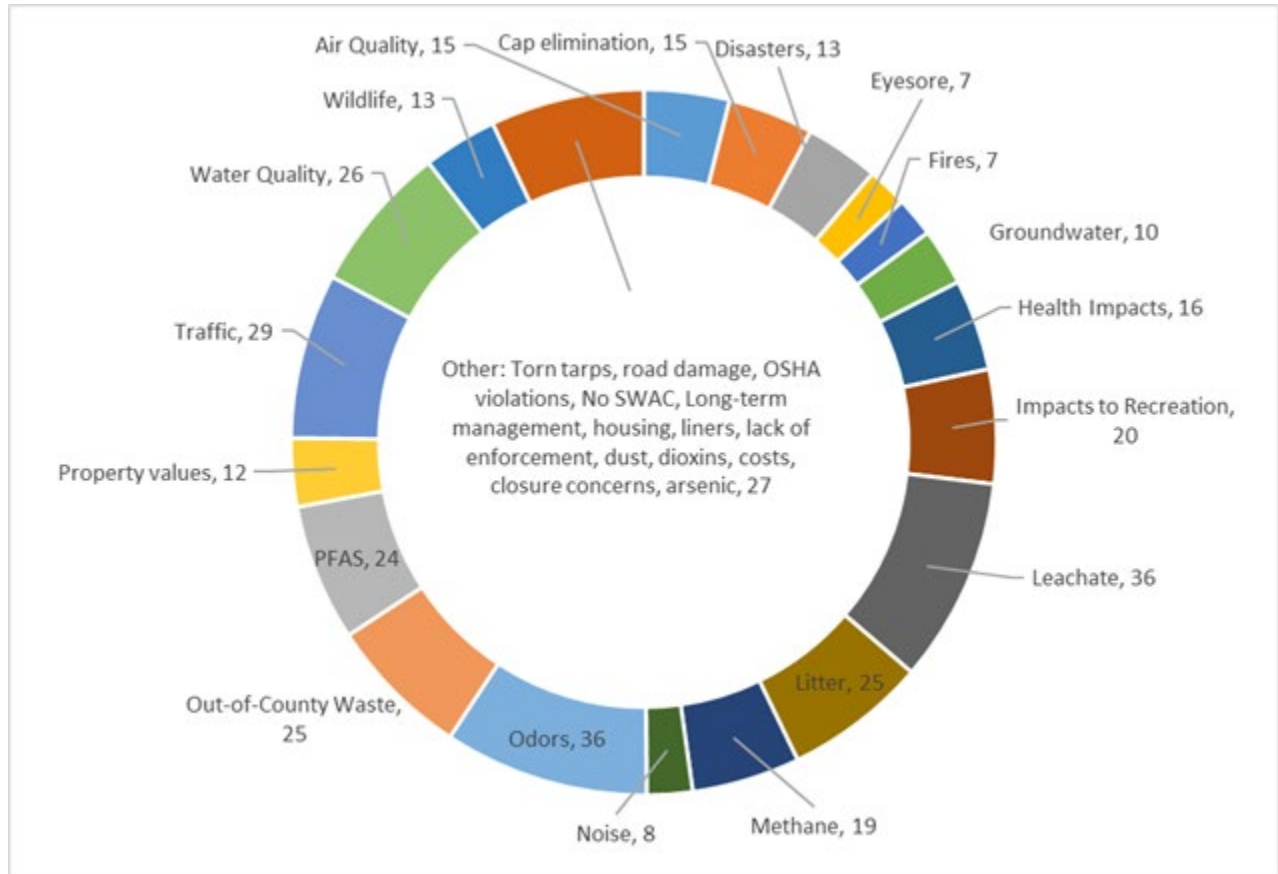
AGENCY COMMENTS

As of Noon of April 22, 2025, the County received responses from DOGAMI, ODFW, and ENRAC. These compiled responses are attached in Exhibit BC2.

PUBLIC COMMENTS

Figure 4 is a representation of the topics included in the public comment at the time this report was written; all but one comment in opposition. As of Noon of April 22, 2025,¹⁵ the County has received 135 written comments. Exhibit BC3 includes the compiled public comments received as of the writing of this staff report.

Figure 4. Written Comment Topics as of April 22, 2025



¹⁵ As indicated in the Public Notice for LU 24-027, comments received after Noon of April 22, 2025 will not be compiled into the Staff Report.

V. APPLICABLE CODE REVIEW

This section is the substantive focus of the Staff Report. Below, we list and quote all the Benton County Code (BCC) standards and criteria relevant to this application.

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 is 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 compliance with the relevant requirements and standards and the applicant provided responses to standards in their narrative submittal, titled “Burden of Proof” (BOP). The “BOP” is one of the exhibits attached to- and referenced in- this report, as well as the applicant’s supplemental exhibits.

In the findings, staff often included direct quotes from the applicant’s BOP under the sub-heading “Applicant Response”, followed by a “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 third-party consultant, Winterbrook Planning. Staff have also referred to findings from the BCTT formal work group in findings.

Relevant Code Chapters

The relevant requirements and standards 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 99 General Development Standards

CHAPTER 53 - GENERAL REVIEW CRITERIA AND PROCEDURES

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.

Findings:

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.

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;*

FINDINGS:

“Seriously interfere”

Applicant Response (Exhibit BOP p. 19):

The Benton County Code does not define “seriously interfere.” The use of the modifier “seriously” indicates that at least some level of interference is acceptable.

Staff Response, Planning:

This phrase is not defined in the Benton County Code. The first paragraph of the applicant’s response above is consistent with staff’s interpretation that “seriously” indicates some permissible level of interference resulting from the proposed use.

Applicant Response, continued (Exhibit BOP p. 19):

During BCTT, staff indicated that “seriously interfere” has generally been applied to mean more than an inconvenience or irritation, but less than rendering the uses on adjacent property impossible. Staff reported that county decision-makers have considered factors such as whether the proposed use makes it difficult to continue uses on the adjacent property; whether the proposed use creates significant disruption to the character of the area; and whether the proposed use conflicts, in a substantive way, with the purpose of the zone.

Staff Response, Planning:

The language that applicant used in their response is consistent with staff’s understanding and matches that from the BCTT finding regarding the legislative history of the phrase:



“[...] 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. [...]”

Applicant Response, continued (Exhibit BOP p. 19):

There has been an approved landfill in this area for over 50 years. This analysis has to be conducted in the context of the existing approved landfill operation: whether the proposed expansion creates additional, different, or increased impacts as compared to the existing operation, and whether these impacts, if any, when viewed through the lens of the existing operation, “seriously interfere” with adjacent properties.

Staff Response, Planning:

Staff agrees with the applicant's response that this conditional use review is specific to the expansion of the 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.

In the following discussion of whether the proposed landfill expansion will “seriously interfere” with uses on adjacent properties, with the character of the area, and with the purpose of the zones, staff have individually responded to the following types of potential impacts: noise, odor, traffic, groundwater, and visual aesthetics.

These five types of impacts are the focus of this finding because:

- These are typical direct impacts related to landfill uses;
- These were identified by the applicant as potential off-site impacts; and
- These issues have been raised and addressed in prior application processes by staff and neighbors.

“Adjacent property”

Interpretation:

Applicant Response, “adjacent property” (Exhibit BOP p.19¹⁶):

The Benton County Code does not define the term “adjacent.” Absent a special definition, the courts ordinarily resort to the dictionary definitions, assuming that the legislature (or, in this case, the County Commissioners) meant to use a word of common usage in its ordinary sense.

*Webster’s Third New International Dictionary defines “adjacent” as “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.)¹⁹*

Because the application is to expand the existing landfill operation, Applicant started with a base site that includes all tax lots on which existing landfill operations and accessory uses are located, plus all tax lots constituting the Development Site on which the Project will be located (the “Landfill Boundary”). Applicant then identified properties abutting the Landfill Boundary (the “Adjacent Properties”) and the properties abutting the Adjacent Properties (the “Nearby Properties”). See Figure 1, below.

¹⁶ We have not included the text of one footnote within this quote, which provided the citation for a dictionary definition.

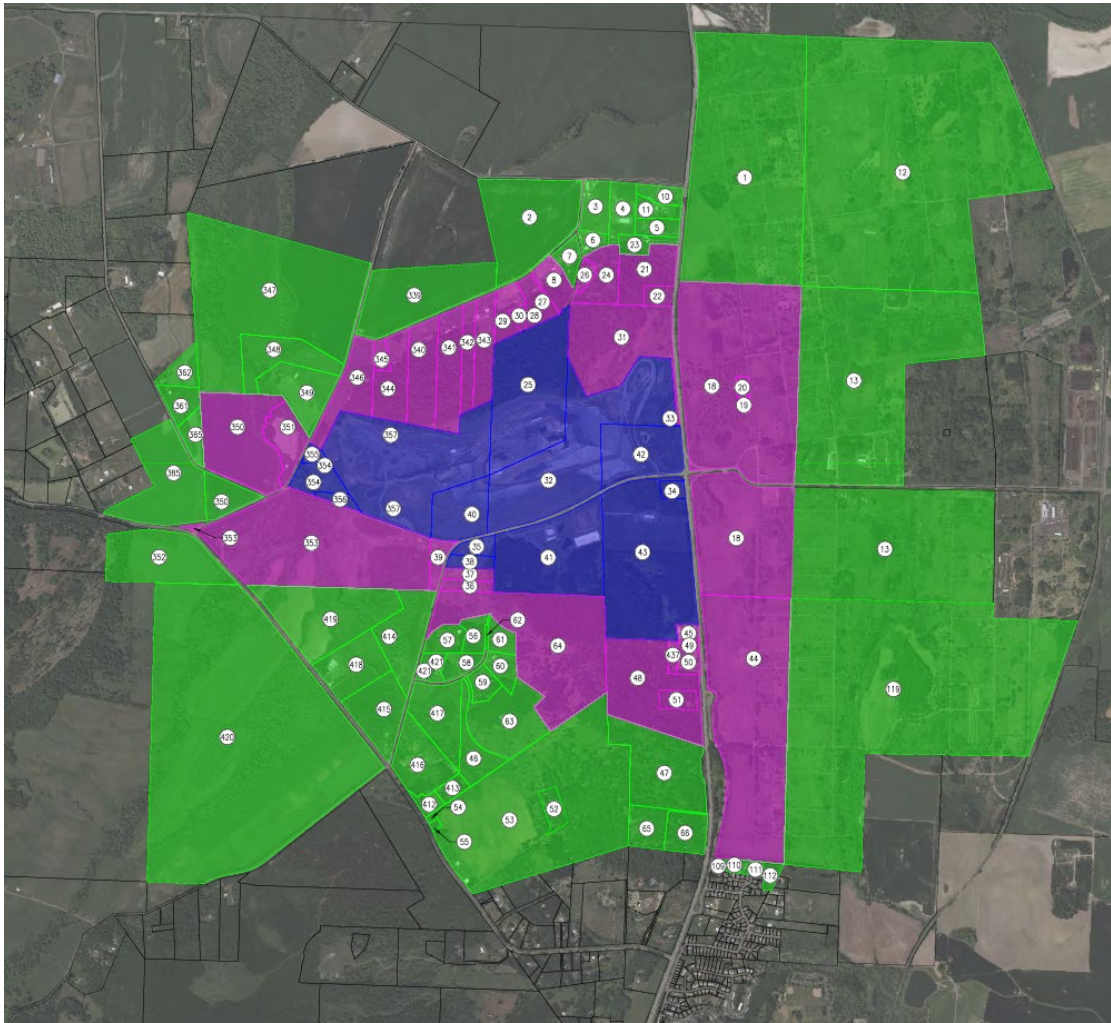


Figure 1 (Adjacent and Nearby Properties). Full-size version and tax lot list attached as Exhibit 8.

This analysis covers both the Adjacent Properties and the Nearby Properties. Although Applicant does not believe that the text of the criterion requires it to look beyond the Adjacent Properties, the Nearby Properties are included to demonstrate compliance with the criteria even in the context of a broader scope of review

Staff Response, Planning:

Staff concurs with the applicant 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. Therefore, staff interprets properties both touching and nearby the subject property as “adjacent” for review of this standard. Evaluation of impacts on “adjacent” properties will include all the properties identified as “adjacent” (purple) or “nearby” (green) on Figure 1 of Exhibit BOP (included above, and in Exhibit 8).

Applicant Response, “uses on adjacent properties”:

The applicant described the uses on “adjacent and nearby” properties in their full BOP, which was submitted to the county on January 15, 2025. The applicant submitted an addendum to the BOP on March 14, 2025 (Exhibit

BOPA) which included brief supplemental information regarding the Benton County Business Database (Exhibit 34).¹⁷

The applicant's response in the full BOP (Exhibit BOP p. 20-22) is quoted below. As the reader will see in the quote below, there are footnotes that we have not included here. These footnotes list ID numbers assigned by the applicant, which correspond to labels on the map in Exhibit 8. The Tax Lot IDs, property owner names, and zoning of each labeled lot are listed on a separate page in Exhibit 8.

The 16 tax lots that consist of the existing and proposed landfill areas and accessory uses are owned by VLI.²⁰ These properties are zoned LS and FC. The Adjacent and Nearby Properties east of Highway 99W are predominately in public ownership, are zoned OS, and are managed as the E.E. Wilson Wildlife Area.²¹ The Wildlife Area is open to the public year-round for birding, hiking, limited hunting, and fishing. There are four small rural residential (RR-5) Nearby Properties owned by individual property owners at the very south end of the adjacent property.²² These properties are occupied by dwellings and some outbuildings.

The Adjacent and Nearby Properties north of the landfill and east of Wiles Road are generally on the north side of Coffin Butte and are shielded from the landfill by the ridge. The Adjacent Properties to the landfill are zoned FC and are generally owned by individuals and trusts and appear to be in small woodlot management or small-scale farming or livestock operations.²³ Ex. 32, pages 12-20. Several of these properties have residences and farm outbuildings, but it is unclear from observation whether they are being operated for commercial farm or forest operations within the meaning of BCC 51.020 (15) or (24). Ex. 32, pages 12-20. The large parcel northwest of the landfill is owned by the Oregon Department of Fish and Wildlife and is operated as a part of the E.E. Wilson

Wildlife Area.²⁴ Ex. 32, pages 34-35. The FC-zoned properties north of the Wildlife Area appear to be vacant or used for small-scale farming operations.²⁵ Ex. 32, pages 21-23. These are owned by individuals, except for Tax Lot 0300, which is owned by Peltier Real Estate Company, a wholly owned subsidiary of Republic Services, Inc.²⁶ The Peltier property is vacant and is not being used or proposed for use by VLI for the existing landfill or the proposed Project. The Nearby Properties to the north of these Adjacent Properties are zoned RR-5 and owned by individuals²⁷ or are zoned EFU and owned by an LLC and appear to be in commercial farm use (grass seed, row crops).²⁸

The Adjacent and Nearby Properties east of the landfill and west of Wiles Road are zoned EFU and owned by individuals and trusts and appear to be in commercial farm use within the meaning of BCC 51.020.²⁹

The Adjacent and Nearby Properties to the southwest of the landfill between Wiles Road and Soap Creek Road are zoned EFU and owned by individuals³⁰ or are owned by VLI or Peltier Real Estate Company, a wholly owned subsidiary of Republic Services, Inc., and leased to Agri-Industries, Inc., for farm use.³¹ See Ex. 31, page 8. The Nearby Properties southwest of Tampico Road are zoned EFU and are owned or controlled by Oregon State University and are used for research farm use.³²

The Adjacent Properties to the south of the landfill are zoned FC or RR-10 and are owned by individuals,³³ Peltier Real Estate Company, a wholly owned subsidiary of Republic Services Inc.,³⁴ or VLI.³⁵ These parcels are vacant or are in residential use. The Nearby Properties to the

¹⁷ The supplemental information provided in Exhibit 34 does not appear to materially alter or enhance the information provided in the January 15, 2025 BOP.

south of these Adjacent Properties are zoned EFU³⁶ or RR-10³⁷ and are owned by individuals or VLI.³⁸ These lots appear to be vacant, in residential use, or in farm use.

Staff Response, Planning:

For staff review of BCC 53.215(1), the list of properties included by the applicant will be evaluated against identified impacts to determine whether the proposed expansion will seriously interfere with uses on these “adjacent” properties.

Application: Potential impacts on uses of adjacent property

NOISE

Applicant Response (Exhibit BOP p. 28-30):

[...] the following off-site impacts from the Project may potentially affect the Adjacent Properties: (a) noise; (b) odor; (c) traffic; (d) water (well capacity/groundwater impacts); and (e) visual impacts. These impacts are primarily generated by the working face, which will move from north of Coffin Butte Road to the Project area south of Coffin Butte Road. Once moved, the landfill area to the north of Coffin Butte Road will not be used for disposal operations. There will be only one working face in operation at any time.

Current conditions on the Adjacent and Nearby Properties include the off-site impacts from the existing Coffin Butte Landfill. The question is thus whether the anticipated off-site impacts resulting from the Project differ from the current offsite impacts in a way that will “seriously interfere” with the uses of the Adjacent and Nearby Properties.

a. Noise. *Greenbusch Group, Inc. (“Greenbusch”) assessed the noise impacts from the proposed expansion (Ex. 11). Greenbusch applied OAR 340-035-0035, which regulates sound emissions from commercial and industrial uses (the “DEQ Noise Rule”).⁴⁰ As explained below and in Exhibit 11, Greenbusch determined that the predicted sound levels from the Project will “comply with the applicable regulatory criteria without the inclusion of noise mitigation.”⁴¹*

40 DEQ has adopted noise standards but does not enforce them itself.

41 In its 2021 study, Greenbusch concluded that the prior application would require mitigation measures in order to comply with the DEQ Noise Rule. The updated study, attached as Exhibit 11, concludes that no such measures are required by the 2024 proposal.

As noted by Greenbusch, the Project will not change the character of operations at the landfill. Accordingly, noise impacts from the Project will be similar in kind to current conditions, where noise is produced by equipment such as dozers, excavators, compactors, tipping machines, and truck traffic. When the Development Site is opened, active landfill operations will move from north of Coffin Butte Road to the Development Site, so overall noise impacts will not appreciably change as compared to the current conditions (and could even diminish).

The DEQ Noise Rule establishes sound-level limits as measured from “noise sensitive property.” Noise sensitive property, in turn, means property “normally used for sleeping, or normally used as schools, churches, hospitals or public libraries.” OAR 340-035-0015(38). The closest noise-sensitive uses to the Project are shown on Exhibit 11, Figure 5.1.⁴²

42 The closest noise-sensitive use is the residential home on Tax Lot 1104.

Applying the DEQ Noise Rule, noise impacts would be measured 25 feet toward the landfill from the point of noise-sensitive building closest to the landfill or the point on the noise-sensitive property line closest to the landfill (whichever is farthest from the landfill). Greenbusch applied stricter standards than those required by the DEQ Noise Rule as follows:

(i) The DEQ Noise Rule imposes different limits for commercial and industrial sound sources depending on whether the site has been previously used as a commercial or industrial site. Limits are stricter for sites that have not been previously used as a commercial or industrial site. The Project would be considered a new sound source located on a previously used site, and thus subject to the less-stringent limit. Nonetheless, Greenbusch evaluated the anticipated increase over existing sound levels using the limits that apply to previously unused sites.

(ii) Motor vehicle sound emissions are measured within 1,000 feet of the noise-sensitive use. OAR 340-035-0030. As explained by Greenbusch, the type of motor vehicle use at the Project is exempt from the sound limits in OAR 340-035-0030. Nonetheless, Greenbusch evaluated the sound levels from anticipated motor vehicle use at the Project and determined that they would fall under the sound-level limits imposed by OAR 340-035-0030

(iii) Operating hours at the landfill extend into both daytime and nighttime hours for purposes of the DEQ Noise Rule. Greenbusch assessed compliance using the more stringent nighttime sound-level limits.

Greenbusch took a number of measurements of existing sound levels and used those measurements to model two different scenarios to analyze anticipated noise impacts from the Project. Based on these models, Greenbusch concluded that “[p]redicted sound levels from trucks using the landfill and on-site equipment comply with OAR sound limits at all nearby noise sensitive properties under both modeling scenarios.” Because Greenbusch analyzed the noise-sensitive properties closest to the Development Site and because sound dissipates over distance, these conclusions necessarily apply to all noise-sensitive properties that are Adjacent or Nearby Properties to the Landfill Boundary.

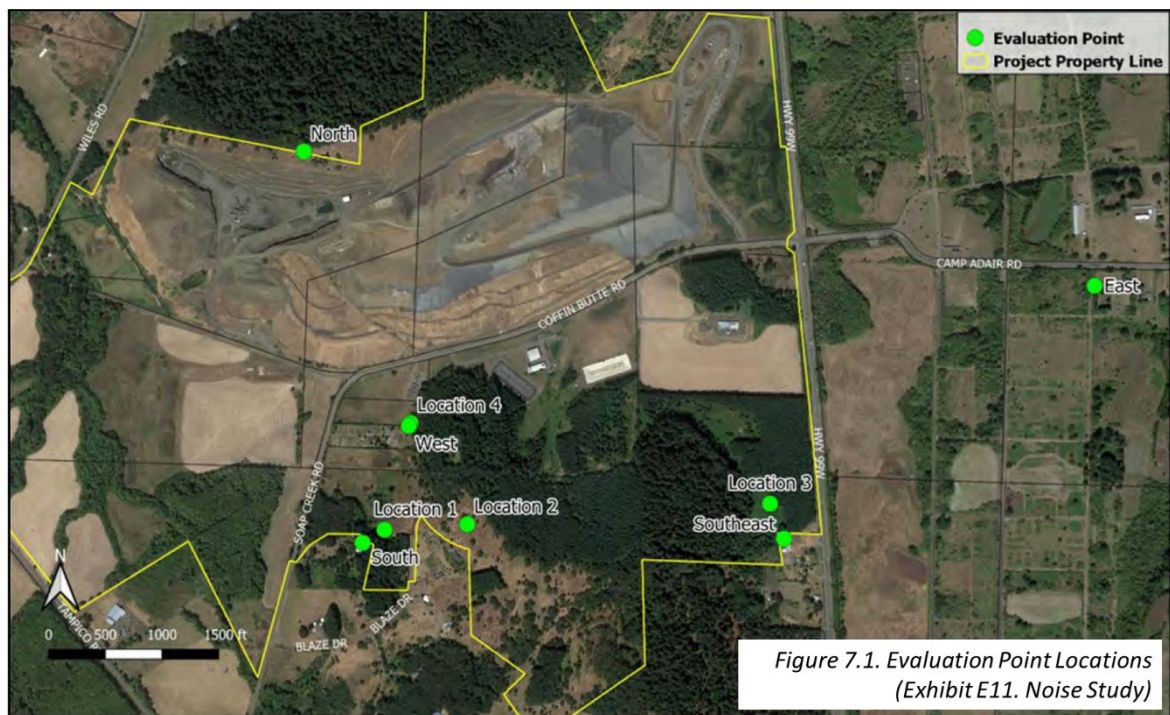
In addition, although not required by the DEQ regulations, Applicant has replaced back-up alarms on its on-site equipment with ambient sensing broadband back-up alarms as a voluntary noise-mitigation measure.⁴³

43 Hauling trucks and other trucks coming to the site will still use standard back-up alarms.

Finally, the Greenbush analysis demonstrates that anticipated off-site noise impacts from the Project will not be materially different from existing conditions.

Given that the proposal does not materially change the off-site noise impacts from current conditions and complies with all regulatory criteria even without mitigation, and further given that Applicant has engaged in additional mitigation measures, the off-site noise impacts of the Project will not “seriously interfere” with the use of Adjacent and Nearby Properties.

Applicant Response (Exhibit E11 p. 12-15):



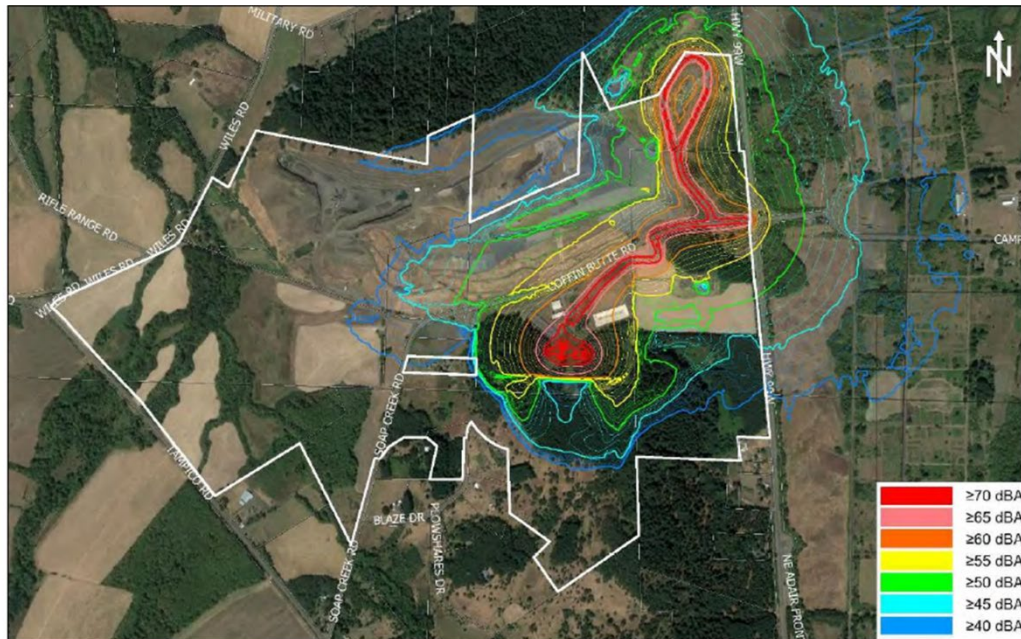


Figure 7.2. Predicted L50 Sound Level Contours – Scenario 1
(Exhibit E11. Noise Study)

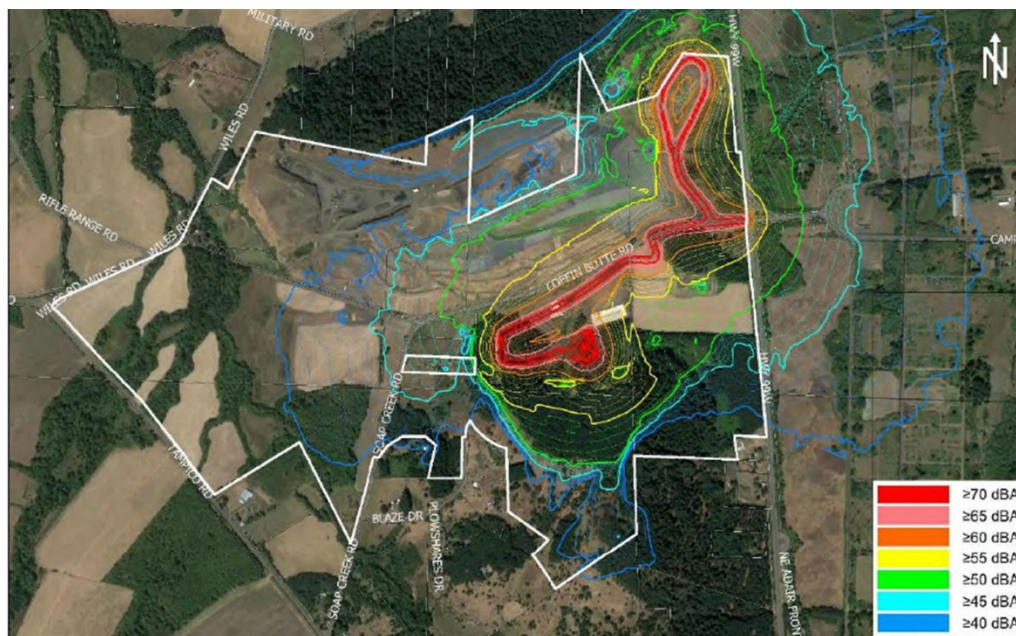


Figure 7.3. Predicted L50 Sound Level Contours – Scenario 2
(Exhibit E11. Noise Study)

Staff Response, MFA - Engineering (Exhibit BC1 p. 4-5):

The Noise Study summarizes existing sound levels measured near the proposed expansion area, sound levels produced by equipment currently being used at the landfill and predicted sound levels for both beginning and maximum future grade conditions. The report concludes that noise mitigation is not required to comply with regulatory limits. However, Greenbusch recommended that all backup alarms used on the site be replaced with ambient sensing broadband backup alarms if permitted by safety regulations.

MFA understands that the Applicant provided the following Operating Approval Conditions:

OA-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 vehicles 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. Internal operations, including but not limited to leachate hauling, infrastructure construction, disposal area activities and site maintenance is permitted to occur prior to and after these hours.

(B) On Sunday, the site will not open before 12 p.m. and will close no later than 5:00 p.m. Internal operations, including but not limited to leachate hauling, infrastructure construction, disposal area activities and site maintenance is permitted to occur prior to and after these hours.

(C) During an emergency or when requested by a State, Federal, or County agency, Applicant may open the landfill outside of these hours.

OA-2. Vehicle Noise. All Applicant vehicles being used for operations on the new site shall be outfitted with white noise back up alarms.

OA-3. Noise Study Updates. Applicant shall provide an updated noise study prepared by Applicant's noise consultants once every three years. Applicant will implement mitigation measures to bring any non-compliant noise levels into compliance with ODEQ noise regulations.

Greenbusch used the median instead of the lowest measurement when establishing ambient noise levels. Greenbusch collected several hourly readings of existing sound levels, and they presented a low, high, and median value in Table 5.2 of the Noise Study. Greenbusch correctly states that Oregon Administrative Rules (OAR) 340-035-0035(1)(B) prohibits ambient sound levels from being exceeded by more than 10 decibels on the A-weighted scale (dBA). Specifically, the rule states:

No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or indirectly caused by that noise source increase the ambient statistical noise levels, L10 or L50, by more than 10 dBA in any one hour...

MFA is not aware of anything in the ODEQ rules that state facilities are allowed to use the median noise value instead of the lowest noise value when establishing ambient noise levels. The inclusion of the phrase "in any one hour" implies that ODEQ rules require using the lowest measured value. If Greenbusch had selected the lowest measured noise levels, the predicted sound levels presented in Tables 7.1 would show that three of the four locations exceeded the allowable L50 noise level, while the fourth location approached the limit.

MFA finds that the noise study demonstrates that the applicable ODEQ noise standard will be exceeded at neighboring properties if Greenbusch used the lowest hourly noise value as MFA believes is required by DEQ rules. Even if the median value was considered as suggested by Greenbusch, the predicated sound level at location four is exactly equal to the ODEQ limit.

MFA believes that the noise study indicates that the proposed use may seriously interfere with uses on adjacent property or with the character of the area.

Staff Response, Planning:

The applicant identified the closest noise-sensitive properties (residential uses) and evaluated potential noise impacts on these uses. The applicant did not evaluate noise impacts on other adjacent properties at greater distances. Staff concurs with the applicant's reasoning 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.

As noted by the applicant, the cited DEQ Noise Rule does not appear to be directly and entirely applicable to the proposed application. However, staff concurs with the applicant's use of that DEQ regulation to set a threshold for noise increase to "seriously interfere" with noise-sensitive uses.

However, as noted in MFA findings above, the proposal appears to exceed the DEQ regulatory noise threshold proposed for use by the applicant to evaluate consistency with this standard.

In the absence of a proposed solution to meet identified noise impacts, staff recommends denial of the application due to noise impacts on adjacent noise-sensitive uses.

ODOR

The applicant responded to the issue of odor impacts in the full BOP dated January 15, 2025 (Exhibit BOP p. 30-33), and in an addendum dated March 14, 2025 (Exhibit BOPA p. 1-3). Below, we quote the findings from the full BOP, followed by those from the March 14 addendum.

Applicant Response, 2024 Odor Study (Exhibit BOP p. 30 -33):

b. Odor. *Weaver Consultants Group (“Weaver”) assessed the odor impacts from the proposed expansion (Ex. 12) and the comprehensive set of infrastructure and practices already in place to control and manage odors is outlined in Exhibit 13. As explained below and in Exhibit 12, Weaver determined that “there has not been a significant impact to human health and environment related to [landfill gas] or odors.”*

The Adjacent and Nearby Properties have been in proximity to an active landfill for over 50 years. And, although the Project is a proposed “expansion,” the nature of landfill operations means the Project will not result in a material expansion of odor-producing uses.

As explained in Exhibit 12, the two primary sources of odor from a landfill are the solid waste in the active landfill area (with odors similar to household waste) and the biogas produced as the solid waste begins to decompose (“landfill gas” or “LFG”). Also, as explained in Exhibit 12, the working face of a landfill is much smaller than its overall size. At Coffin Butte Landfill, the day-to-day active area is less than one-half acre under current conditions and will continue to be a similar size when the Development Site is opened and prior active landfill area north of Coffin Butte Road is no longer used for disposal. Consistent with best industry practice, VLI covers the active area at the end of each day with a six-inch layer of soil or alternative daily cover, which is a proven method for effective odor mitigation in all climatic regions (as noted in Exhibit 12).

As described in Exhibits 12 and 13, VLI currently employs aggressive methods for control of landfill gas, including an extensive system of landfill gas collection and control, surface emissions monitoring (“SEM”), and daily odor monitoring.

Weaver also noted that VLI employs several odor-mitigation measures in excess of what is required by applicable regulations, including: (i) the use of a plastic liner in addition to soil cover; (ii) the installation of “final cover” over nearly 40 percent of the landfill surface (when final cover is not required until the landfill is no longer accepting waste); and (iii) the installation of LFG extraction wells for waste that has been in place for only one year (when LFG extraction wells are not required until waste has been in place for five years).

A review of odor complaints over the past 20 years demonstrates that VLI’s odor-control methods have been effective. Odor issues are regulated by DEQ, and the complaints to DEQ, the landfill, and local authorities have been minimal (see Findings on Odor, Ex. 12).⁴⁴

⁴⁴ *The uptick in 2021-22 occurred during the time of the contested CUP application and appears to be anomalous. Nonetheless, VLI investigates each of the complaints and takes action accordingly.*

Because the perception of odor is subjective and has been the subject of questions during the prior application and the BCTT process, the County asked Applicant to provide further analysis related to landfill odor. Applicant retained Greg Hauser, CIEC, of SCS Engineers to conduct an

odor analysis. (See Coffin Butte Landfill Expansion Odor Dispersion Model Study, attached as Exhibit 14). SCS employed the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) methodology accepted by the EPA and DEQ. SCS examined wind patterns (direction and speed) over time, odor-causing landfill activities, and topography.

As noted in the report, per ASTM standards, odor concentration is defined as the dilution of an odor sample with odor-free air, at which point only 50 percent of an odor panel (or population) will detect or recognize the odor. This point is expressed in units of “dilutions-to-threshold” or “D/T”.

By definition, odor threshold is equal to 1 D/T. Typically, odors are considered a nuisance at or above 7 D/T.

SCS examined odor dispersion at both the current landfill operation and the proposed Project. The report concludes:

Peak, off-site, one-hour odor concentrations were below 7 D/T (the numeric threshold of significance for nuisance odors) for all scenarios modeled.

For existing operations (Source #1), the modeled peak, off-site, one-hour odor concentration was north of the landfill (in two different locations depending upon the meteorological data used) and ranged from 0.42 to 1.21 D/T. Impacts above 1 D/T (the point at which only 50 percent of the population is expected to smell any odor) extended only a small distance off site. None of the complaint locations from Figure 10 were within the 1 D/T contour.

For proposed operations (Source #2), the modeled peak, off-site, one-hour odor concentration was either along Coffin Butte Road or south of the landfill (in two different locations depending upon the meteorological data used) and ranged from 0.64 to 2.04 D/T. Impacts above 1 D/T (the point at which only 50 percent of the population is expected to smell any odor) were either along Coffin Butte Road or extended only a small distance off site. Only one complaint location from Figure 10 was within the 1 D/T contour.

Moving operations to the proposed expansion area will move the predicted peak, off-site, one-hour impact location, but impacts would remain well below the 7 D/T threshold.

While off-site odors can occur as a result of the current and future landfill operations, these potential impacts are less than significant and expected to be short lived (i.e., only occur under weather conditions with poor atmospheric dispersion).

The SCS Study thus corroborates the Weaver assessment. Based upon the above evidence, the Project will not materially increase off-site odor impacts over the current operation, and certainly not in a way that would “seriously interfere with uses on adjacent properties.”

Because certain temporary landfill operations and weather conditions can temporarily increase odor and given the complaints and concerns about odor expressed during the prior application and during BCTT, Applicant is proposing a condition of approval to provide a more structured and objective process for monitoring odor. Applicant proposes an ongoing odor-monitoring condition in the proposed conditions of approval. Ex. 21, Condition OA-10.

Applicant Response (Exhibit BOPA p. 1-3):

II. The 2025 Odor Study

A. Background. As part of its completeness review of Applicant's initial application, Benton County asked Applicant to provide further analysis related to landfill odor. Applicant retained SCS Engineers to conduct an odor analysis. SCS employed the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) methodology accepted by EPA and DEQ. SCS examined wind patterns (direction and speed) over time, odor-causing landfill activities, and topography. This analysis, entitled Coffin Butte Landfill Odor Dispersion Model Study (the "2024 Odor Study"), is attached to the BOP as Exhibit 14.

The 2024 Odor Study, more fully described in Section III.C.7 of the BOP, noted that odor disperses the farther the distance from the landfill area. The report concluded that moving landfill operations from north of Coffin Butte Road to the Development Site will shift the primary odor impacts from north of the Valley Landfills property to south along Coffin Butte Road, but that such odor impacts generally do not and will not exceed 1 D/T¹ on properties immediately adjacent to the landfill property boundary, and then dissipate to lower levels at distance, under either scenario.

1 As noted in the 2024 Odor Study, per ASTM standards, odor concentration is defined as the dilution of an odor sample with odor-free air, at which point only 50 percent of an odor panel (or population) will detect or recognize the odor. This point is expressed in units of "dilutions-to-threshold" or "D/T." By definition, odor threshold is equal to 1 D/T. Typically, odors are considered a nuisance at or above 7 D/T.

Based upon the 2024 Odor Study and the Greenbush Analysis (BOP Exhibit 11), the BOP finds that the Project will not materially increase off-site odor impacts over the current operation, and certainly not in a way that would "seriously interfere with uses on adjacent properties" or "seriously interfere with the character of the Area" in violation of BCC 53.215(1).

B. Recommendation From the County's Consultant. After Applicant's submission of its October 30, 2024, response to the County's incompleteness letter, the County retained Maul Foster Alongi ("MFA") to advise it on the technical aspects of the application. MFA recommended the study be reevaluated using actual/predicted emission rates in units of grams per second for volatile organic compounds and potentially odorous toxic air contaminants from each of the permitted emission units included in the Title V Operating Permit issued to the landfill. In keeping with its efforts to provide the County with the requested information, Applicant requested an extension of the 180-day local action deadline to evaluate and respond to the methodology recommended by MFA.

C. Findings From the 2025 Study. The 2025 Odor Study Corroborates the 2024 Odor Study and the Greenbush Analysis that the Project may slightly increase potential off-site odor on some adjacent or surrounding properties and reduce it on others, but in no case will it increase odor above the model threshold or create a public nuisance.

The 2025 Odor Study concludes as follows:

"Based upon the modeling results of the two scenarios, the following conclusions are presented:

Scenario #1 (2023 actual operations) was not expected to cause detectable nuisance odors since the D/T ratio for each pollutant modeled was well below one.

Scenario #2 (2052 proposed operations) was not expected to cause detectable nuisance odors since the D/T ratio for each pollutant modeled was well below one.

Scenario #2 (2052 proposed operations) D/T ratios increased by 2 to times as compared to Scenario #1 (2023 actual operation) for all pollutants except NOx. The decrease in the NOx D/T ratio was due to the change in tipper and AI location. As noted above, all D/T ratios were well below one.

Peak impact locations were all north of the landfill boundary in Scenario #1 and Scenario #2.

Moving operations to the proposed expansion area will move the predicted peak, off-site 1-hour impact locations, but the D/T ratio for each pollutant would remain below one.

Typically, odors become a nuisance at or above 7 D/T [13, 142] so using 1 D/T for comparison is expected to be conservative. Therefore, this study concludes that the proposed expansion Project will not cause detectable off-site nuisance odor impacts at nearby residential or commercial areas.” Ex. 33 at 25.

As both the 2024 and 2025 studies indicate, certain activities or weather conditions can temporarily increase odor impacts. That will not change with the Project, but Applicant is proposing an operating condition of approval for the Project that will require daily odor monitoring, review, and (if odor is detected and is coming from the landfill) response. BOP Exhibit 21, OA-10. This program should help minimize the impact of off-site odors, if any.

D. Conclusion. *Based upon the 2025 Odor Study, the 2024 Odor Study, and the Greenbush Analysis, the Project will not materially increase potential off-site odor impacts over the current operation, and certainly not in a way that would “seriously interfere with uses on adjacent properties” or “seriously interfere with the character of the Area” in violation of BCC 53.215(1).*

Applicant Response (Exhibit E33 p. 20-24):

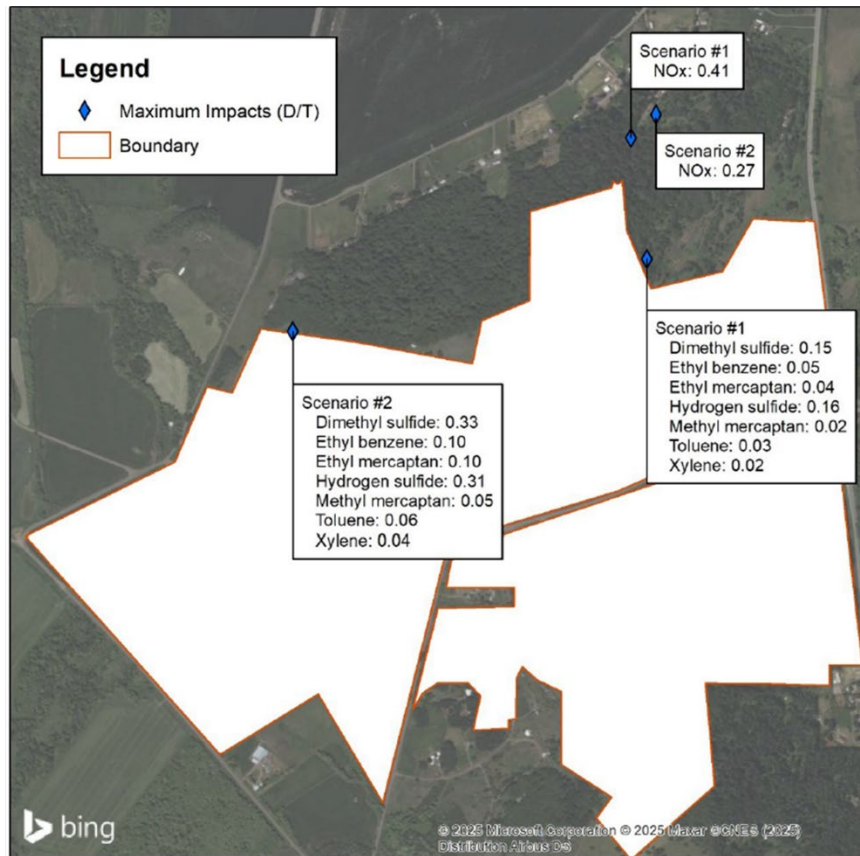


Figure 8. Peak 1-Hour Off-site Odor Impact Locations
(Exhibit E33. 2025 Odor Study)

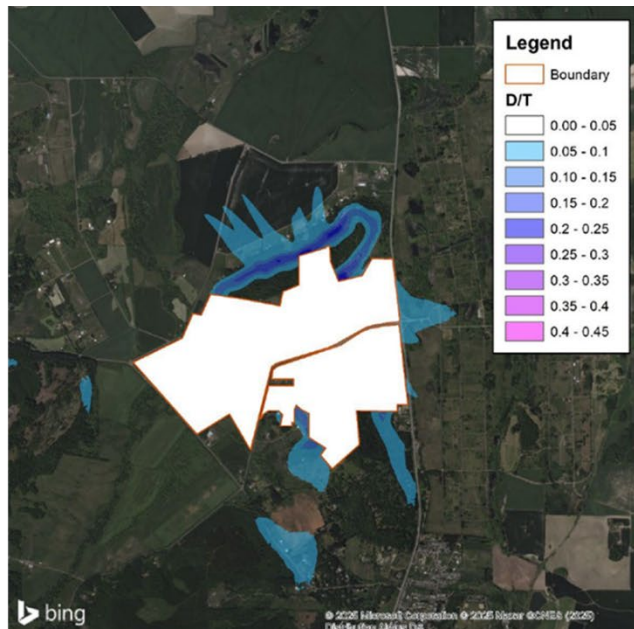


Figure 9. Scenario #1 NOx Odor D/T Contours
(Exhibit E33. 2025 Odor Study)

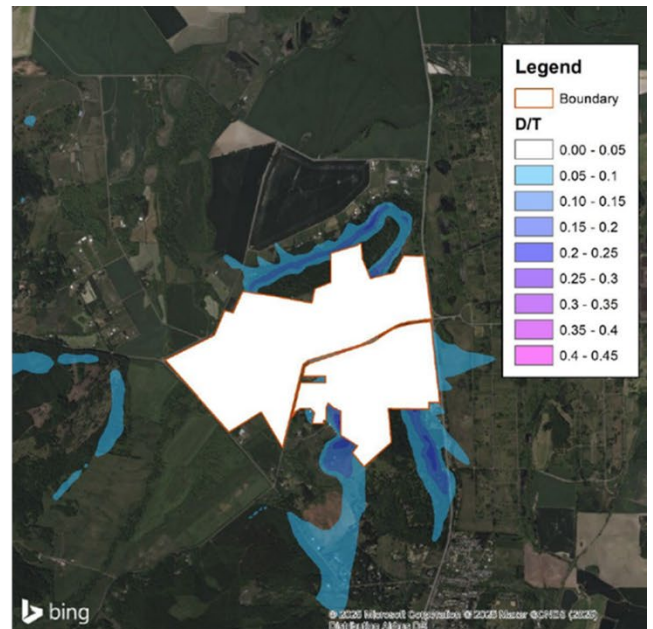


Figure 11. Scenario #2 NOx Odor D/T Contours
(Exhibit E33. 2025 Odor Study)

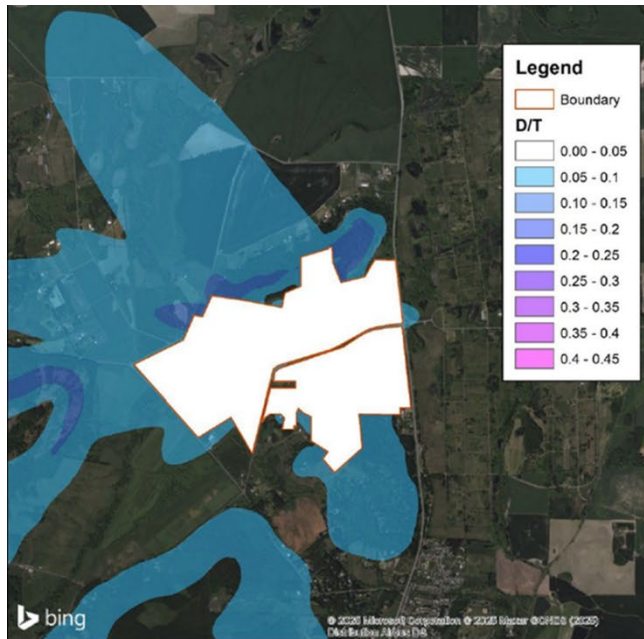


Figure 10. Scenario #1 Dimethyl Sulfide Odor D/T Contours
(Exhibit E33. 2025 Odor Study)

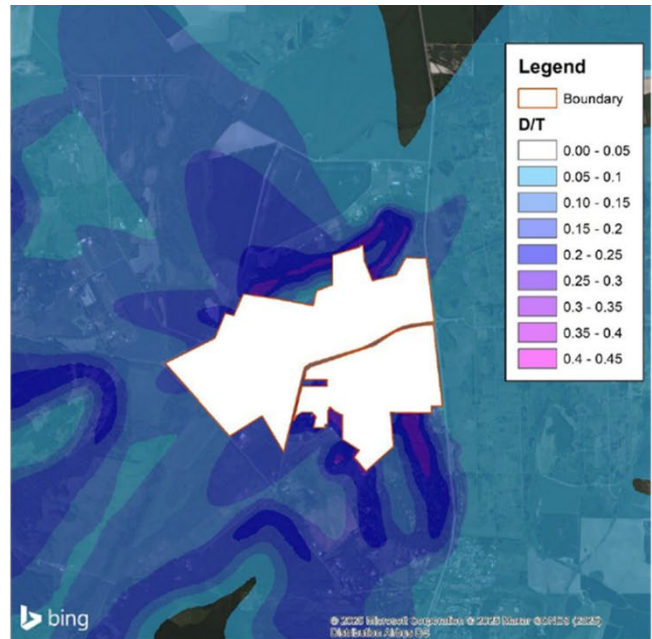


Figure 12. Scenario #2 Dimethyl Sulfide Odor D/T Contours
(Exhibit E33. 2025 Odor Study)

Staff Response, MFA - Engineering (Exhibit BC1 p. 9-13):

[...]

While the findings of the Applicant's odor model predict that odors generally would not be considered an odor nuisance (where D/T values are below 1), MFA has observed several inconsistencies in the model setup that could significantly affect the predicted values. Specifically, these are, without limitation:

- There is insufficient supporting justification for the modeled release height and initial vertical dimension for the current landfill fugitive surface. The effective release heights appear to be nearly 100 feet above the highest point of the current landfill footprint based on a review of Google Earth terrain data (current as of July 2024) and would be inappropriate to represent existing conditions for 2023.
- There is insufficient justification for the modeled release height and initial vertical dimension for the expanded landfill fugitive surface.
- An outdated version of the AERMET program executable (v18081) was used to process the meteorological dataset included in the AERMOD model runs and the potential impacts to offsite modeled concentrations may be significantly impacted by using the latest AERMET executable version.
- There is insufficient justification for the modeled emission rates where 81% of the total landfill surface area is in the current area, and 19% is in the southern proposed expansion, but the modeled emission rates for the current and expanded landfill fugitive source representations are equal.

Due to these noted inconsistencies, MFA believes that the odor study does not adequately demonstrate that the proposed use would not seriously interfere with uses on adjacent properties or with the character of the area.

Staff Response, Planning:

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 9 months in response to staff concerns.¹⁸ 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. The applicant's conclusion relating to odor levels and an expected D/T level below 0.5 is compelling.

¹⁸ The applicant's 2025 odor submission (Exhibit E33) was submitted on March 14, 2025.

However, Staff has two general concerns with the applicant's analysis:

1. Odor-sensitive uses. The analysis does not appear to identify adjacent uses that are likely to be more sensitive to odor impacts. For example, a residential use is likely to be more sensitive to odor impacts than a farmed field. Locations of odor-sensitive uses are not clearly defined in the odor analysis or mapping, and the potential impact on these uses is not specifically evaluated. Of special note, there may be odor-sensitive uses within the boundary area identified in the applicant's odor analysis.
2. As identified in the MFA engineering response, several technical elements of the analysis appear to be inadequately supported.

Due to these concerns, and the lack of options for conditions to mitigate these concerns, staff recommends denial of the application.

TRAFFIC

Applicant Response (Exhibit BOP p. 33-34):

c. Traffic. *Transight Consulting, LLC ("Transight") prepared a Transportation Impact Analysis ("TIA") for the proposed expansion (Ex. 15). Similar to the other off-site impacts, although the Project is a proposed "expansion," the nature of landfill operations means the Project will not result in a material increase in traffic impacts.*

Coffin Butte Landfill and the proposed improvements are served from Coffin Butte Road. Coffin Butte Road is a Major Collector Street and is identified as a Freight Route on the County TSP.

As discussed in the TIA, the anticipated changes to traffic are limited and consist of the following:

"Private passenger vehicles using the landfill will continue to use the scales and services on the north side of Coffin Butte Road, with these consolidated materials then hauled by commercial truck to the expansion site for disposal. Commercial account users will also be required to use the current scales to weigh in, then will be directed to the expansion area to dispose of materials. These private and commercial vehicles will use a new outbound scale near the expansion site exit, will pay the appropriate fees, and will then exit onto Coffin Butte Road.

"As a result of retaining the scales on the north side of Coffin Butte Road for the expansion there will be internal trips between the north and south sides of Coffin Butte Road."

As further discussed in the TIA, trip generation for landfill uses is not determined by landfill size, but rather by the population of the areas served.

VLI is expanding Coffin Butte Road to include bicycle lanes and shoulders and a westbound left-turn lane to avoid impacts to through traffic on Coffin Butte Road.⁴⁵

⁴⁵ The preliminary turn-lane design includes enough queue storage for four semitrucks.

The TIA is based on four sets of traffic counts taken from 2021 to 2023. These counts all reflect very low traffic volumes in the vicinity of the landfill. In addition, future traffic increases attributable to the landfill are based on projected population growth, which is minimal (approximately 1 percent annually in the Linn-Benton area, 1 percent or lower in Linn County, and approximately 1.7 percent statewide in Oregon).

The TIA concludes as follows:

“This report shows that the proposed landfill expansion provides minimal impacts to Benton County and ODOT transportation facilities. The proposed expansion site will not alter public trip routing, emergency ingress or egress, and it will retain the current landfill access routes. This layout maintains current functional designations identified in the County’s Transportation System Plan and the design optimizes travel safety for patrons and employees.”

The TIA analyzes the expected traffic impacts from the Project as far as those impacts extend from the Landfill Boundary (which is not far) and found that transportation facilities in the area will continue to function well within applicable County standards. Thus, the additional trips generated from the expansion, if any, and the minor changes in traffic patterns will not “seriously interfere” with the use of Adjacent Properties or Nearby Properties.

Staff Response, Public Works (Exhibit BC1 p. 21-23)

[...]

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.

[...]

Staff Response, Kellar Engineering (Exhibit BC1 p. 20)

Kellar Engineering (KE) has reviewed the submitted Coffin Butte Landfill Expansion Traffic Impact Analysis (TIA) dated February 26, 2024 by Transight Consulting, LLC. The submitted TIA demonstrates the project has the ability meet Benton County’s requirements for traffic.

Staff Response, Planning:

Staff concurs with engineering and transportation comments, as well as the applicant’s conclusion. Transportation impacts from the proposed expansion are minimal and are not expected to “seriously interfere” with adjacent land uses.

GROUNDWATER

Applicant Response (Exhibit BOP p. 34 -35):

d. Water—Well Capacity and/or Groundwater Impacts. *Tuppan Consultants, LLC (“Tuppan”) assessed environmental and operational considerations related to the Project (Ex. 16), and Civil & Environmental Consultants, Inc. (“CEC”) prepared a preliminary drainage report for the proposed expansion (Ex. 17). These documents outline the natural dynamics of groundwater flow in the area, the groundwater use associated with the Coffin Butte Landfill, and the existing and proposed drainage systems serving the landfill. As explained below and in Exhibits 16 and 17, the proposed expansion will have no effect on the landfill’s use of groundwater in the area and will not materially change offsite impacts on groundwater quality. As described by Tuppan, current surface-water drainage from the operations areas of the landfill drain*

through a number of systems designed to remove site-related compounds from stormwater before it discharges to creeks that flow off site. These systems include a settlement pond and a bioswale that was recently upgraded to include a subsurface flow wetland (SSFW) that discharges at a sampling point.

As further described by Tuppan, groundwater supply in the area is limited and disconnected in nature.

(i) Impact on groundwater supply (well capacity). As noted by Tuppan, landfill construction and the bulk of landfill operations use water supplied by Adair Village, not groundwater from wells. The only groundwater used from wells is for the existing office and the scale house, and the volume of groundwater consumed at these two locations will not change. The Project will thus have no impact on groundwater supply in the area (as compared to current conditions).

(ii) Impact on groundwater quality. Tuppan and CEC describe a number of features and systems that protect groundwater resources, including the groundwater divide created by Tampico Ridge, the existing combined detention and wetpond facility, the requirement to install a “state-of-the-art” landfill liner system at the Development Site, stormwater diversion facilities, and a comprehensive water-quality monitoring program. Monitoring of stormwater is required by both the site’s solid waste permit and its NPDES industrial stormwater discharge permit. The systems outlined above meet or exceed all regulatory requirements for groundwater protection, and to the extent they fail to function as designed, the monitoring programs will ensure that potential contamination is identified and mitigated before entering the off-site groundwater supply. The new landfill liner system planned for the Development Site is state of the art and will provide even more protection than the current system. Given that comprehensive mitigation and monitoring occurs on site, the potential impacts of the proposed expansion on the off-site groundwater supply will not “seriously interfere” with the use of Adjacent Properties or Nearby Properties.

Staff Response, Public Works (Exhibit BC1 p. 21-24):

[...]

Drainage for the landfill complex flows roughly from west to east. The E.E. Wilson Wildlife Area, a network of ponds and wetlands east of the subject property are the direct receiving waters for drainage from the landfill. The E.E. Wilson Wildlife Area functions as one of the headwaters of Bowers Slough, a tributary of the Willamette River.

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.

Staff Response, MFA - Engineering (Exhibit BC1 p. 6):

Exhibit 17 Preliminary Drainage Report

[...]

MFA recommends the Applicant follow the Benton County Stormwater Support Documents, instead of the Corvallis Stormwater Standards, to finalize the stormwater calculations and design components for the ODEQ submittal. Based on MFA's review of the information provided, the proposed stormwater detention facilities appear to be conservatively sized, and despite the use of a different standard, the overall design of the stormwater facilities appears adequate from a land use perspective.

Staff Response, Planning:

Staff understands that groundwater impacts have been a controversial topic in past application processes. 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 impacts. Staff concurs with the applicant's analysis and engineering comments. For purposes of county review, and in the context of additional required regulatory frameworks, the proposal is unlikely to "seriously interfere" with adjacent uses with regard to any groundwater impacts.

VISUAL IMPACTS

Applicant Response (Exhibit BOP p. 33 – 34):

*e. **Visual Impacts.** Exhibit 18 is a collection of renderings showing the view corridors west along Highway 99W and east along Coffin Butte Road as they currently exist and would appear after development of the Project and the opening of the Development Site.*

Figures 1, 2, and 3 show the northwest and southwest view from Highway 99W toward the landfill. As shown in Figure 1, the Project will retain the trees and vegetation at the southwest corner of the intersection of Coffin Butte Road and Highway 99W and will retain the buffer trees along the eastern property line. The Project will modify the topography of the area behind the trees shown in Figure 1; however, with the line of sight from this location, the visual impacts will be mostly unnoticeable (the top of Tampico Ridge is not visible).

Moving to a slightly higher elevation (north on Highway 99W) as shown in Figure 2, the top of Tampico Ridge is visible; thus, from this line of sight the Project may be visible.

Moving to a slightly higher elevation (north on Highway 99W) as shown in Figure 2, the top of Tampico Ridge is visible; thus, from this line of sight the Project may be visible.

Figure 4 shows the southwest view from the intersection of Coffin Butte and Soap Creek Road, demonstrating that the Development Site will be screened by vegetation along that corridor.

Applicant proposes installing additional screening vegetation consistent with the County's proposed condition in the 2021 Staff Report, plus additional screening. See Ex. 2, sheet 18. While the proposed landfill improvements on the Development Site may be visible at buildout along Coffin Butte Road within the landfill area owned by VLI and traffic traveling south on Highway 99W, the improvements will not be visible from the nearby streets, other rights-of-way, and properties that are not at higher elevations.

Overall, while the expansion may be visible from some locations around the area, it will not be highly visible, and a westerly visual corridor will be retained. In the future and in compliance with closure/post-closure plans, the current landfill area will be covered and reclaimed, reducing the off-site visual impacts that exist under current conditions. The overall effect of

relocating disposal operations to the Development Site will be to reduce off-site visual impacts from those caused by the current operation.

One of the Planning Commission's reasons for denying the 2021 application was that the proposal would essentially create a new hill by filling up the gap between Tampico Ridge and Coffin Butte and therefore substantially interfere with the character of the area in a negative way. The 2024 application preserves Coffin Butte Road and the valley between Tampico Ridge and Coffin Butte. The Development Site, when completed, will change the topography on the north slope of Tampico Ridge, but will be substantially lower than the ridgeline and will be 175 feet lower in height and similar in character to the closed and to-be-closed areas north of Coffin Butte Road. See topographical cross-section attached as part of Exhibit 2, Sheets 22 and 23; Exhibit 18, Build-out of Coffin Butte Landfill, with approved expansion. As noted above, the LS zone contemplates landfill use, so some elevation changes are to be expected.

Applicant's lighting plan for the overall site will minimize additional light and glare. See Sight Lighting Summary, attached as Exhibit 19.

For these reasons, the off-site visual impacts of the Project will not "seriously interfere" with the use of Adjacent or Nearby Properties.

Staff Response, Planning:

Staff concurs with the applicant's findings in relation to adjacent properties. While some elements of the project may be visible, as of the writing of this staff report, staff has 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.

"Character of the area"

Interpretation:

Applicant Response, the "area" (Exhibit BOP p. 22-25):

The Benton County Code also does not define the term "area" for CUP purposes. During BCTT, staff reported that the County has considered the following factors in determining the extent and character of the "area":

- a. The particular attributes of the geographic setting (including existing operations in the vicinity).*
- b. Whether there is a distinct change in the area's physical characteristics beyond a certain point.*
- c. The features or elements give the area its character, i.e., homogenous or heterogeneous characteristics and the degree of similarity.*
- d. The likely extent of the effects of the proposed land use. This may differ by particular effect—for example, the impact of noise might extend farther than visual impact (or vice versa).*

Based upon the prior application and discussion, Applicant has identified five potential off-site impacts of the landfill: Noise, odor, water/groundwater, traffic, and visual impacts. Each of these off-site impacts has a differential effect on the surrounding area based upon proximity. As discussed in more detail below, the potential impact of odor extends farther from the

landfill than the other potential impacts and thus has been used to identify the area of analysis under this criterion (the “Analysis Area”).

In order to establish the Analysis Area for purposes of BCC 53.215(1), VLI compiled all the odor complaints from June 2021 to August 2024 for which it had an address or location, plotted those locations on a map, and then drew a box around them. See Figure 2, below.

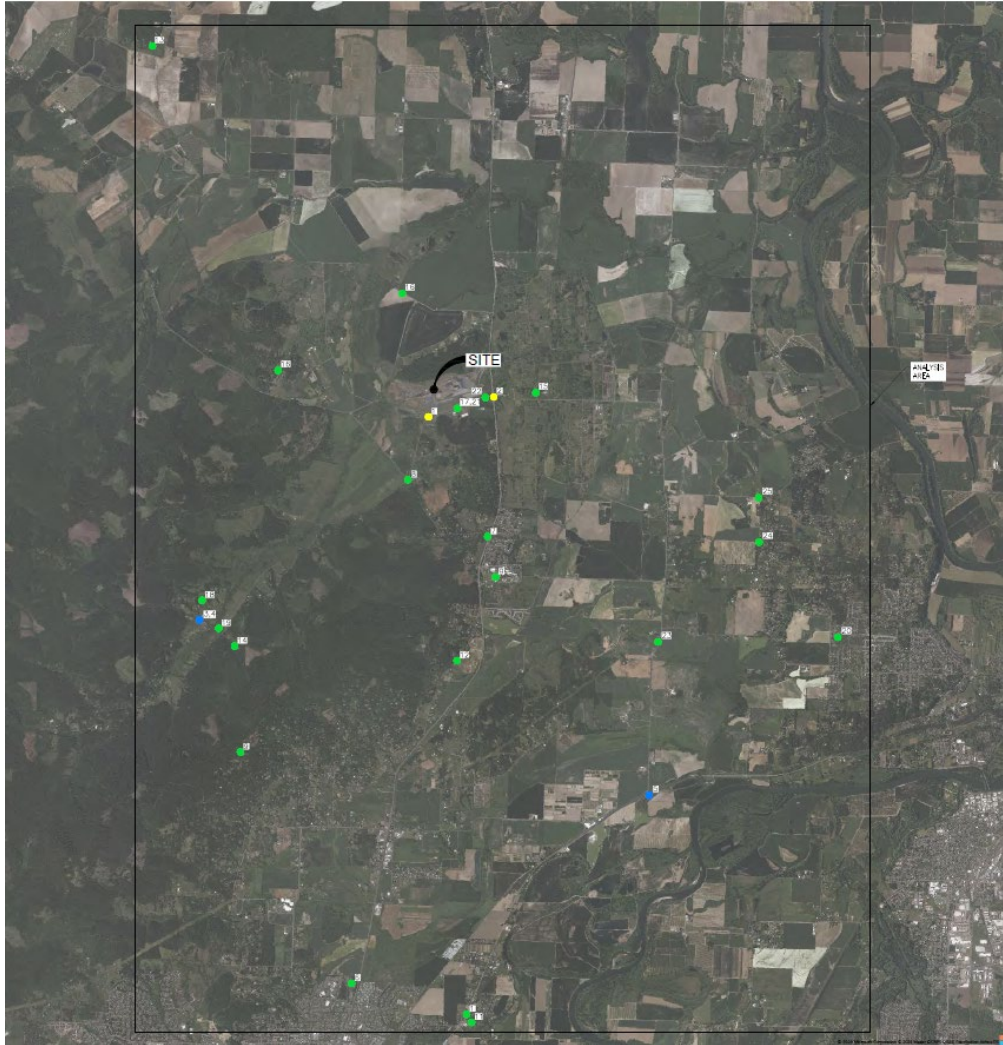


Figure 2 (The Analysis Area showing locations of odor complaints). (Full-size version and odor complaint list attached as Exhibit 9.)

VLI sometimes receives odor complaints that do not identify an address or location and notes that it did not consider these unlocated complaints to establish the Analysis Area. For these purposes, Applicant has also assumed that all the complaints were caused by odor from Coffin Butte Landfill without confirming the actual source of the odor. Although these odor complaints are therefore overinclusive in terms of establishing the outer limits of the potential odor impact and not required by the text of the criterion, for the purposes of the application VLI will consider this area for determining the outer limits of odor impact. Further, because odor is the impact with the farthest reach, the outer limits of odor impact provide an over-inclusive analysis area for the assessment of all other off-site impacts.

The land within the Analysis Area is not a distinct geographic setting, does not have unified physical characteristics, and is heterogenous and not homogenous. In this sense, it reflects a

much larger “area” than would be determined using the other characteristics considered by the County in past applications, but Applicant is considering this “area” to demonstrate compliance with the criteria beyond what is arguably required under the code.

Staff Response, Planning:

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 the applicant’s proposed analysis areas for the purpose of evaluation of compliance with this standard.

Applicant Response, “the character of the area” (Exhibit BOP p. 25-27):

As noted, the Analysis Area does not have a uniform character; it consists of almost 90 square miles and includes farm and forest lands, rural residential lands, the City of Adair Village, and small portions of Corvallis and North Albany.

The portion of the Analysis Area in the vicinity of the landfill is defined by two prominent topographic features: Coffin Butte and Tampico Ridge. These two topographic features are primarily surrounded and intersected by the roadways of Highway 99W on the east boundary, Robison Road to the north, Wiles and Tampico roads to the west, and Coffin Butte Road between the features. The interior flanks of Coffin Butte and Tampico Ridge are defined by Coffin Butte Landfill, while outer flanks are established with buffer areas and scattered rural residences, along with small-scale farming and forest operations. The higher elevations within the Analysis Area are well treed, while many of the lower/flatter elevations have been cleared. See Figure 3.



Figure 3 (Character, uses, and topography of the Analysis Area). (Full-size version attached as Exhibit 10.)

The portion of the Analysis Area beyond the immediate vicinity includes the City of Adair Village to the southeast. Adair Village is a small city in Benton County, with a population of approximately 1,005. To the east is the E.E. Wilson Wildlife Area, which is a 1,788-acre preserve that provides hunting, fishing, hiking, wildlife viewing, shooting, and archery amenities; and to the west/southwest is Soap Creek Valley, which contains a number of rural residences.

The portion of the Analysis Area even farther afield includes larger-scale farm and forest operations, including the Starker Forest to the west, which is used for logging operations and recreation opportunities.

Current conditions in the Analysis Area include impacts from the current landfill operations, commercial farm and forest uses, urban development, and a major transportation corridor (Highway 99W).

Applicant Response (Exhibit BOP p. 36 – 37):

[...] the character of the Analysis Area is heterogenous, but in the immediate vicinity of the landfill, it consists primarily of higher-intensity resource land that provides farm, forest, resource extraction, landfill operations, and open spaces surrounded by scattered rural residences and small-scale farm and forest operations. The Analysis Area is currently impacted by occasional odors, sounds, noises, and trips from the existing landfill operation and surrounding resource-extraction uses.

Staff Response, Planning:

Staff agrees with BCTT findings referenced by the applicant regarding past count interpretation of the factors considered in determining the character of the area.



"[...] 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). [...]"*

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”. Is this quoted from something? Cite? As part of the review immediately below this, staff evaluate 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. It is this character with which we must determine whether the proposed landfill expansion will comply with criterion 53.215(1).

Application: Relationship between the character of the area and potential impacts

NOISE

Applicant Response (Exhibit BOP p.37):

***a. Noise.** The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site noise impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any noise impacts on the Analysis Area beyond those properties will only be more attenuated and will not “seriously interfere” with the character of the Analysis Area.*

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 concurs 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. However, as discussed under noise impacts on adjacent properties, staff recommends denial of the application based on the evidence that noise impacts on uses on adjacent properties will exceed the applicant’s identified noise threshold. For that reason, staff also recommends denial of the application due to noise impacts on the character of the area.

ODOR

Applicant Response (Exhibit BOP p.37):

***b. Odor.** The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site odor impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any odor impacts on the Analysis Area beyond those*

properties will only be more attenuated and will not “seriously interfere” with the character of the Analysis Area.

Staff Response, Planning: As explained in detail in the staff response in relation to adjacent properties, due to inadequate support for several elements of the technical analysis in the applicant’s odor submission (See Exhibit BC1. *Compiled County Engineering and Public Works Comments*, p.9-13 and Exhibit E3. *2025 Odor Study*), staff cannot support the applicant’s conclusions relating to odor impacts on adjacent properties or character of the area. Nor can staff define conditions of approval. For this reason, staff recommends denial of the application.

TRAFFIC

Applicant Response (Exhibit BOP p.37):

c. Traffic. *The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site traffic impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any traffic impacts on the Analysis Area beyond those properties will only be more attenuated and will not “seriously interfere” with the character of the Analysis Area.*

Staff Response, Planning: Staff concurs with the applicant’s reasoning. The applicant’s traffic analysis (Exhibit E15. *Traffic Report*) has been evaluated by county engineering and a 3rd party contract engineer. Traffic impacts are expected to be minimal and will not “seriously interfere” with the character of the area.

WATER

Applicant Response (Exhibit BOP p.37):

d. Water—Well Capacity and/or Groundwater Impacts. *The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site water impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any water impacts on the Analysis area beyond those properties will only be more attenuated and will not “seriously interfere” with the character of the Analysis Area.*

Staff Response, Planning: As discussed under the staff response to groundwater impacts on adjacent properties, concerns relating to regulation of landfill groundwater 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 review purposes, the proposal is not expected to “seriously interfere” with the character of the area in relation to water impacts.

VISUAL IMPACTS

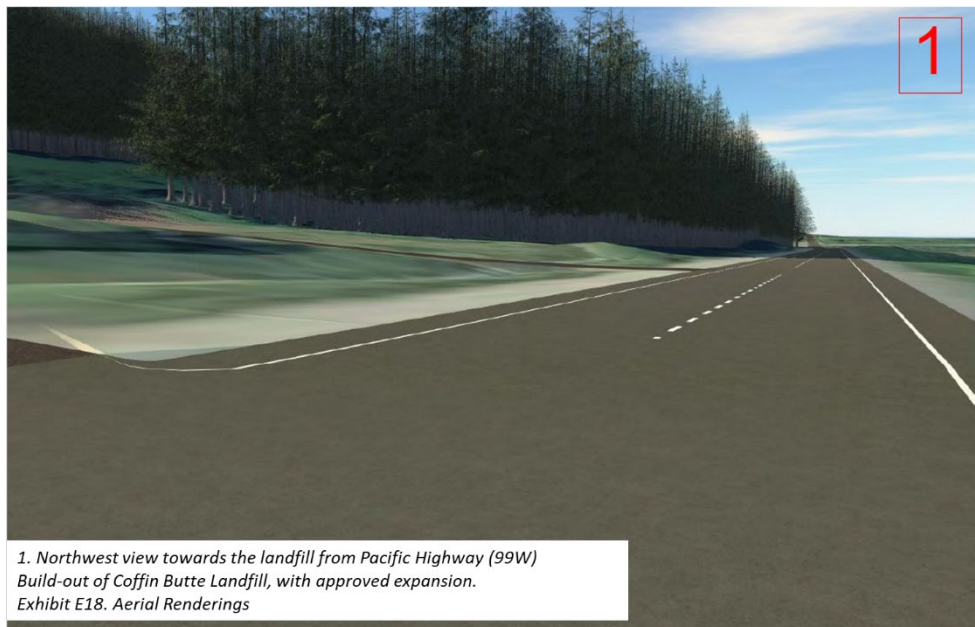
Applicant Response (Exhibit BOP p.37):

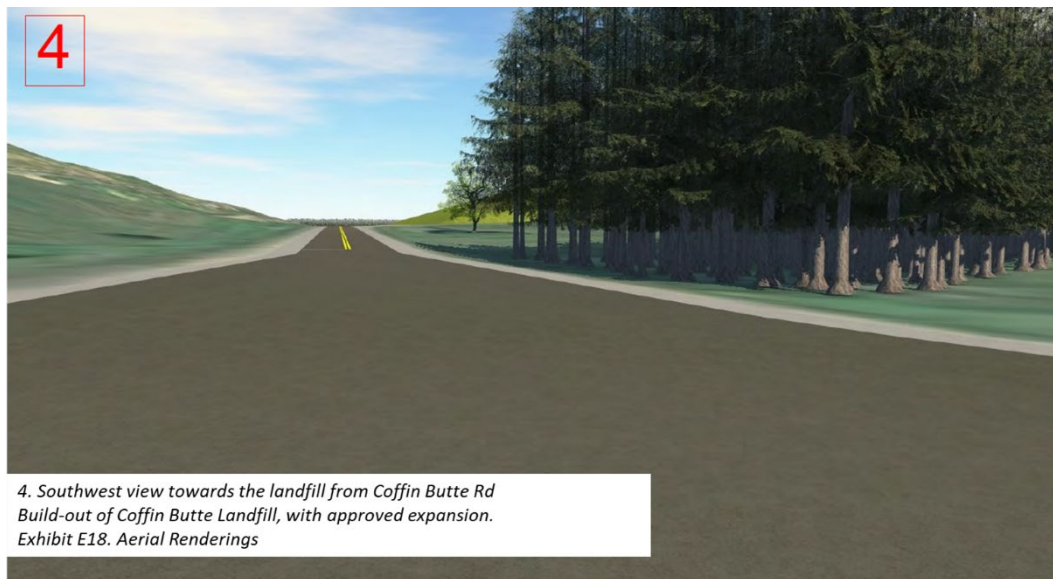
e. Visual Impacts. *The Analysis Area includes the Adjacent and Nearby Properties addressed in Section III.C.7 above, as well as a large area beyond those properties. As established above, the projected off-site visual impacts will not seriously interfere with the use of the Adjacent and Nearby Properties. It follows that any visual impacts on the area beyond those properties will only be less noticeable and will not “seriously interfere” with the character of the Analysis Area.*

Applicant Response (Exhibit E18 p.4-8):



Artist renderings of Coffin Butte Landfill (with Proposed Expansion)
Exhibit E18. Aerial Renderings





Staff Response, Planning:

The applicant's arguments "established above" appear to be those from Exhibit BOP p. 33 – 34, which staff quoted and responded to under the section regarding impacts on adjacent properties. To recapitulate, the applicant responded that 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".

However, 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. The proposed landfill development will be lower in elevation than the existing active cell north of Coffin Butte Road. 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.

"Purpose of the zone"

Finally, the criterion 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.*

FINDINGS:

Applicant Response (Exhibit BOP p. 38):

The purpose of the FC zone is to conserve forest lands, promote forestry and timber uses, and protect natural resources. The specific provisions of the FC zone recognize that landfill uses are consistent with these purposes and expressly permit a landfill use as a conditional use. BCC 60.205(11).

No solid-waste disposal is proposed for the FC-zoned land. Instead, the proposed improvements on the FC-zoned land include an 1,800-square-foot employee building, parking, access road modifications, and 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 area. All uses proposed as part of the Project (i.e., disposal site for solid waste approved by the County Commissioners and DEQ, together with equipment, facilities, or buildings necessary for its operation) are permitted in the FC zone, so long as Applicant demonstrates compliance with all applicable CUP approval criteria. The elements of the Project that are proposed on the FC-zoned land are associated with the existing, approved Coffin Butte Landfill. These uses are explicitly allowed and therefore consistent with the stated purpose of the zone, and CUP review will minimize conflicts with forest uses, reduce the potential for wildfire, and protect this area as the primary timber-producing area of the County. Thus, the elements of the Project that are proposed on the FC-zoned land will not “seriously interfere” with the purpose of the FC zone. (BOP p. 38)

Staff Response, Planning:

Staff generally concurs with the applicant’s response. 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, staff does not consider BCC 53.215 criteria to be met with respect to noise and odor impacts; therefore, the proposal also is not consistent with the purpose of the FC zone.

CHAPTER 77 – LANDFILL SITE (LS)

77.005 Purpose.

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

FINDINGS:

Applicant Response (Exhibit BOP p. 38):

As established in Section III.C.6 above, the purpose of the LS zone is to host a landfill. Allowing for landfill expansion in the Landfill Site Zone will fulfill rather than “seriously interfere” with the stated purpose of the zone.

Staff Response, Planning:

Staff concurs with the applicant’s response. Landfill expansion onto land in the Landfill Site Zone is consistent with the purpose of the LS Zone and would not seriously interfere with that purpose.

53.215 (1) Conclusion:

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 does not “seriously interfere” with adjacent uses when evaluating traffic, water, and visual impacts. However, staff determined that the applicant has not demonstrated that noise from the proposal will not exceed the DEQ Noise Rule for three adjacent properties or in the alternative, provided an adequate solution to mitigate the effects of noise impacts on adjacent noise-sensitive uses to a level that does not exceed the DEQ Noise Rule. In addition, the applicant’s odor study does not identify or evaluate impacts on odor-sensitive uses, and the technical analysis does not provide adequate support for its conclusions. Staff cannot determine conditions to mitigate either of these impacts. Accordingly, as of the writing of this staff report, staff recommends denial on these bases.

- Character of the Area: Staff finds the proposal does not “seriously interfere” with the character of the area with respect to traffic, water, and visual impacts. As noted above, staff finds that noise impacts as proposed do seriously interfere with the character of the area, and the applicant’s analysis of odor impacts lacks adequate support. Staff recommends denial on these bases .
- Purpose of the Zone: Staff finds the proposal does not “seriously interfere” with the purpose of the Landfill Site Zone; however, the proposal is not consistent with the standards of the Forest Conservation Zone, so the proposal would be considered to “seriously interfere” with the purpose of that Zone.

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



“[...] 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.”

FINDINGS:

Applicant Response (Exhibit BOP p. 39):

Coffin Butte Landfill serves the public. The development is proposed so that the landfill can continue to accommodate public needs for an additional six years beyond the life of the current approved landfill. As noted above, when the Development Site is opened, the working face will move from north of Coffin Butte Road to the Development Site. As detailed in the traffic report (Ex. 15), trip growth (transportation impacts) will grow with overall population, but not because of the relocation of the working face to the Development Site. As noted in Exhibit 15, trips generated to and from the working face will remain substantially the same and well within the capacity of the existing road system. Because the 2024 CUP application does not include closure of Coffin Butte Road, none of the surrounding road systems will be impacted, and the new turn lanes and bike paths will improve safety and access along Coffin Butte Road. The Project does not necessitate any additional water or sewer services, so will not affect public water or sewer service. The property is served by the Adair Fire District and the Benton County Sheriff’s Department. The Fire District expressed concern about the impact of closure of Coffin Butte Road on emergency ingress and egress during prior 2021 application; the 2024 CUP application does not change that access. Applicant’s Fire Risk Assessment Report, attached as Exhibit 20, details how Applicant’s fire mitigation plan prevents or addresses fires, and concludes that operations at Coffin Butte Landfill do not present a significant fire risk. There is no evidence or history that suggests that the landfill creates

significant law enforcement issues. The proposed development is not projected to increase impacts to these providers.

For the above-noted reasons, the proposed expansion does impose an undue burden on any public facilities or services.

Staff Response, Public Works (Exhibit BC1 p. 21-23):

[...]

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).

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.

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.

[...]

Staff Response, Kellar Engineering (Exhibit BC1 p. 20)

Kellar Engineering (KE) has reviewed the submitted Coffin Butte Landfill Expansion Traffic Impact Analysis (TIA) dated February 26, 2024 by Transight Consulting, LLC. The submitted TIA demonstrates the project has the ability meet Benton County's requirements for traffic.

Staff Response, MFA - Engineering (Exhibit BC1 p. 6-7):

Exhibit 17 Preliminary Drainage Report

[...]

MFA recommends the applicant follow the Benton County Stormwater Support Documents, instead of the Corvallis Stormwater Standards, to finalize the stormwater calculations and design components for the ODEQ submittal. Based on MFA's review of the information provided, the proposed stormwater detention facilities appear to be conservatively sized and despite the use of a different standard, the overall design of the stormwater facilities appears adequate from a land use perspective.

Exhibit 27: Leachate Management Summary

[...]

MFA acknowledges that the detailed calculations regarding leachate quantities and collection system components will be developed and submitted to the ODEQ during the solid waste permitting process and recommends County to be copied with the ODEQ submittal, as noted in the prior section of this letter under Exhibit 2.

MFA noted that Coffin Butte Landfill has an agreement with the Corvallis wastewater treatment plant (CWWTP) to dispose of its leachate at their plant. The landfill currently disposes of 50% of their leachate at CWWTP. The permit for this operation expires December 31, 2025. The remaining 50% of the leachate is currently disposed of at the Salem wastewater treatment plant (SWWTP). Coffin Butte Landfill's discharge agreement with SWWTP expires December 31, 2027.

Staff Response, Dr. Tony Sperling of LFCI and MFA - Engineering (Exhibit BC1 p. 7):

MFA and our subconsultant, Dr. Tony Sperling of Landfill Fire Control Inc. (LFCI), have the following comments on this exhibit:

The Coffin Butte Landfill should continue to employ best industry practices for fire risk management, including but not limited to:

- *Temperature and landfill gas (LFG) monitoring*
 - *-Routine temperature monitoring via a thermal camera to confirm that temperature in affected areas remain below 50°C (122°F), after removal of hot materials.*
 - *-Monitoring carbon monoxide (CO) in addition to the primary LFGs (methane, and carbon dioxide), as CO levels are good indicators of the presence of incomplete combustion.*
- *Maintain firefighting supplies on site, such as full water trucks and soil stockpiles*
 - *Sufficient soil should be kept near the working face to fully cover the active area with a minimum thickness of one foot.*
- *Proper acceptance and disposal of battery and electronic waste*
- *Periodic maintenance of the landfill gas (LFG) management system*

LFCI agrees with the Applicant's statement that excessive extraction of LFG can lead to increased temperatures and the potential for subsurface fires. However, LFCI notes that a review of data from several major landfill fire incidents indicates that there are documented cases where subsurface fire has breached the surface. Given the associated risks of surface fires, it is 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.

Staff Response, Planning: Staff concurs with applicant statements and engineering review findings above. As of the writing of this staff report, staff has no evidence that the proposal will impose an undue burden on public facilities.

(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.*

FINDINGS:

BCTT Formal
Workgroup
Polling

LLU F-4



Unanimous

"[...] 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. [...]"

BCTT Formal
Workgroup
Polling

LLU F-21



Unanimous

"[...] 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."

Applicant Response (Exhibit BOP p. 40 – 41):

Applicant understands that this section of the Code allows for the imposition of conditions of approval to address compliance with the applicable criteria, if warranted. This Code section does not add any additional substantive review criteria for approval.

Applicant expects the County to impose conditions of approval. Applicant has prepared draft conditions of approval for the County's consideration. See Draft Conditions, attached as Exhibit 21. The draft conditions of approval are based upon the evidence and recommendations contained in Applicant's exhibits and the analysis in this burden of proof, as well as the County's relevant recommended conditions in 2021.

One condition that was at issue in the 2021 application and was an area of disagreement during BCTT is a limitation on the hours of operation. Applicant requests a condition that would allow it to continue the current hours of operation. Prior to opening, Applicant currently must begin internal operations to prepare for opening. The landfill opens to commercial hauling traffic at 5 a.m. and opens to the general public at 8:00 a.m., except on Sundays, when it opens at 12:00 p.m. The site closes to both commercial and public traffic at 5:00 p.m. all days, with internal operations continuing thereafter to properly close the landfill for the day.

The landfill has been observing these hours since 2002. This is in accordance with PC-02-07 2002, in which the County imposed the following condition regarding hours of operation:

“The landfill operation hours shall occur between 8:00 a.m. and 5:00 p.m. Monday through Saturday, and 12:00 p.m. through 5:00 p.m. on Sunday, with 24-hour access for commercial customers.”

The question during BCTT was whether Applicant was violating this section by having staff on site before 8:00 a.m. and after 5:00 p.m. Applicant had always interpreted “landfill operation hours” to mean hours that it is open to the public. Applicant noted that since the condition allows 24-hour access for commercial customers⁴⁶, the County must have contemplated that at least some staff would be on site outside the hours that it was open to the public.

46 Historically, the site did operate 24 hours a day for commercial customers. At its own discretion, Applicant limited hours in the early 2000s to 5:00 a.m. to 5:00 p.m. for commercial customers.

From an off-site impact standpoint, having staff on site to prepare for opening and closing of the landfill has no impact on the Adjacent or Nearby Properties or the Analysis Area. In contrast, limiting the hours of operation would concentrate landfill traffic into the peak hours, resulting in increased congestion and the potential for more user conflicts. See Ex. 15, pages 22-23.

For these reasons, Applicant respectfully requests that any condition of approval relating to hours of operation permit Applicant to continue its long-standing practice. Exhibit 21 contains a draft condition of approval (OA-1) addressing hours of operation. The impacts to Adjacent or Nearby Properties or to the Analysis Area will not increase as compared to the existing operation, and it will avoid the unintended consequences of limiting those hours.

Staff Response, Planning:

Staff concurs with BCTT guidance; however, staff recommends denial of this application in this staff report and therefore does not evaluate the applicant’s proposed conditions of approval, or present additional conditions of approval.

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.

FINDINGS:

Should this application be approved, the permit will be valid for a period of two years from the date of decision.

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.

FINDINGS: As noted by the applicant (Exhibit BOP p. 53) 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 area 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.

FINDINGS:

Applicant Response (Exhibit BOP p. 52):

Whether serving the existing or proposed disposal site, the proposed Project elements on the FC-zoned land fall into the category of equipment, facilities, or buildings necessary for the landfill operation. Coffin Butte Landfill has been approved by the County Commissioners and is operating under DEQ Permit #306 (Exs. 23-25). For the above-noted reasons, a CUP can be approved by the Planning Commission for the FC-zoned portions of the property.

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;

FINDINGS:

Applicant Response (Exhibit BOP p. 53):

Applicant notes that this section by its terms only applies to the development on the FC-zoned property. As noted above, however, the existing farm and forest uses on the Adjacent Properties and in the area have developed over the years while operating adjacent to Coffin Butte Landfill and its subsidiary operations. Based upon the above findings, the relocation of the working face south of Coffin Butte Road will not materially affect or increase negative impacts on surrounding properties, whether in farm or forest or residential use. Most of the FC-zoned property that is part of the Project is currently being used for equipment, facilities, or buildings accessory to the landfill use; they are simply being relocated to accommodate the new working face.

The new or relocated elements that are proposed on the FC-zoned lands are 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 area to support the landfill. These elements will slightly reduce the amount of land that is available for farm and forest uses; however, except as noted below the farm use on Tax Lot 1200, the area of these improvements is not actively engaged in commercial farm or forest activities within the meaning of BCC 51.020(15) and (24)(a) and is currently used for landfill operations or other non-forest or non-agricultural use. The majority of the surrounding properties are owned by Applicant and are engaged in commercial farming operations and/or open space/buffer uses.⁴⁷ For reasons stated previously, the proposal will not substantially impact public roads that serve the area or substantially interfere with uses on Adjacent and Nearby Properties. Furthermore, the primary access to the site will continue to be from Coffin Butte Road. Other than slightly reducing the amount of land that can be used for farming or forest practices, the proposal will not impact farming or forestry activities in the area; thus, it will not force a change or increase the cost of these activities. The proposal therefore conforms to this approval criterion.

47 Applicant notes that use of forest land for buffer areas or visual separation of conflicting uses is a "forest use" within the meaning of BCC 51.020 (24) (b).

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. In the absence of contradictory information, as of the writing of this staff report staff sees no evidence the proposal will force a significant change in, or significantly increase the cost of, accepted farm and forest practices.

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

FINDINGS:

Applicant Response (Exhibit BOP p. 54):

The elements that are proposed on the FC-zoned lands include 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 area to support the landfill. Furthermore, the roadway system will not be significantly altered by the design (a left-turn lane and bike lanes will be added, as well as stormwater management facilities).

The Fire Risk Assessment Report, attached as Exhibit 20, details the lack of fire risks and describes Applicant's Fire Mitigation Plan and protocols for the entire landfill operation. The conclusion of the report is that "operations at Coffin Butte Landfill do not present a significant fire risk."

For the above-noted reasons, the proposed improvements on the FC-zoned land will not significantly increase fire hazard or suppression costs or significantly increase risks to fire-suppression personnel.

Staff Response, Dr. Tony Sperling of LFCI and MFA - Engineering (Exhibit BC1 p. 7):

MFA and our subconsultant, Dr. Tony Sperling of Landfill Fire Control Inc. (LFCI), have the following comments on this exhibit:

The Coffin Butte Landfill should continue to employ best industry practices for fire risk management, including but not limited to:

- *Temperature and landfill gas (LFG) monitoring*
 - *-Routine temperature monitoring via a thermal camera to confirm that temperature in affected areas remain below 50°C (122°F), after removal of hot materials.*
 - *-Monitoring carbon monoxide (CO) in addition to the primary LFGs (methane, and carbon dioxide), as CO levels are good indicators of the presence of incomplete combustion.*
- *Maintain firefighting supplies on site, such as full water trucks and soil stockpiles*
 - *Sufficient soil should be kept near the working face to fully cover the active area with a minimum thickness of one foot.*
- *Proper acceptance and disposal of battery and electronic waste*
- *Periodic maintenance of the landfill gas (LFG) management system*

LFCI agrees with the Applicant's statement that excessive extraction of LFG can lead to increased temperatures and the potential for subsurface fires. However, LFCI notes that a review of data from several major landfill fire incidents indicates that there are documented cases where subsurface fire has breached the surface. Given the associated risks of surface fires, it is 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.

Staff Response, Planning: Staff concurs with the applicant's findings and conclusion, as supported by 3rd party engineering review findings above.

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

Applicant Response (Exhibit BOP p. 54):

A comprehensive review of the referenced sections was included above. The above-noted findings are incorporated herein.

FINDINGS: This standard refers to conditional use and conditions of approval criteria referenced in BCC Chapter 53. These criteria were addressed earlier in the staff report under Chapter 53. Staff determined that the application does not comply with BCC 53.215 and recommends denial. Therefore, this criterion is also not met, and staff must also recommend denial related to this noncompliance with BCC 60.220(1)(c).

60.220 (1) Conclusion:

As identified above, the proposal does not meet BCC 60.220(1)(c), so staff cannot find the proposal complies with BCC 60.220(1). Therefore, staff also recommends denial of the application based on BCC 60.220(1).

*(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:
[...]*

FINDINGS: 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 and included this as a proposed preliminary COA, PA-3, (see Exhibit E21).

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

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.*

FINDINGS:

Applicant Response (Exhibit BOP p. 56):

The only proposed new structures are the employee building on Tax Lot 1101 and the proposed shop on Tax Lot 1200. Applicant owns the property upon which these structures are proposed, along with all surrounding properties. Applicant proposes structures that conform to the provisions of this section. See Ex. 2, sheets 5, 11, and 12. The final design of the shop building has not been determined, but it can be sited in the designated area in compliance with the requirements of this section. See Ex. 2, sheet 5.

Staff Response, Planning: Staff concurs with the applicant that the proposed employee building structure location identified in Exhibit E2, Sheet 5 provides the opportunity for a feasible firebreak consistent with the requirements of this standard. However, staff could not identify the proposed shop structure on Exhibit E2 Sheet 5, as the applicant cited in their response above. The applicant has not identified the approximate size or dimensions of this proposed structure nor the proposed location. Therefore, staff is unable to confirm whether the proposed shop/maintenance area structure could meet this standard nor if it is feasible. **This standard is not met.**

- (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.*

FINDINGS:

Applicant Response (Exhibit BOP p. 56):

As detailed on the site plan, the new employee building and shop proposed to be located at least 20 feet from all property lines, which conforms to the provisions of this section. See Ex. 2, sheets 5 and 6.

Staff Response, Planning: Staff confirms the proposed employee building is shown over 20 feet away from all property lines on Exhibit E2, Sheets 5 and 6. However, staff could not identify the proposed shop structure on Exhibit E2 Sheets 5 or 6, as the applicant cited in their response above. The applicant has not identified the approximate size or dimensions of this proposed structure nor the proposed location. Therefore, staff is unable to confirm whether the proposed shop/maintenance area structure could meet this standard nor if it is feasible. **This standard is not met.**

(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.

FINDINGS:

Applicant Response (Exhibit BOP p. 57):

The structures are not water-dependent and there is not a river or major stream in the vicinity of the proposed buildings; the buildings therefore conform to this standard.

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.

FINDINGS:

Applicant Response (Exhibit BOP p. 57):

Coffin Butte Landfill is currently served by the Adair Fire Protection District and therefore has access to water in emergency circumstances. In addition, as noted in the Fire Risk Assessment Report (Ex. 20), the landfill has a site-specific fire mitigation plan. As noted in the report, Applicant maintains a 4,000-gallon water truck with spray bar and hose attachment on site that is used routinely in dry weather for dust control and can be used as an emergency water supply for firefighting. Applicant is in compliance with this requirement.

Staff Response, Dr. Tony Sperling of LFCI and MFA - Engineering (Exhibit BC1 p. 7):

MFA and our subconsultant, Dr. Tony Sperling of Landfill Fire Control Inc. (LFCI), have the following comments on this exhibit:

The Coffin Butte Landfill should continue to employ best industry practices for fire risk management, including but not limited to:

- Temperature and landfill gas (LFG) monitoring
 - Routine temperature monitoring via a thermal camera to confirm that temperature in affected areas remain below 50°C (122°F), after removal of hot materials.
 - Monitoring carbon monoxide (CO) in addition to the primary LFGs (methane, and carbon dioxide), as CO levels are good indicators of the presence of incomplete combustion.
- Maintain firefighting supplies on site, such as full water trucks and soil stockpiles
 - Sufficient soil should be kept near the working face to fully cover the active area with a minimum thickness of one foot.
- Proper acceptance and disposal of battery and electronic waste
- Periodic maintenance of the landfill gas (LFG) management system

LFCI agrees with the Applicant's statement that excessive extraction of LFG can lead to increased temperatures and the potential for subsurface fires. However, LFCI notes that a review of data from several major landfill fire

incidents indicates that there are documented cases where subsurface fire has breached the surface. Given the associated risks of surface fires, it is 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.

Staff Response, Planning: Staff concurs with the applicant's findings and evidence provided in the applicant's Fire Risk Assessment Report (Exhibit E20). 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).

FINDINGS:

The applicant has not included detailed plans for the proposed employee building nor the proposed shop/maintenance area. 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;

FINDINGS:

Applicant Response (Exhibit BOP p. 57 – 58)

While the employee building and the shop/maintenance area are the only new structures, the proposal also includes access roads, a scale, and leachate ponds to which this section may apply. The new employee building is located near the existing office building and surrounded by the disposal site and/or buffer lands. The proposed location will not impact farming or forest activities on any nearby or adjoining lands. The employee building is designed to add supporting facilities for the current employees, so will not materially increase traffic or parking on the site. The leachate ponds and shop/maintenance area are proposed to be located in an area of Tax Lot 1200 that is currently farmed under lease; however, the property also contains a gas to- energy plant and the properties to the west and north are zoned LS, to the east is Highway 99W, and to the south is additional land that is owned by Applicant and maintained as open space. As noted above, the lessee leases other farmland from VLI west of Soap Creek Road, so the loss of some of the lands on Tax Lot 1200 for farming could have some impact on the lessee's farming operations on those lands in terms of economies of scale. That impact is mitigated by the fact that the other leased properties are located over three quarters of a mile away. Also, the lease specifically provides for termination if VLI needs any of the lands for landfill operations. See Ex. 31. Finally, the improvements are located on the western side of the farmed portion of Tax Lot 1200, leaving approximately 40 percent of the farmed portion of the property available for farming. The leachate ponds and the shop/maintenance area on the subject property will not significantly impact farming or forest operations on any nearby or adjoining lands.

Overall, the proposed design will not significantly impact forest operations and accepted farming practices on nearby or adjoining lands and will be sited to have the least impact. The proposal complies with this criterion.

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

As shown on Exhibit E2, Sheet 6, 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.

The applicant states that the proposed shop/maintenance building is located on Tax Lot 1200. Staff could not identify the proposed shop structure on Exhibit E2 Sheets 5 or 6, as the applicant cites in several previous responses above. The applicant has not identified the approximate size or dimensions of this proposed structure nor the proposed location other than that the improvements (the shop area and leachate ponds) would be on the western side of the farmed portions of the Tax Lot. Therefore, staff is unable to confirm whether the proposed shop/maintenance area structure could meet this criterion nor if it is feasible. **This criterion is not met.**

Figure 5. 2023 Aerial Imagery of Tax Lot 1101



Figure 6. 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;

FINDINGS:

Applicant Response (Exhibit BOP p. 58):

As noted above, the new structures are clustered on the western boundary of Tax Lot 1200, minimizing the loss of farmed property to the degree practicable. The lease provides for termination by VLI upon 30 days' notice if VLI determines that it needs the property for use or development of the landfill. The lease further provides, however, that the tenant is not required to surrender the property until the harvesting of any crops planted before the date of the notice of termination. This mitigates the impact of the termination on the farming operation.

Staff Response, Planning:

As mentioned previously, staff could not identify the proposed shop structure on the applicant's engineering plans (Exhibit E2). The applicant has not identified the approximate size or dimensions of this proposed structure nor the proposed location other than that the improvements (the shop area and leachate ponds) would be on the western side of the farmed portions of the Tax Lot. Therefore, staff cannot confirm whether the proposed shop/maintenance area structure could meet this criterion or if it is feasible. **This criterion is not met.**

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

FINDINGS:

Applicant Response (Exhibit BOP p. 58- 59):

These provisions generally require that the Project be sited to minimize the impacts on forest lands. The relocated leachate ponds have been sized to accommodate the needs of the site and are not oversized. Furthermore, rather than utilizing the majority of the flatter land, these have been designed into the existing slope, which will lessen the amount of grading needed and lessen the amount of currently farmed land that will be impacted. Regarding the employee building, this is proposed to be as small as needed and clustered near the existing office and nearest to the existing road and access drive, so that additional driveways and parking areas are not needed. Lastly, the access-road modifications are not located in any area where farm or forest operations are occurring.

Overall, the building, access drives, and leachate pond locations have been designed and proposed to sizes and in locations that will minimize their impacts on farm and forest operation on the subject property in conformance with these approval criteria.

Staff Response, Planning:

Staff concurs with the applicant. As shown on Exhibit E2, Sheet 5 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. However, staff could not identify the proposed shop structure on Exhibit E2 Sheets 5 or 6, as the applicant cited in their response above. The applicant has not identified the approximate size or dimensions of this proposed structure nor the proposed location. Therefore, staff is unable to confirm whether the proposed shop/maintenance area structure could meet this criterion nor if it is feasible. **This criterion is not met.**

(d) The risks associated with wildfire are minimized.

FINDINGS:

Applicant Response (Exhibit BOP p. 59):

The elements that are proposed on the FC-zoned lands are 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 area to support the landfill. Although this criterion applies only to land in the FC zone, Applicant conducted a fire risk assessment for the entire landfill operation, attached as Exhibit 20. After assessing Applicant's Fire Mitigation Plan and the types of fires that could occur, the report concludes that "operations at the Coffin Butte Landfill do not present a significant fire risk." The Project is in conformance with this approval criterion.

Staff Response, Planning:

The applicant provided a fire risk assessment (Exhibit E20); this was reviewed by 3rd party fire experts (Exhibit BC1). 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.

FINDINGS:

Applicant Response (Exhibit BOP p. 59):

As documented on the site plan, the new employee building is proposed in close proximity to the current Coffin Butte Road and office building. Furthermore, it is served by the existing drive. As proposed, the application conforms to this criterion.

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. However, staff was unable to identify the location of the proposed shop building, and therefore cannot determine whether the location of the shop building is sufficient to meet the criteria of BCC 60.405(6) as proposed. Therefore, as stated in response to the criteria of BCC 60.405(6), those criteria are not met. Staff has insufficient information regarding the proposed shop building or soil suitability on Tax Lot 1200 to determine appropriate locational direction.

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.

FINDINGS: 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 (Exhibit BOP p.43) 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.

FINDINGS: 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.

Conditional use standards

Staff reviewed the standards and criteria of BCC Chapter 53 above in that section of the Staff Report. Staff recommends denial of the application in this staff report due to noise and odor impacts.

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 (en 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.

ENRAC submitted its recommendation letter on April 21, 2025 (Exhibit BC2). The letter was not provided to contract staff planners in time to be considered in this Staff Report.

ODEQ comments

The County provided notice of this application to ODEQ on March 20, 2025 (Exhibit BC4). The County did not receive a response from ODEQ.

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;

FINDINGS:

Applicant Response (Exhibit BOP p. 45):

A comprehensive review of lands that are Adjacent or Nearby to the LS-zoned properties and impacts thereupon was included above. The findings from the above-noted sections are incorporated herein.

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;

FINDINGS:

Applicant Response (Exhibit BOP p. 45):

The post-closure future use of the LS-zoned development area will be consistent with the rest of Coffin Butte Landfill. As documented in Exhibit 22 (Reclamation Plan), page 5:

The final closed surface of the completed landfill will appear to be a sloped grassy savanna that blends with, and appears to be part of, the adjacent butte. Planned land use for the property will be open space grassland. Any development over filled areas of the CBLF should not include permanent enclosed structures where differential settlement and/or methane gas may cause risk.

Like the rest of Coffin Butte Landfill, the future (post-closure) use of the Development Site is not anticipated to have any impacts on Adjacent or Nearby uses.

Staff Response, Planning: The applicant's Reclamation Plan is provided as Exhibit E22; 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;

FINDINGS:

Applicant Response (Exhibit BOP p. 45 – 46):

This section does not require screening or provide a specific standard for screening. This section requires only that an applicant describe "provisions for screening the site from public roads and adjacent properties." Applicant owns and manages the majority of the surrounding properties, and the eastern portion of Tax Lot 1200 is and will continue to be well treed and will provide a substantial buffer from the planned improvements. Furthermore, the 83.7-acre parcel south of the landfill development area is maintained as an open-space area, along with areas to the north and west. The areas owned by Applicant that are maintained as open spaces and/or engaged in commercial farming operations will continue to provide sufficient buffers from public roads and the majority of the Adjacent Properties. The closest Adjacent Property to screen is Tax Lot 1103 at 38691 Soap Creek Road. This nearby residence is and will continue to be buffered from the disposal site development area by a sloped and treed grade. Additionally, Applicant is proposing installation of additional screening consistent with the County's proposed condition in 2021. See Ex. 2, sheet 18. Overall, the planned improvements will be screened by the existing grades and vegetation existing and to be installed on the property and surrounding area.

Staff Response, Planning:

Staff concurs with the applicant that this section requires the applicant to describe provisions for screening, which the BOP provides. This standard is met.

(d) Egress and ingress; and

FINDINGS:

Applicant Response (Exhibit BOP p. 46):

The proposal modifies the access points on the south side of Coffin Butte Road; it closes the access point to the existing leachate pond and relocates the access point to the gas-to-energy plant, making it the main access point to the southern area. The new access design will be served by an improved Coffin Butte Road, which includes a new left-turn lane and bike lanes. The existing and new access points, along with the overall functionality of the proposed access design, has been studied by the traffic engineer. As detailed in Exhibit 15, the access design

and proposed configuration are safe and efficient and can accommodate the proposed development.

Staff Response, Planning:

Transportation comments by County and Contract engineers are provided in Exhibit BC1. Staff concurs with the applicant and engineering responses; the proposed egress and ingress is feasible as proposed.

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

FINDINGS:

Applicant Response (Exhibit BOP p. 46):

To date, the Planning Official has not requested any additional information.

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 March 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.**

FINDINGS: BCC 77.310(2) and (3) have been provided as Exhibits E2 and E3. 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 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.

FINDINGS:

Applicant Response (Exhibit BOP p. 61):

There appear to be sensitive lands located in areas of the development site.

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.

99.115 Mitigating Sensitive Land Conditions.

The following guidelines shall be considered in the establishment of conditions and mitigating measures:

- (1) Roads should be located in upland areas on benches, ridge tops and gentle slopes as opposed to steep hillsides and narrow canyon bottoms.*
- (2) Native vegetation removal or soil disturbance should be minimized on moderate and steep slopes and hillsides. If possible, avoid such activities during winter months.*
- (3) Surface water runoff should be minimized or provide appropriate means for handling surface water runoff.*
- (4) Techniques should be utilized that minimize erosion, such as protective groundcover.*
- (5) Engineering assessment of hazard potential should be required for land development.*
- (6) Geotechnical investigations should be required for roads and foundations in slide-prone areas.*

FINDINGS:

Applicant Response (Exhibit BOP p. 62):

The Application does not include any land divisions but does include structures that will require building permits. As noted previously in this Burden of Proof, Applicant has submitted significant geotechnical, groundwater, and drainage analyses that demonstrate that the Project may be safely sited as designed on the development. See Exs. 5, 16, and 17. Applicant expects to be required to obtain an erosion control permit at the time of any ground disturbance to construct site improvements.

Staff Response, CWE Engineering (Exhibit BC1 p. 3-4):

A review of [Exhibits E5, E6, E16, and E30] was provided by Columbia West Engineering, Inc. (CWE), as a geotechnical subconsultant to MFA.

[...]

Our sole comment requiring potential further analysis or clarification from Wallace Group concerns the slope stability analysis along Section B-B'. While the analyses generally address the more critical portions (i.e., larger

cuts) of the cross-section, the north end of Section B-B' may require explicit consideration due to the proximity of the cut slope crest to the public right-of-way. Aerial imagery indicates utilities at the surface in this area are approximately 25 feet south of the roadway edge, and it is unclear whether additional buried utilities are present. While we expect the slope to be stable under static conditions, the potential for slope movement under pseudo-static loading may impact the right-of-way. We recommend an explicit analysis of the subject slope, including the computation of factors of safety and, if necessary, the estimation of earthquake-induced horizontal deformation. We also completed a review of the discussion of future geotechnical evaluations outlined in the "Geotechnical Issues and Seismic Stability" section of Exhibit 16. 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.

Staff Response, Planning:

Oregon Department of Geology and Mineral Industrial (DOGAMI) had no comments on the application (see Exhibit BC2. Compiled Agency Comments). Staff concurs with applicant findings in Exhibits E5, E6, E16, and E30, and supporting findings by 3rd party engineering review in Exhibit BC1.

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.*

FINDINGS:

Applicant Response (Exhibit BOP p. 63):

The subject property contains wetlands; therefore, Applicant understands that notice may be sent to DSL. Applicant will conduct a wetlands delineation, and if a wetland is impacted, it will be mitigated through coordination with DSL. There is a mitigation wetland located on site that was protected by covenants in 2017 as result of a prior fill/removal permit approved by DSL, which required mitigation. The proposed expansion does not impact this mitigation wetland. The draft conditions of approval require Applicant to complete a wetland delineation in compliance with DSL requirements. See Ex. 21.

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 (Exhibit BC4). The County did not receive a response from DSL.

PARCEL AND LOT DESIGN

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.*

FINDINGS:

Applicant Response (Exhibit BOP p. 64):

The only new structures is the employee building which will be located on property with frontage on Coffin Butte and Soap Creek roads. There will be over 25 feet of frontage on both roads. The proposal therefore complies with this standard.

Applicant Response (Exhibit CL p. 2):

There was some question in the BOP as to the location and nature of the proposed shop/maintenance area. The shop/maintenance area will include an enclosed structure and will be located on Tax Lot 1200 and not on Tax Lot 1101. See Ex. 2, Sheet 5. The revised BOP has been amended to remove the inconsistent references, and Section V has been amended to address this use more fully.

Applicant Response to BCC 60.405(1) (Exhibit BOP p. 56):

The only proposed new structures are the employee building on Tax Lot 1101 and the proposed shop on Tax Lot 1200. Applicant owns the property upon which these structures are proposed, along with all surrounding properties. Applicant proposes structures that conform to the provisions of this section. See Ex. 2, sheets 5, 11, and 12. The final design of the shop building has not been determined, but it can be sited in the designated area in compliance with the requirements of this section. See Ex. 2, sheet 5.

Staff Response, Planning:

As shown on the Development Plan cited in the Applicant Responses above (Exhibit E2 Sheet 5), 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.*

FINDINGS:

Applicant Response (Exhibit BOP p. 65):

The proposal will modify the access point on the south side of Coffin Butte Road, removing the access point serving the existing leachate ponds and relocating the access point serving the power facility (to serve the southern development area). Applicant will obtain all permits needed for these modifications prior to initiating the use.

Applicant Response (Exhibit BOP p. 66 – 67):

The proposal includes improvements to Coffin Butte Road. As documented on the site plans, the design includes adding bike lanes and a left-turn lane, and related storm-drainage improvements. The proposed improvements conform to County standards and the provisions of this section. No dead-end streets or cul-de-sacs are proposed. The proposed improvements conform to the standards of this section. See Ex. 2, sheets 5, 7, 8, and 24.

Staff Response, Public Works (Exhibit BC1 p. 21-23):

[...]

The easterly boundaries of the complex border the Hwy 99W right of way which separates the landfill complex from the OS Zoned properties. Hwy 99W falls under the jurisdiction of the Oregon Department of Transportation (ODOT).

The proposed expansion directly affects two roads in the County system: Coffin Butte Road and Soap Creek Road. Coffin Butte and Soap Creek Roads carry the functional classification of major collector as defined by the current

Benton County Transportation System Plan (TSP). Neither of these roads meet current standards for a major collector.

[...]

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.

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.

[...]

Staff Response, Kellar Engineering (Exhibit BC1 p. 20):

Kellar Engineering (KE) has reviewed the submitted Coffin Butte Landfill Expansion Traffic Impact Analysis (TIA) dated February 26, 2024 by Transight Consulting, LLC. The submitted TIA demonstrates the project has the ability meet Benton County's requirements for traffic.

Staff Response, Planning:

Staff concurs with County and Contract engineering review indicating feasibility of the proposed access point.

(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.

FINDINGS:

Applicant Response (Exhibit BOP p. 67 – 68):

TABLE I, RURAL DESIGN STANDARDS

Local road standards are designated as RL-1, RL-2 and RL-3. Collector standards are designated as RC-1 and RC-2. Arterial standards are designated as RA-1 and RA-2.

<u>Standard</u>	<u>Zones</u>	<u>Projected ADT</u>	<u>Projected DHV</u>	<u>Minimum ROW</u>	<u>Surface Width</u>	<u>Paving Material</u>	<u>Crushed Base Equivalent</u>
RL-1	Resource	0-100	<30/hr	50 ft	18 ft	AC,PCC, APM	18 inches
RL-2	Dead end RR	0-200	<30/hr	50 ft	18 ft	AC,PCC APM	18 inches
RL-3	Resource, RR <1,000ft	100-750	<100/hr	60 ft	20 ft	4 inch AC,PCC	18 inches
RC-1	Resource	100-750	<100/hr	60 ft	20 ft	4 inch AC,PCC	18 inches
RC-2	Resource, RR	750-2000	<300/hr	60-70ft	24 ft	4 inch AC,PCC	20 inches
RA-1	All zones	1000-5000	<900/hr	80 ft	24-34ft	6 inch AC,PCC	20 inches
RA-2	All zones	>5000	>900/hr	100 ft	50-70ft	6 inch AC,PCC	24 inches

<u>Standard</u>	<u>Shoulder</u>	<u>Maximum Grade</u>	<u>Bike Path</u>	<u>Min. Curve Radius</u>	<u>Design Speed</u>	<u>Parking</u>	<u>Road Approach</u>
RL-1	4 ft gravel	17%	None	200 ft	30 mph	Limited Emergency	Shared 400ft gap
RL-2	4 ft gravel	15%	None	200 ft	30 mph	Parking Allowed	Shared 250ft gap
RL-3	5 ft paved	15%	RR Zone Class III	250 ft	30 mph	Limited Emergency	Shared 450ft gap
RC-1	5 ft paved	12%	RR Zone Class III	500 ft	45 mph	Emergency Only	Shared 400ft gap
RC-2	5 ft paved	10%	RR Zone Class III	760 ft	45 mph	Emergency Only	Shared 400ft gap
RA-1	6 ft paved	5%-8%	All zones Class III	800 ft	50 mph	Emergency Only	None
RA-2	6ft-12ft paved	4%-6%	All zones Class III	800 ft	50 mph	Emergency Only	None

The improvements to Coffin Butte Road include only a left-turn lane and bike lanes. The proposed improvements conform to the requirements of this section and the County TSP. See Exs. 2 and 15. The standards of this section are consistent with the cross-section of the County TSP; therefore, the proposed design and planned improvements are consistent with this section.

Applicant Response (Exhibit BOP p. 68):

The proposed roadway improvements have been designed by an engineering firm licensed in the State of Oregon, along with a traffic engineer licensed in the State of Oregon. The qualified professionals working on the Project have designed roadway improvements that conform to County standards and engineering best practices. Applicant understands that this section allows the County Engineer to require additional improvements, if warranted.

Staff Response, Public Works (Exhibit BC1 p.21-23):

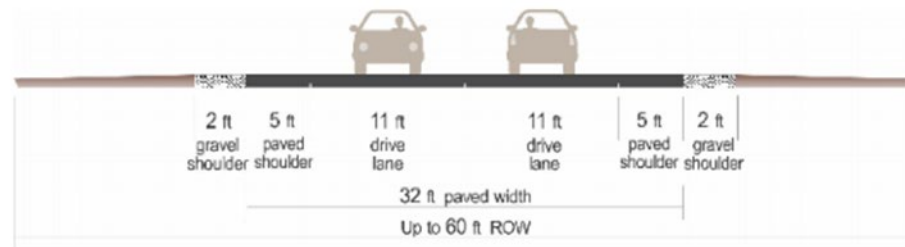
[...]

The proposed expansion directly affects two roads in the County system: Coffin Butte Road and Soap Creek Road. Coffin Butte and Soap Creek Roads carry the functional classification of major collector as defined by the current Benton County Transportation System Plan (TSP). Neither of these roads meet current standards for a major collector.

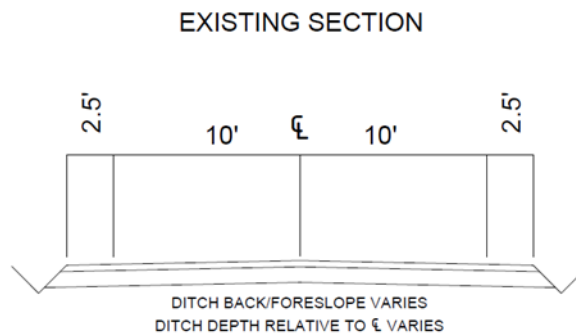
[...]

The typical proposed section for a Major Collector is illustrated below.

Figure 16. Major Collector Standard Cross-Section



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. The approximate typical existing section of Coffin Butte Road and Soap Creek Road is illustrated below. Existing shoulder widths vary from 2.5 feet to less than one foot.



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).

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.

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.

Staff Response, Kellar Engineering (Exhibit BC1 p. 20):

Kellar Engineering (KE) has reviewed the submitted Coffin Butte Landfill Expansion Traffic Impact Analysis (TIA) dated February 26, 2024 by Transight Consulting, LLC. The submitted TIA demonstrates the project has the ability meet Benton County's requirements for traffic.

Staff Response, Planning: Staff concurs with county and transportation engineering review comments above; 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.

FINDINGS:

Applicant Response (Exhibit BOP p. 69):

The proposal includes improvements in Coffin Butte Road (left-turn lane, bike lanes, and related stormwater improvements). Applicant understands that it will be responsible for design and installation of all improvements and plans to do so in accordance with the provisions of this section. See Ex. 2, sheets 5, 7, and 8.

Staff Response, Planning:

As noted by the applicant in the submitted BOP (Exhibit BOP, p. 69), 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

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.*

FINDINGS:

Applicant Response (Exhibit BOP p. 70):

The subject property is within an unincorporated area of Benton County; this section therefore applies. Upon approval of this CUP and prior to construction activities, Applicant plans to apply for all required additional development permits, including those related to erosion and sediment control, described in this section.

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. [...]

FINDINGS:

Applicant Response (Exhibit BOP p. 75 – 76):

Stormwater controls have been designed to address the additional impervious areas as a result of the improvements to Coffin Butte Road, the new cell on the Development Site, and the new access roadway. See Ex. 2. See also Ex. 17 (CEC Preliminary Drainage Report). Applicant acknowledges that these improvements are subject to the Post-Construction Stormwater regulations under BCC 99.670 (1) to (3) and will be required to obtain a post-construction stormwater permit under subsections (3) and (4), and Applicant will be required to enter into an infrastructure improvement agreement under subsection (5) and a Stormwater Management Long-Term maintenance agreement, if required by the County engineer, under subsection (6). Applicant understands that issuance of a post-construction stormwater permit is not a land use decision under subsection (4)(d) and therefore is not a criterion for approval of the CUP. However, in recognition that the requirement will be applicable to the stormwater improvements, Applicant has included in the draft Conditions of Approval a condition of approval requiring it to obtain the permit at the time of ground disturbance as required by subsection (3)(a).

Staff Response, Public Works (Exhibit BC1 p.21-23):

[...]

Drainage for the landfill complex flows roughly from west to east. The E.E. Wilson Wildlife Area, a network of ponds and wetlands east of the subject property are the direct receiving waters for drainage from the landfill. The E.E. Wilson Wildlife Area functions as one of the headwaters of Bowers Slough, a tributary of the Willamette River.

[...]

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.

Staff Response, MFA – Engineering (Exhibit BC1 p.6):

MFA recommends the Applicant follow the Benton County Stormwater Support Documents, instead of the Corvallis Stormwater Standards, to finalize the stormwater calculations and design components for the ODEQ submittal. Based on MFA's review of the information provided, the proposed stormwater detention facilities appear to be conservatively sized, and despite the use of a different standard, the overall design of the stormwater facilities appears adequate from a land use perspective.

Staff Response, Planning: Staff concurs with applicant and engineering comments above; should the conditional use application be approved, the applicant will need to submit additional stormwater 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.

FINDINGS:

Applicant Response (Exhibit BOP p.76):

Water and sewer is not proposed to be extended to the development area. In the event that the employee building needs water and sewer accommodations, it will be served by the same well and subsurface facilities that serve the existing office building. These sections do not apply

Staff Response, Planning:

The applicant states in the BOP (Exhibit BOP p.11) 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.

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

FINDINGS:

Applicant Response (Exhibit BOP p.76):

Water and sewer is not proposed to be extended to the development area. In the event that the employee building needs water and sewer accommodations, it will be served by the same well and subsurface facilities that serve the existing office building. These sections do not apply

Staff Response, Planning:

The applicant states in the BOP (Exhibit BOP p.11) 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 Exhibit 6.

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.

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.

FINDINGS:

Applicant Response (Exhibit BOP p.78):

The proposal includes public and private improvements. In the event that the County requires an improvement agreement, Applicant understands that the provisions of this section apply.

Staff Response, Planning: As noted by the applicant, should the proposal be approved, a standard improvement agreement will be required prior to development.

VI.RECOMMENDATION

Based on findings in the Staff Report and information in the file, staff concludes that noise and odor analysis and evidence provided by the applicant does not sufficiently demonstrate that the proposal will not “seriously interfere” with uses on adjacent properties or the character of the area. Therefore, **staff recommends Denial of this application.**

VII.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 subject to conditions of approval [define conditions if PC identifies conditions].

OR,

- B) **DENIED**, based on evidence in the record, recommendation from the staff report, and findings in opposition and conclusions developed at the public hearing.