



Planning Division
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360 SW Avery Ave.
Corvallis, OR 97333
co.benton.or.us/cd

File No. LU-21-047

**STAFF REPORT
CONDITIONAL USE PERMIT**

NATURE OF REQUEST:	Conditional Use Permit to expand Coffin Butte Landfill. Republic Services is proposing: to create a new disposal cell for the Coffin Butte Landfill which will extend from the current cell south of Coffin Butte Road; close Coffin Butte Road to public traffic (vacate the right-of-way ¹) so the new cell can cover the road; relocate a replacement roadway (for landfill and quarry traffic only) around the area of the new disposal cell; relocate the leachate ponds south of Coffin Butte Road, and move some other structures. Closing Coffin Butte Road will likely require improvement of at least one other roadway in the area to accommodate increased traffic.
APPLICABLE CODE CRITERIA:	Benton County Code (BCC) Section 51.505, Sections 51.705 through 51.840, Sections 53.205 through 53.235, Section 60.215, Section 60.220, Chapter 77, Chapter 99.
PROJECT LOCATION:	<ul style="list-style-type: none"> • 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 • 28972 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 1101 • Township 10 S, Range 4 W, Section 18, Tax Lot 1104 • Township 10 S, Range 4 W, Section 18, Tax Lot 1108 • 29175 Coffin Butte Road; Township 10 S, Range 4 W, Section 18, Tax Lot 801
APPLICANT:	Republic Services
PROPERTY OWNER:	Valley Landfills Inc.
ZONE DESIGNATION:	Landfill Site (LS), and Forest Conservation (FC)
COMPREHENSIVE PLAN DESIGNATION:	Landfill Site, Forestry
CAC PLANNING AREA:	North Benton (not active)
STAFF CONTACT:	Inga Williams, inga.williams@co.benton.or.us

Summary of Staff Conclusion: With the recommended Conditions of Approval, this proposal meets the Development Code criteria for approval. Full staff conclusion and recommendation begins on Page 34.

¹The applicant is proposing to ask the Board of County Commissioners to vacate the Coffin Butte Road right-of-way, which would transfer ownership of that land to Valley Landfills Inc. The vacation would not be approved through this Conditional Use Permit but will require a separate, subsequent, public hearing.

STAFF REPORT OMIITS:

Will require a partial vacation of Soap Creek Road

STAFF REPORT ELIDES/OMITS: THIS IS SEVERAL C.U.P.'s

C.U.P. #1 – LANDFILL USE ON PARCEL ZONED FC:

CUP FOR HAUL ROAD ON FC ZONE (MAPTAXLOT: 104180001101 & 104180001104)

SIGNIFICANT THERE IS NO FOREST OR AGRICULTURE REMAINING ON THIS LOT. IT IS A DE-FACTO LANDFILL PARCEL, & SHOULD BE REZONED.

C.U.P. #2 – LANDFILL USE ON PARCEL ZONED FC:

CUP FOR LEACHATE PONDS/HAUL ROAD/EMPLOYEE STRUCTURE/PARKING ON FC ZONE (MAPTAXLOT: 10480001200)

SIGNIFICANT THIS WILL REMOVE 30% - 50% OF FC USES

C.U.P. #3 – NEW LANDFILL ON PARCEL ZONED LS:

CUP FOR LANDFILL USE ON LS ZONE (S OF COFFIN BUTTE ROAD) (MAPTAXLOT: 104180001107)

SIGNIFICANT VISUAL/TRAFFIC/ODOR/NOISE/AIR QUALITY IMPACT DUE TO REMOVAL OF VOLUME CAP WITH C.U.P APPROVAL

C.U.P. #4 – LANDFILL USE ON PARCEL ZONED FC

CUP FOR HAUL ROAD IN FC ZONE (MAPTAXLOT: 1108)

SIGNIFICANT THIS WILL FORCE A SIGNIFICANT CHANGE IN THE USE OF the USE OF ALL SMALL LOT FC/RESIDENTIAL PARCELS

C.U.P. CRITERIA FOR CUP IN FC ZONE:

(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 agricultural or forest lands;
- (b) Will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and
- (c) Complies with criteria set forth in BCC 53.215 & 53.220

Property outlined in blue is owned by Republic Services or by a subsidiary of Republic Services



STAFF REPORT ELIDES/OMITS: THIS IS SEVERAL C.U.P.'s

C.U.P. #1 – LANDFILL USE ON PARCEL ZONED FC:

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CUP FOR HAUL ROAD IN FC ZONE (MAPTAXLOT: 1108)

SIGNIFICANT THIS WILL FORCE A SIGNIFICANT CHANGE IN THE USE OF the USE OF ALL SMALL LOT FC/RESIDENTIAL PARCELS

STAFF REPORT OMITS: **ADDITIONAL ROAD VACATION – SOAP CREEK:** Will require a vacation of Soap Creek Road

STAFF SHOULD NOTE: **APPLICANT TURNS FC ZONES INTO DE FACTO LS ZONES (HISTORIC):** Former CUPs of Forest Conservation-zoned parcels have resulted in development of FC zones that is distinguishable from LS zones. These zones, if intended to have been developed as Landfill, should have been rezoned from FC to LS.

STAFF SHOULD NOTE: **APPLICANT TURNS FC ZONES INTO DE FACTO LS ZONES (CURRENT):** Applicant does not have sufficient room for the landfill expansion that is desired on parcels zoned LS. But rather than requesting a change in zone, Applicant is employing a work-around which has been sufficient in the past to locate landfill expansion on non-LS zones. This is inappropriate. The LS zone was created in 1984 to specifically circumscribe Landfill uses within the zone that was created for that purpose.

I. GENERAL FINDINGS

On June 2, 2021, the Conditional Use Application was received at the Community Development Department and was deemed complete on June 21, 2021.

A Conditional Use Application is reviewed as a quasi-judicial land use action, which requires notification of properties within at least 750 feet² in the FC zone. A Notice of Application was sent to surrounding property owners, along with other relevant agencies and County departments, on July 26, 2021. In this case, the County also sent a Notice of Application to property owners adjacent to the section of Tampico Road between Hwy 99W and Soap Creek Road. The number of adjacent property owners that were notified is 72 and the number of Tampico Road property owners that were notified is 33. A legal ad³ was published in the Corvallis Gazette-Times on July 30, 2021.

The Planning Commission meeting was set for September 7; however, the applicant requested a continuance on August 18, 2021. The continuance request waived the 150-day time limit to complete all application processes, except an appeal to the Land Use Board of Appeals, which the County is held to by State Statutes. The waiver set the new deadline at January 2, 2022. On August 30, the applicant requested another continuance and added 15 days to the time limit. The new deadline is set at January 17, 2022.

A new Planning Commission meeting is set for November 2, 2021. On October 5, the applicant submitted supplemental information to the County. On October 8, the County mailed out or emailed a new Notice of Public Hearing to adjacent property owners, property owners adjacent to Tampico Road, and, in addition, property owners adjacent to Wiles and Robison Roads (30 property owner notifications). Notice was also sent to relevant agencies and County departments. A new advertisement was published in the Corvallis Gazette-Times on October 14, 2021.

Text in italics and quotes within this staff report indicates that it is copied from the information submitted by the applicant.

GENERAL COMMENTS:

If the C.U.P. IS GRANTED, THE CURRENT VOLUME CAP OF 1,100,000 TONS/YEAR IS ELIMINATED

Staff is mistaken when Staff says (on page 11) “Benton County does not have the authority to regulate the volume of waste from out-of-county that is accepted at Coffin Butte Landfill” Benton County **does have this authority, and all prior franchise agreements have imposed a per year tonnage cap.** The 2020 franchise agreement, for the first time, eliminates a per year tonnage cap, but **only if the expansion is approved.** In the absence of an approval of a landfill expansion, the current Franchise Agreement caps volume at 1,100,000 Tons/year. With Coffin Butte being the last regional landfill operating west of the Cascades, how much volume per year could be deposited in Coffin Butte in the absence of a per year tonnage cap? Isn’t it time to get answers to this question BEFORE removing a cap that has historically kept volume – and concomitant traffic/noise/odor/dust within known parameters?

There is time to do this right

Applicant claims that it will be four years before the current cell is filled. Applicant has allowed an extension of the statutory 150-day time limit multiple times. **Applicant should again consider an extension or withdraw the application completely** and resubmit after SWAC/County Staff/Planning Commission/BoC has been given sufficient time to more thoroughly analyze the many ramifications of this application. This decision is complicated, and should not be rushed because of an arbitrary 150-day deadline. This could permanently change the nature of North Benton County.

³ BCC 51.610(1)(c)
³ BCC 51.610(3)
 LU-21-047 Coffin Butte Landfill CUP Staff Report

Applicant failed to give sufficient notice to decision makers

Per Applicant’s November 2, 2021 testimony, **Applicant has known about the slowdown in quarry excavation which is the excuse for this expansion for at least two years**, and thus had ample time to notify relevant public decision makers to allow more thoughtful and considered analysis of this significant proposal than is currently allowed under the 150-day time limit. The Applicant’s 2019 and 2020 Annual Reports showed 20+ years of remaining capacity. The Applicant has reported the same information to DEQ. Why was the information that this expansion was necessary not communicated to BoC or DEQ?

SWAC meeting irregularities

The October 19, 2021 meeting that resulted in the SWAC recommendation considered iniquorate testimony, was not conducted according to its own bylaws, and members may have **violated Oregon Public Records law** (the remedy for which is reconsideration of the public body’s decision within 60 days)

Make this important decision based on objective information

A decision of this magnitude would benefit from a **consultant’s report** similar to those commissioned by surrounding jurisdictions (see Marion County’s 2017 report as appended by PDF), and/or an **Environmental Impact Report**. These reports provide much needed objective guidance that can be relied upon.

The current Solid Waste Management Plan is from 1977

This Plan says that the landfill will be closed in the year 2000.

SWAC has no guidance on a basis or guidelines on which to make a recommendation to Planning Commission

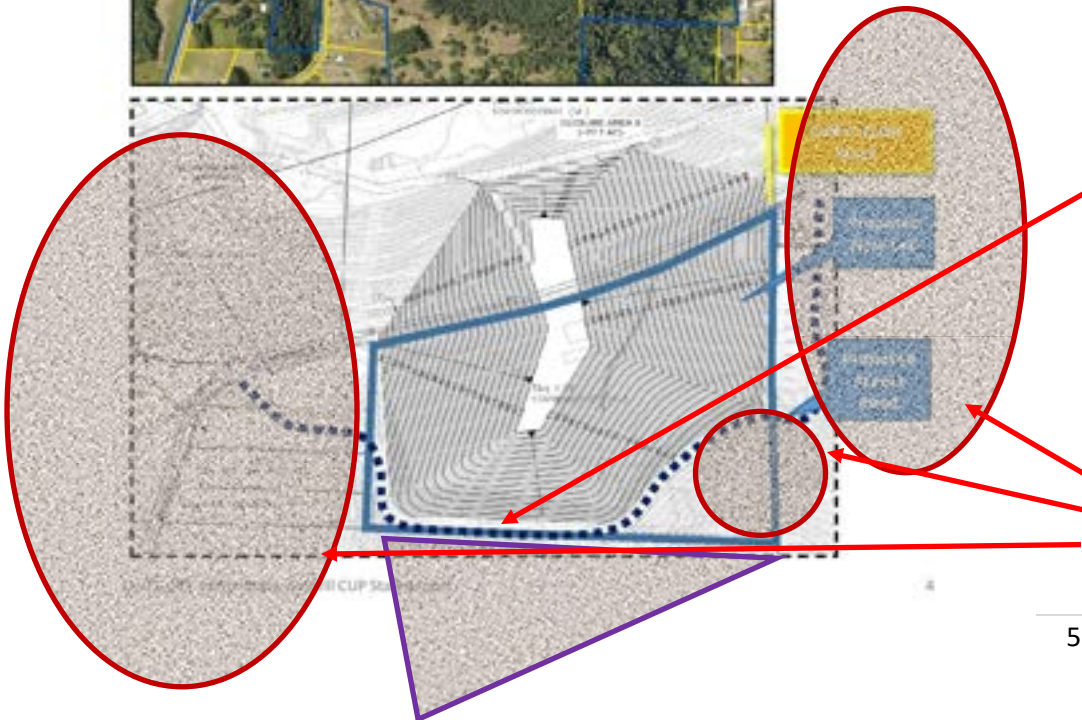
A recommendation based on an outdated Solid Waste Management Plan, no guidelines and no objective information is meaningless

The Comp Plan Offers No Guidance

The 2007 Comprehensive Plan, upon which land-use guidelines are based, **cites as a Finding that the landfill has 43 years of remaining life**. If the remaining life is actually 20 – 24 years, **a Comprehensive Plan Text Amendment should be prepared** to give clearer guidance to decision-making bodies

Tax Lot 1107 - This is the proposed location for the new landfill cell and a portion of the new access road. Zoning is Landfill Site (LS).

"It is 59 acres in size and 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 include obsolete infrastructure, which has not been used since the early 2000's. The existing improvements are situated on the northern portion of the Development Area, which is relatively level. From the currently developed area, the site slopes upward to the south, with an elevation change of approximately 60 feet. The undeveloped portions of the site are vegetated with grasses and trees."



What happens next?

Applicant says this new landfill will suffice for 12 years, but with increased volumes, it could easily be only 6 years...or less, before this area is completely full of waste. Applicant's prior estimates of capacity have historically been off by 100 – 300% because only population growth -- and not closing of other regional landfills – has been taken into account (see EPA list of existing landfills in Oregon west of the Cascades).

Property owners deserve to know what the long-term plan of the landfill is

Homeowners/developers/farmers/foresters will want to know if the plan is for the landfill to expand indefinitely. They will not want to buy/build houses, farm, purchase woodland in the vicinity if that is the long-term plan.

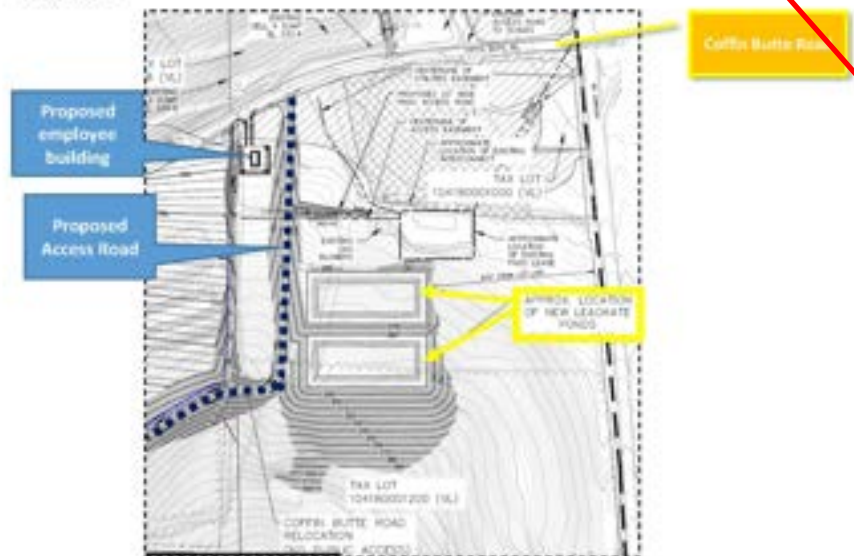
The history of the landfill area is that prior CUP conditions have not been sufficiently protective of nearby property owners

In the Applicant's own words, land uses near the landfill are "not compatible with landfill operations" (see 2003 Tuppan Study). If the policy is to allow the landfill to expand indefinitely at the expense of nearby property owners, they deserve to know this. CUP Conditions will not protect them.

Applicant has already asked for 21 acres (purple triangle) to the South of this parcel to be partitioned and annexed in as LS (1994 CUP, approved by PC, overturned by BoC).

Or will the landfill move East/West (Red Areas, current "Buffer")? Will this landfill end up taking as much garbage as Columbia Ridge in Eastern Oregon (2.2 million tons/year)? Columbia Ridge has 10,000 acres of actual buffer, which is appropriate for a landfill of that magnitude. Coffin Butte has 500 acres of "buffer" (which includes the Quarry). That is insufficient for a use which the Applicant itself acknowledges is "incompatible" with surrounding uses.

Tax Lot 1200 – This is the proposed location for new leachate ponds, new employee building, and a portion of the new access road. Zoning is Forest Conservation (FC). "The northeast portion of the site contains native vegetation and trees. Also, there is a buffer of trees along the eastern property line, abutting Hwy 99W. The center portion of the site is developed with a "gas-to-energy" building, gas blowers, parking areas and drive aisles. The center portion of the site is developed with a "gas-to-energy" building, gas blowers, parking areas and drive aisles. The center area that surrounds the "gas-to-energy" building contains fields of various crops, which are typically grass seed, and south of the fields is steep sloping topography that is vegetated with a Douglas Fir plantation surrounded by native trees."



LU-21-047 Coffin Butte Landfill CUP Staff Report

SIGNIFICANT CHANGE INADEQUATE "BUFFER OF TREES" DOES NOT PROVIDE VISUAL SCREENING

1. The new landfill mound is 270' high.
2. The very small line of trees "screening" the new Landfill are approximately 40' high.

The "buffer of trees" will be 0% effective at providing visual screening of the development from Highway 99 and adjacent properties to the north, northeast, east, and southeast. It is impossible to buffer a 510' tall new mountain made of municipal waste from adjoining properties.

SIGNIFICANT CHANGE: LEACHATE PONDS/HAUL ROAD & CUT/FILL REMOVE AGRICULTURE LAND & FOREST FROM PRODUCTIVE USE

CUP CRITERIA FOR CUP IN FC ZONE:

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 agricultural or forest lands;
 - Replacing roughly 30% of the existing farmland/forestland with leachate ponds is a significant change
 - Replacing roughly 20% of the existing farmland/forestland with cut/fill topography disruptions is a significant change
- Furthermore, this will prevent this property and surrounding properties from ever harvesting timber resource because if harvested, surrounding properties would lose even this minimal protection from the incompatible landfill use. **A resource that cannot be harvested is not a resource.**

THE APPLICANT DOES NOT HAVE ENOUGH PROPERTY ZONED LS FOR THE FACILITIES THAT THE LANDFILL REQUIRES.

THE APPLICANT PROPOSES TO TURN PARCELS ZONED FC INTO DE FACTO LANDFILL. THIS IS NOT THE INTENT OF THE FC ZONE.

Proposed haul road is directly adjacent to the Phillips' property line – construction likely to kill existing trees

Tax Lots 1101 and 1104, zoned Forest Conservation – The western lots that are planned to accommodate the southern access drive (TL 1101 and 1104) is gently sloping (excepted for a steep eastern edge). The majority of these properties are grass, while the eastern edge is treed. This area is developed with Republic Offices



Close industrial traffic will affect Phillips' quality of life in their home (home shown as red)

Circle: 200' radius

Close industrial traffic will affect Phillips' produce business (greenhouses shown as green)

Circle: 200' radius

Elevation: 306'
New haul road is 10' above Phillips' house floor level

Elevation: 356'
New haul road is 60' above Phillips' house floor level

Elevation: 296'
Phillips' home

Gravel thrown by trucks traversing steep grades

NEW WATERSHED

THE “WESTERN LOTS” -- SIGNIFICANT CHANGE: WILL FORCE PERMANENT CHANGE FROM FC ZONE (WITH PERMITTED RESIDENCES)

These four lots were previously FC lots that permitted housing units. Small forest lots with permitted residences are a rarity and much valued in Benton County. When, in the past, the landfill was allowed to expand near these lots by rezoning/CUP, conditions imposed by prior CUP's were apparently insufficient to protect the former landowners; the evidence of this is that these lots have been purchased by the landfill and the residences that were formerly on them have been taken out of service. The forest is gone. There is no agriculture on these properties. These parcels were overwhelmed by the incompatible use of the adjacent landfill, they were purchased by the landfill, and the residences have not even been rented out; they have been demolished.

Applicant proposes changes which will foreclose any possibility of these lots ever being returned to their former use. There will be no trees, no agriculture, and, with the vacation of Soap Creek/Coffin Butte Road, no public access.

The Phillips Lot – SIGNIFICANT CHANGE: WILL IMPERIL USE AS RESIDENCE AND ENDANGER EXISTING PRODUCE OPERATION

Per the topography, the Phillips sits at an elevation of 296'. The haul road that is proposed has a surface that sits at 306' directly to the North, and about 75'-125' distant from the Phillips' residence. Phillipses also have several greenhouses in which they grow vegetables that they sell at Farmers' Markets. Greenhouses are made of glass and/or plastic. It is important that glass/plastic that comprises greenhouses not be struck and broken/ripped by flying gravel that falls off the back of gravel trucks, and/or flooded by an entirely new watershed that an adjacent landowner creates by significant topographical modifications. Grandfathered “substandard” lots warrant **more** land use protections, not less protection.

Tax Lots 801 and 1108, zoned Forest Conservation and Landfill Site, respectively – “The area north of Coffin Butte Road (TLs 1108 and 801), which will include the proposed new scale house access road, is developed as a landfill.”



Applicant writes: “The area north of Coffin Butte Road (TL’s 1108 and 801), which will include the proposed new scale house access road, is developed as a landfill”

Tax Lot 800, zoned **FOREST CONSERVATION**

Tax Lot 801, zoned **FOREST CONSERVATION**

- it should look like the lot above it (also zoned FC),
- but it looks like the lot below it

Tax Lot 1108, zoned **LANDFILL**

Applicant sees no distinction between parcels zoned Forest Conservation and parcels zoned Landfill. Both can be “developed as a landfill”.

And that is certainly how both of these parcels appear, from aerial photographs, and from surrounding properties.

But in developing a Forest Conservation parcel as landfill, Applicant has, in the past, erred.

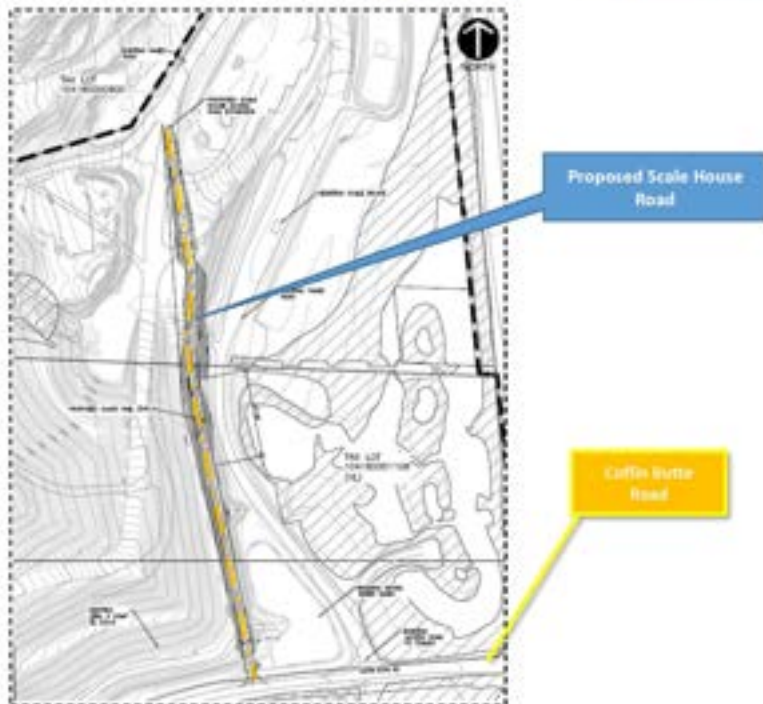
Again, the FC Conditional Use Permit Criteria:

C.U.P. CRITERIA FOR CUP IN FC ZONE:

(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 agricultural or forest lands;

If Applicant wishes to develop FC parcels as landfill, Applicant needs to either develop them per the C.U.P Criteria, in which case Tax Lot 801 would be indistinguishable (on insignificantly distinguishable) from MAPTAXLOT 104180000800 above, or Applicant needs to have FC -zoned parcels rezoned as LS parcels, which is what occurred in 1984 to permit these parcels to actually be developed as landfills.



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II. COMMENTS

Comments from any person that address and are applicable to Benton County Code criteria will contribute to the Planning Commission deliberations. The Planning Commission can decide how and if a comment is applicable or not.

The traffic report prepared by Applicant’s consultant addressing egress issues is materially incorrect. It incorrectly locates the mouth of Soap Creek Valley. The consultant misidentified the Soap Creek exit corridor. All of the distance/travel time calculations are wrong, any Agency Comments based on these calculations are invalid, any conditions of approval that do not require the improvement of North Tampico Road (shown dashed) are invalid.

Table 1. Travel Time Differences

Route	Direction	Distance	Est. Travel Time
Wiley – Robison Route (1 – 2 – 3 in map)	To/From North on Hwy 99W	2.44 miles	3.2 minutes
Soap Creek – Coffin Butte Route (1 – 5 – 6 – 3 in map)	To/From North on Hwy 99W	3.44 miles	4.4 minutes
Wiley – Robison Route (5 – 6 – 4 in map)	To/From South on Hwy 99W	4.94 miles	6.0 minutes
Wiley – Robison Route (5 – 6 – 4 in map)	To/From South on Hwy 99W	4.10 miles	5.1 minutes

Route mileage and timing calculations are all wrong.

TRAFFIC ENGINEER STARTS EGRESS IN WRONG PLACE

LEG 2

LEG 3

This is not Soap Creek Valley, which uses Coffin Butte as its safest egress route

This stretch of the road (North Tampico) is hilly & wooded in places

This stretch of the road (North Tampico) is not a Major Collector (South Tampico is, but this portion is not).

NOT SOAP CREEK

CURRENT EGRESS

This is Soap Creek Valley. There are hundreds of homes in this valley that rely on Coffin Butte as their safest egress in the event of an ice storm/earthquake/wildfire. Many people have livestock up this valley.

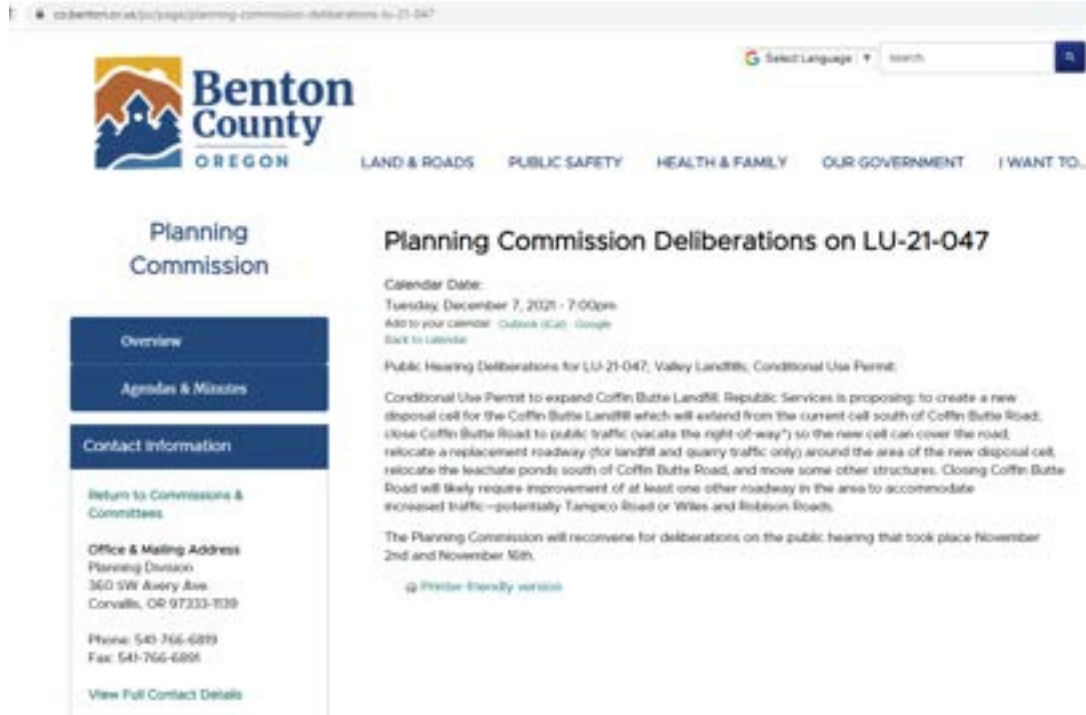
LEG 1 (TRAFFIC ENGINEER DID NOT INCLUDE)

SOAP CREEK

THIS IS THE RIGHT PLACE

Egress via Coffin Butte or Tampico is by far the quickest way to 99 for the homes in Soap Creek Valley. In an emergency which results in downed trees, only Coffin Butte is safe.

Even the **synopsis** of the effect of closing Coffin Butte Road on the **Benton County Web Page** is incorrect!



How can such an important error be overlooked by Planning Staff?

Here is the synopsis:

“Closing Coffin Butte Road will likely require improvement of at least one other roadway in the area to accommodate increased traffic – potentially Tampico Road or Wiles and Robison Roads.”

The actual roadway improvement would have to be:

Southern Diversion (currently: entire route is hilly, curvy, tree-lined):

- Intersection of Soap Creek and Tampico to intersection of Tampico and Highway 99 via Tampico South, OR

Northern Diversion (Leg 1, which the Applicant did not include, is hilly, curvy, and tree-lined):

- Leg 1: Intersection of Soap Creek and Tampico to intersection of Tampico and Wiles via Tampico North,
- Leg 2: Intersection of Tampico and Wiles to intersection of Wiles and Robison (gravel, insufficiently wide, bad bridge)
- Leg 3: Intersection of Wiles and Robison to intersection of Robison and Highway 99.

Benton County Solid Waste Advisory Council (SWAC)

July 29, 2021, the first letter supporting the expansion is [Attachment E2](#).

SWAC held subsequent public comment sessions and then discussed the landfill expansion in further detail, resulting in a second letter dated **October 22, 2021**, [Attachment E1](#). In this second letter, the council re-affirmed support of the proposal, with two caveats:

1. *Benton County should wisely use the 30-year stop-gap respite created by the conditional use permit to meaningfully anticipate and seek solutions for trash disposal in Benton County after the closure of Coffin Butte Landfill. There is a defined window of time for county leadership to plan without the demands of a crisis.*
2. *Likewise, Benton County leadership should use this respite period to attempt to meaningfully persuade other counties that contribute their waste to Coffin Butte to increase their recycling rates and reduce the amount of trash they deliver to our shared resource.*

2 **Staff Response:** Staff acknowledges the letter in support of the proposal. ~~The SWAC received considerable public comment and spent considerable time and effort evaluating the proposed landfill expansion from the perspective of solid waste management. Staff recognizes that their endorsement of the proposal indicates that the landfill expansion is on solid footing with regard to the waste management priorities of the county.~~ Staff also acknowledges the observation in the SWAC letter that more time and better public awareness would have benefitted SWAC's review process. Unfortunately, time is limited in a quasi-judicial land use review due to the statutory requirement for a final decision within 150 days.

1 The revised Application, **was never the subject of a public comment meeting by DSAC** (which is charged with addressing neighbors' concerns with landfill operations), or by SWAC. The revised Application was released to the public on Friday, October 8. A SWAC/DSAC meeting was scheduled for October 13, 2021, **but there was no quorum for that meeting. So that was not a meeting, and SWAC members were free to disregard public comment (which they did, as evidenced by Mr. Simpkins comment about not being a "Soap Creek Valley Council")**. SWAC scheduled a second meeting for October 19, 2021, but did not conduct that meeting according to its own bylaws (which require "any person" to be allowed to speak publicly prior to the meeting). A public records request has revealed that the platform for the meeting was purposefully changed to a video platform (GoToWebinar) which precludes members of the public from being seen or speaking.

2 The recommendation was based on materially inaccurate information, fear-mongering by the Applicant with no apparent basis (i.e. "taxes" would go up, which is patently absurd, since property tax increases are regulated by Oregon statute), and discussions between SWAC members that were held privately and potentially in violation of Oregon Public Meetings Law and are therefore potentially voidable.

Mr. Simpkins (Chair): “Well, Fred [Penning] and I had a really nice chat earlier this afternoon. I was really glad to get that call from him. It made me a little less apprehensive about tonight.”

Deborah Gile: “what made you less apprehensive”

Mr. Simpkins: “...um, that he and I are on the same page about the realities of, uh, the landfill, and we being a trash society and that we are a Benton County Council as opposed to a Soap Creek Valley Council. And he had a bunch of interesting things to say about trash hauling which kind of fits in to...what we have to do”

Those “interesting things” that were apparently material in Mr. Simpkins change of heart between October 13, 2021 and October 19, 2021 were improperly discussed in a non-open meeting.

Per SWAC/DSAC bylaws, the remedy for members of councils who intentionally flout Oregon Open Meeting Law is dismissal.

192.620 Policy. The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly. [1973 c.172 §1]

A remedy for decisions arrived at in meetings where Open Meeting Law has been violated is voiding of decisions made at such meetings.

3 The “waste management priorities of the county” are delineated only in the “Solid Waste Management Plan for Benton County,” which was approved by the Planning Commission in 1977, and per Staff is “currently undergoing revision”. However, until it is revised, it is the governing document. It says that the landfill will close in the year 2000.

Summary of Comments that are *not* regulated by County Code

1. **Non-Benton County waste hauled to the landfill.** ~~Benton County does not have the authority to regulate the volume of waste from out of county that is accepted at Coffin Butte Landfill, aside from some limited terms in the Landfill Franchise Agreement. This authority is vested in the Federal government through the Interstate Commerce Clause. Coffin Butte Landfill is privately owned and operated, and the owners choose what volumes of out-of-county waste are accepted at the landfill, subject to the terms of the franchise agreement, applicable laws, and permit requirements.~~
2. **‘Need’ for the Expansion.** A perceived need for a use is not a criterion that can be reviewed by the County or used, positively or negatively, as a basis for a recommendation or decision. In general, and specifically for this use which is regulated by Chapter 77, neither the conditional use criteria nor Landfill Site zoning criteria include need as a basis for review. ~~Review is based on the possible impacts the use has and, if there are serious impacts, can those impacts be mitigated enough to bring them below the level of “serious.”~~
3. **Benton County Code Chapter 87 - Goal 5 Resources.** The Sensitive Fish & Wildlife Habitat Overlay Zone in Chapter 87 does not apply to this application. The Sensitive Fish and Wildlife Habitat Overlay applies only to locations that have been identified on the Zoning map; the chapter’s regulations cannot apply to sites that have not been adopted onto the Zoning map.
4. **Property value changes.** The conditional use criteria do not include consideration of potential effects on property values. The criteria instead focus on impacts to uses on adjacent property and the surrounding area. ~~Zoning is not intended to guarantee or preserve property values, per se.~~
5. **Republic Services should be required to engage the local community.** Neither the Benton County Code, nor State law, has a requirement that an applicant must answer questions or comments from the public. County staff has encouraged the applicant to engage the local community.

1 The **volume of waste is regulated** in the Franchise Agreement, but **only if the C.U.P. for the expansion is denied.**

If the **C.U.P. is not approved**, the **volume of waste is capped** at 1,100,000 tons/year

If the **C.U.P. is approved**, the **cap is eliminated**, so volume can double, triple, even quadruple from current levels. This is the first time a franchise agreement has proposed elimination of a volume cap.

It is counterintuitive, but allowing this expansion may result in a shorter life for the landfill. A best guess at the volume of the expansion is that it is 10,000,000 tons. 2020 volume was about 850,000 tons.

If 2020 volume were to double to 1,700,000 tons, **the expansion PLUS the remaining airspace in the existing LS zone (including the quarry) would fill** in about the same time as it would WITHOUT the expansion, **14.5 years.**

If 2020 volume were to triple to 2,550,000 tons, the **expansion PLUS the remaining airspace would fill in less than 10 years**

2 STAFF MIS-STATES the Conditional Use Criteria for C.U.P. on Forest Conservation land.

Landfill expansion into the three Forest Conservation zones has a different Conditional Use Criteria than the criteria for landfill expansion in the LS zone.

60.220 Conditional Use Criteria.

- (1) A use allowed under BCC 60.205 or 60.215 may be approved only upon findings that the use:
 - (a) Will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;
 - (b) Will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and
 - (c) Complies with criteria set forth in BCC 53.215 and 53.220.

Clearly, the Applicant's proposed development -- haul roads, leachate ponds, significant topographic modifications for those roads and leachate ponds, the diversion of quarry traffic -- will force significant changes in farming/forest practices on those three Forest Conservation parcels. How is it "significant"? Well, the northern parcel with the new haul road, "developed as a landfill" (in the Applicant's own words) is a significant change from accepted forest practices since it is 100% treeless. The southern parcel with the new haul road and leachate ponds will cover about 30% - 50% of the forest/hayfield with non-forest, non-agriculture uses, and the two parcels north of Phillips' parcel which used to be forest homes, will no longer have public street frontage in addition to having an elevated haul road running through the middle of them, which will make it difficult to develop either parcel as it originally was before VLI purchased those parcels and demolished the homes.

So, 100%, 50%, 100%. That's significant.

This will also impose a significant change in the farming/forest practices of neighboring property owners. Neighbors will not be able to harvest timber on their own property because doing so will open up an objectionable view, expose them to additional dust/odor/noise (one neighbor has already planted an entire field of lavender to try to mitigate the landfill odors -- that is land that cannot be used to grow vegetables). It's the applicant who should mitigate incompatible uses, not the neighbors of the applicant.

The Applicant has, in the past, developed FC-zoned parcels "as landfill". But that should not have happened. The LS zone was created for a purpose, and in 1983 certain parcels were rezoned for the purpose of developing the landfill. It is clear that if the C.U.P.'s in the Forest Conservation district want L.S. "serious impact" criteria applied to them, the appropriate course of action is to have those parcels rezoned as LS parcels.

3 Without better information on how much waste the landfill will accept each year, it is impossible to predict whether the expansion will result in “significant” impact

Denial of the C.U.P. will give SWAC sufficient opportunity to do an RFP to produce a consultant report similar to those other Oregon Counties have commissioned when faced with similar difficult decisions, provide Planning Staff sufficient opportunity to update the Comprehensive Plan with a relevant text amendment, flesh out current Chapter 77 requirements (which are taken verbatim from the 1983 legislative rezoning action -- so chapter 77 hasn't been dusted off since that time), finish revision of the 1977 Solid Waste Management Plan and approve that (legislatively or quasi-judicially).

Adverse impacts are all about volume:

- Traffic
- Noise
- Dust
- Odor

Each ton of waste gets to Coffin Butte on a truck.

- Twice as much volume? Twice as many trucks. Twice as much Traffic/Noise/Dust/Odor
- Three times as much volume? Three times as many trucks. Three times as much Traffic/Noise/Dust/Odor

4 Staff is doing a lot of heavy lifting with the words “per se”

At the November 2, 2021 meeting, a Planning Commissioner asked a cogent question: **How does one quantify adverse impacts such as Traffic/Noise/Dust/Odor?**

Well, one way to quantify a disamenity (as they say in the landuse biz), is to ask, **“How much would I pay to not have to put up with [Traffic/Noise/Dust/Odor]?”**

And that is an easily answered question, because there is an excellent metric to quantify this, and that is **property values**. The Applicant submitted a very thinly sourced “White Paper” authored by a non-academic that it is almost fun to poke holes in. I will refrain from doing that here (suffice it to say, before submitting a “research” paper that cites how happy homeowners were to purchase residences next to a landfill in 1992, you might want to look into the lawsuits those same homeowners are filing in 2012 because their houses are filling with “landfill stench”).

In fact, there is quite a lot of research that establishes that in the area of a landfill, particularly a very visible landfill with high volume (high volume being defined as one that takes in 500 tons/day – Coffin Butte takes in five times that, and obviously, the new mountain will be extremely visible), property values decline between 7-8% to 13-14% within a mile of a landfill. This accords with what local realtors say.



1. Closure of Coffin Butte Road.

Summary of Comments: Coffin Butte Road is a critical outlet for the area, and in inclement weather often the only safe way onto Highway 99. Coffin Butte Road serves as a primary route connecting not only the local community to Highway 99 and destinations to the north (e.g. Monmouth, Salem, and Portland), but also serves many citizens who live to the west and east. This road is not just one of convenience for the neighborhood – it is an important safety exit in the event of catastrophic fire, earthquake, wind, or ice storms.

The closure of Coffin Butte Road would also extend emergency response times. This route is critical for first responders (fire, sheriff, ambulance) to and from residences in Soap Creek Valley and along Tampico Rd. The proposal would remove a public roadway of excellent quality (wide lanes, shoulders, good visibility, mostly nonforested, well-designed intersection with Highway 99W with turn lanes, solid pavement) and leave us with two very poor options.

1 **Staff Response:** The applicant has proposed, in the Supplemental Information, ~~to improve Wiles and Robison Roads as an evacuation route.~~ Aaron Harris, Adair Rural Fire Protection District Chief, has indicated that this would be satisfactory if completed prior to the closure of Coffin Butte Road. The County’s Public Works Department agrees that this route could be improved to levels to support safe evacuation but that the route would be inadequate as a freight route. Public Works indicates that Tampico Road will still need to be improved to support freight traffic and increased traffic from vehicles no longer able to use Coffin Butte Road. The review of these proposals by Public Works is [Attachment E1](#).

1 Based on an **entirely flawed traffic study** that doesn’t even get the intersections right, and because of this, the road improvements the Applicant proposes to improve comprise only 2/3 of the actual route, which is twice as long as the existing safest route, and forested on the first leg (which the “Traffic Engineer” did not include).

2. Tampico Road Improvement.

Summary of Comments: If Tampico Road must be improved to handle trucks with over 4 ton/axle weight, this would necessitate widening on each side of the road and greatly lower the property value of the present residents. If you drive this road, you can see that half of residents need to cross the road to get their mail, many cyclists use this road and there are lots of children and animals. To make this road the primary and only road out to highway 99 would greatly increase the traffic and danger to residents. That exit and entrance off Tampico onto 99 is already so dangerous and the site of numerous accidents. It is presently so much safer to enter and exit via Coffin Butte Road that is designed for trucks and slower-moving vehicles. Improvements to Tampico Road will result in heavier traffic, increase of noise, dust and exhaust. Also, the widening will damage cultural and natural features.

Staff Response: Public Works review: “Staff contends that the somewhat circuitous route the applicant proposes for resource and agricultural traffic will not function as depicted in the

applicant's Narrative. The truck traffic that is currently routed to 99W via Coffin Butte will find the northern route inconvenient and the additional drive time an economic burden. This will change the nature of traffic on Tampico, especially in the spring, summer and fall when residential, recreational, and resource traffic peaks and the inherent conflicts between these uses are most apparent. Truck traffic has been restricted on Tampico Road between 99W and Soap Creek Road for over 20 years. The existing facility will not sustain any level of freight traffic without significant deterioration."

"Benton County Public Works' responsibility to public infrastructure is based on the current TSP [Transportation System Plan]. Regardless of an approval for the landfill expansion, the long-term goal is to improve Tampico Road to its current functional standard to accommodate traffic from agricultural and resource lands to the west and north, and to better address the needs of the Tampico Road neighborhood between Hwy 99W and Soap Creek Road. The existing facility is substandard and the subject segment is the most densely populated neighborhood that takes access from Tampico."

1 Tampico Road is classified a major collector roadway in terms of function within the road network, but it is not currently built to Major Collector standards. The right-of-way of the road is approximately 100 feet wide. This means that for many property owners adjacent to the road, ~~their front or side yards currently consist of land that is owned by the County and identified as road right-of-way.~~ Improvements to Tampico Road, done in a way that is sensitive to the existing natural features along the road, will create a safer transit corridor for all persons who use this route.

1 Who will pay for all the driveways to be regraded and repaved? Significantly increasing the width of Tampico will mean that either the center has to come up, or the edges have to come down (to crown a wider road). Also, trees do not respect rights of way, and to "respect existing natural features" may result in a road that is even more circuitous than it currently is.

3. Wiles & Robison Roads & North Tampico Road Improvement

Summary of Comments

Robison Road. This road will see some increase in traffic with the closure as local residents utilize other backroads to get to their homes served by Tampico and Soap Creek roads. There is a local feeling that it has already seen a large jump in traffic from increased use of the Rifle Range by the military. A portion of this road is gravel (and poorly maintained) so it is typically in poor condition within a few days after the County grades it and dusty when conditions are dry. The portion that is paved is also poorly maintained. Wiles Road. Wiles Road sees a surprising amount of traffic despite the few residents it serves. Being gravel, experiencing occasional high traffic volumes, and poorly maintained, it too, becomes heavily potholed and wash-boarded within a few days of the County's road grader work. Traffic on this road generates a lot of dust for residents, and most vehicles using it travel 40-50 mph. The bridge on this road has been on the County's replacement schedule for years with no progress, and the abutting road transition to it is dramatic. It currently is posted with a reduced load limit that excludes truck traffic. It will certainly see a small increase in traffic with the road closure so warrants some attention, perhaps even a couple treatments during the summer for dust abatement. **North Tampico Road...Oh, right, this is left off again.**

Staff Response: The applicant has proposed to improve this route to the County’s Minor Collector standard for evacuation purposes. County does not agree that the proposed Wiles/Robison corridor will function as an adequate freight route; however, with minimal improvements, it could be suitable as an emergency evacuation route.

4. Groundwater contamination/water quality/water quantity.

Summary of Comments: Relocation of the leachate ponds to the south side of Coffin Butte Road and water escaping from the new fill cells are a serious concern. Tampico Valley water table could be severely affected, and the aquifer from which the surrounding property owners drink and subsist could become toxic. A landfill on the same ridge would likely jeopardize not only the potability of the aquifer, but also would likely use a lot of water, thus endangering property owners’ ability to even get water.

The applicant briefly mentions monitoring wells west of the existing landfill, but there is no mention of monitoring wells in the area south of the proposed expansion.

The applicant has not supplied a credible review of geology, groundwater and surface water as required by BCDC Section 77.310(4). They present only a 4-page memo from an engineering consultant (not a geologist or a hydrogeologist) based in Oklahoma. The memo is very general in nature and contains no information pertinent to the geologic and groundwater situation of Tampico Ridge where it would abut the proposed southward expansion. The main sections of this memo regarding surface water and ground water were copied almost verbatim from old reports from the mid-1990s. Those reports were focused on characterization north of the road and contain almost no data relevant to the southern part of the site, anywhere south of the existing leachate pond.

Staff Response: These items are permitted through and monitored by the Department of Environmental Quality.

1 **Groundwater Contamination/Water Quality** - Exhibit H of the Supplemental Information, Technical Memorandum from Tuppan Consultants LLC, details the applicant’s requirements to characterize the hydrogeology and geotechnical properties needed to understand the constructability of the landfill and to protect groundwater resources.

The memo states, *“Water quality monitoring is required at the Coffin Butte Landfill by solid waste permit 306, issued by the DEQ. Environmental monitoring has been conducted at Coffin Butte Landfill since 1975 when the DEQ started collecting water quality data from the leachate lagoon and from surface water around the site. Groundwater monitoring began in 1977 and since then the monitoring network has evolved in response to different monitoring and site characterization needs required by the solid waste permit. The current water quality monitoring network has five components:*

- *Groundwater monitoring wells, which include compliance and detection wells, and water supply wells*
- *Observation wells and piezometers used for measuring water levels*
- *The secondary leachate collection system (also referred to as the leak detection system, or LDS)*
- *Leachate sumps*
- *Surface water monitoring points*

The rationale for the network design and the media monitored can be found in the environmental monitoring plan. As part of landfill development, the groundwater monitoring network will be expanded to include the development area south of Coffin Butte Road. In addition to Environmental monitoring specified by the solid waste permit, stormwater samples are collected four times per water year and the results submitted to the DEQ Benton County Community Development Department annually under a National Pollutant Discharge Elimination System (NPDES), Industrial Stormwater Discharge Permit No. 1200-Z.”

Water Quantity - According to Exhibit H, “Landfill operations and construction activities use water supplied by Adair Village, not groundwater from onsite wells. The only groundwater from onsite wells is used for the existing office and the scale house. The volume of groundwater consumed at these two locations will not change. Overall, no additional groundwater will be used for the landfill development above current volumes.”

- 1** Applicant’s policy is to purchase properties that may have wells contaminated. That doesn’t mean that neighbors have nothing to fear in terms of their wells becoming contaminated (in fact, the opposite). In this 2003 document filed with DEQ, Tuppan Consulting says that what currently protects Phillips’ well is basically the valley between Coffin Butte and Poison Oak Ridge. Oh, oops.

The only other domestic well south of the property is the Phillips well, which is used for domestic supply and limited irrigation during the summer months. Hydraulically, the Phillips well is downgradient of Poison Oak Hill and across a groundwater drainage divide in the lowland area between Coffin Butte and Poison Oak Hill. The drainage divide protects the well from groundwater that could potentially migrate from the landfill. The hydraulic position of the well, static groundwater elevations measured quarterly in the Phillips well are typically higher than MW-12S by up to 1.5 feet, and the drainage divide make it unlikely that landfill constituents will migrate toward the Phillips well.

Source: Focused Risk Assessment and Feasibility Study Coffin Butte Landfill, Benton County Oregon, page 23

Obtained from: DEQ, Project 2867, Permit 306, Prepared by Tuppan Consultants LLC, Project VLI-001-005

It's OK, though, if groundwater contamination occurs, VLI buys the property and decommissions the well. No harm, no foul, am I right?

6.3.5 Water Well Removal

Decommissioning water wells within the LOF or in areas potentially downgradient of impacts removes potential exposure to contaminants in groundwater. Two wells currently proposed for decommissioning include PW-1, which is within the LOF, but currently unused, and the Helms well, which is outside the LOF but downgradient of the LOF. It also is not used for any purpose.

6.3.6 Property Purchase

Property purchase near the landfill is an effective means of preventing groundwater use and minimizing land uses not compatible with landfill operations. Such purchases can have a secondary benefit of providing additional buffer area around the landfill and long-term access to groundwater monitoring wells. As property adjacent to the landfill property comes on the market, VLI will pursue negotiations with the owners to buy the property. Properties of current interest to the VLI include the Phillips property south of the landfill and the small rectangular piece of property immediately west of the Closed Landfill, east of Wiles Road.

Source: Focused Risk Assessment and Feasibility Study Coffin Butte Landfill, Benton County Oregon, page 50

Obtained from: DEQ, Project 2867, Permit 306, Prepared by Tuppan Consultants LLC, Project VLI-001-005

5. Noise.

Summary of Comments: The noise is currently manageable because of the distance, but will not be with them so much closer. Were the cell to be located south of Coffin Butte Rd., the noise would be unbearable for the immediate neighbors and would impact residents living about a ½ mile farther south than the current sound range... folks who currently may not hear it.

The new private road stretching west from Coffin Butte's current intersection with 99W would dramatically increase vehicle noise through the Tampico and Soap Creek Valley areas as trucks from the quarry and the landfill travel along it. This road would rise 130 feet, then drop 100 feet to the present terminus of Soap Creek Road. The resulting truck motor noise and exhaust would further mar the scenic beauty of this rural area.

Staff Response: This concern is addressed more fully beginning on Page 27. Exhibit F – Noise Assessment – states that the “*Noise emissions from on-site operations are unlikely to increase but will be produced in a different area. The existing topography in the area near the future operations may provide some screening from sounds produced by the site at nearby residences.*” Staff feels that the noise assessment is very vague. Staff has incorporated **Operating Approval Conditions** requiring White Noise Backup Alarm for all vehicles being used in the new cell area and specified hours of operation in the new cell.

6. Odor.

Summary of Comments: Odors would be worse with the raw garbage being so much closer. The odor is already noticeable many times during the year – especially in fog – and the expansion is closer and will likely be much worse.

Staff Response: In Exhibit M of the Supplemental Information, the applicant states that the Coffin Butte Landfill team applies a daily cover over the waste, has an extensive gas collection and treatment system, and uses geo-synthetic covers to help the gas system operate more efficiently.

The “daily cover” is a tarp with tires on it. That’s when it’s not ash from the Covanta plant in Marion County which is used instead of dirt to cover the day’s trash. That ash, which is contaminated with heavy metals and dioxins, blows around when it is windy. Methane is actually quite interesting,

“At night when the air cooled it [methane] drifted from the landfill, down a canyon toward a residential area. Once the sun came up and the air warmed, that wind direction reversed...in certain thermal conditions the gas was traveling with the wind, flowing down, and blowing toward residential areas.” Source: Waste 360, “Landfill Odors: Why They Happen and Chasing Them Down”

Odor at the landfill is a problem. Staff saying that odor is not a problem is not a useful response.

III. 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 that was formerly part of the Camp Adair army post.
2. It was designated as a regional solid waste disposal site in the Chemeketa Region Solid Waste Management Plan, 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. [It is currently undergoing revision.]
4. The Coffin Butte landfill site was zoned Forest Conservation until 1983. In 1983⁴, 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 1994⁵, 1997⁶, 2011⁷, 2013⁸, and 2015⁹.
5. There are wetlands on the subject property. The light blue polygons are water features.
PEM1C/x – Freshwater Emergent Wetland PUBHx/PUBFx – Freshwater Pond PFOC – Freshwater Forested/Shrub Wetland

IV. APPLICABLE CODE REVIEW – No Findings Required

CHAPTER 51 DEVELOPMENT CODE ADMINISTRATION

PUBLIC HEARINGS Sections 51.705 through 51.840

Conclusion: The Community Development Department complied with advertisement and notification requirements and will comply with the requirements for the public hearing process.

CHAPTER 53 GENERAL REVIEW CRITERIA AND PROCEDURES

53.205 Purpose. Conditional uses are land uses which may have an adverse effect on surrounding permitted uses in a zone. [Ord 90-0069]

Conclusion: The proposed use will be evaluated using the conditional use criteria and reviewed as to effects it may have on surrounding uses.

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. [Ord 90- 0069]

Conclusion: The applicant has applied for conditional use approval and the application is being processed as a discretionary application.

BCC 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.

Conclusion: The applicant has not requested an extension of the period of validity. However, the proposal requires that the applicant complete a separate public hearing process (vacation of Coffin Butte Road), construct a new internal road, and other projects that likely will require longer than two years. In acknowledgement that these processes could take longer than two years to complete, the County will add two years to the expiration date for a total of four years to reach Final Approval.

CHAPTER 60 FOREST CONSERVATION (FC)

BCC 60.005 Purpose. The purpose of the Forest Conservation zone (FC) is to “...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.” BCC

60.005 identifies that, “[r]esources 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.” Further adding that, “[e]xcept 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.”

BCC 60.215 Conditional Uses Subject to Review by the Planning Commission. The following uses may be allowed in the Forest Conservation Zone by a conditional use permit approved by the Planning Commission in conformance with the criteria set forth in BCC 60.220, 53.215, and 53.220.

WHY DOES STAFF NOT INCLUDE CONDITIONAL USE CRITERIA FOR C.U.P.'s in FOREST CONSERVATION ZONE????

60.220 Conditional Use Criteria.

- (1) A use allowed under BCC 60.205 or 60.215 may be approved only upon findings that the use:
 - (a) Will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;
 - (b) Will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and
 - (c) Complies with criteria set forth in BCC 53.215 and 53.220.

(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.

Conclusion: The expansion and placement of uses within the FC zone will be reviewed as required.

CHAPTER 77 LANDFILL SITE (LS)

BCC 77.005 Purpose. The Landfill Site Zone shall establish a specific landfill area in Benton County.

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.

Conclusion: The expansion and placement of uses within the LS zone will be reviewed as required.

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.

V. APPLICABLE CODE REVIEW – Findings Required

CHAPTER 53 GENERAL REVIEW CRITERIA AND PROCEDURES

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;

Uses on adjacent property

Findings:

Properties within one mile of the site are zoned Open Space (OS), Rural Residential (RR-5), Exclusive Farm Use (EFU), Landfill Site (LS), or Forest Conservation (FC).

Of those properties not owned by the Valley Landfills Inc. or Republic Services Landfill, and which are substandard parcels (smaller than allowed by the zoning district), that are zoned either FC or RR-10, the use is primarily for residential purposes.

“BUFFER” is not a Zone. The landfill is incompatible with surrounding uses, as Applicant has stated that directly and numerous times over the years. Applicant’s solution is to buy up adjacent properties and take them out of service – Stop foresting (can’t cut the trees down, they block ugly views), stop farming (farmhouse has been torn down), vacate subdivisions (Tampico Ridge), demolish homes (the “duplex property” and the other small residences that previously were located north and south of the Phillips property).

Blighting a neighborhood, purchasing nearby properties, taking them out of service, that **absolutely seriously interferes with uses**. It seriously interferes with the character of the area. It seriously interferes with the purpose of the zone. If the intent for all of those surrounding parcels to be “Landfill Site” they should be zoned “Landfill Site”. What VLI has created is a Potemkin neighborhood, fake farms, fake forestland, fake residential areas all fed to the always-growing maw of the landfill.

There is no working farm on VLI-owned EFU parcels; the fields are fallow, & the nitrogen content of the hay makes it unmarketable. There are no timber harvests on VLI-owned Forest Conservation parcels – the trees are gone to make way for haul roads, or they’re “buffer” and can’t be cut down. There are no residences on Tampico Ridge or the small Forest Conservation parcels – those parcels’ wells have been decommissioned, the homes demolished.

The landfill grows; neighboring land uses give way and are first blighted and then engulfed.

Several residences are within a half-mile of the site; however, most of these do not have a direct view of the Landfill due to topography in the area. **As long as those landowners don't harvest their own timber on their own land** The nearest residence is directly south of and adjacent to Tax Lot 1104. This is occupied by a 1973 manufactured home and several greenhouse structures **Also known as "agriculture"**. This parcel is under private ownership; all other adjacent properties are owned by Republic Services.

East of Hwy 99W, the property is owned by the Oregon State Game Commission and is part of the EE Wilson Wildlife Area. There is also a 47-acre parcel directly adjacent to Tax Lot 801 on the north that is part of the EE Wilson Wildlife Area. **This parcel has a hiking trail on it that was built by some kid as an Eagle Scout Project. He hauled timber up on his back. If this C.U.P. is approved, it will have a new lovely view of a 510' tall mountain of trash.**

Concerns from the public: As outlined in the public comments section of this staff report, the public has many concerns regarding this proposal. There are concerns surrounding the expansion of the landfill and the impacts that will have on surrounding property owners. These are:

- increased noise from the landfill activities being in closer proximity to residential uses and from the new internal roadway;
- increased animal activity;
- increased light pollution;
- increased odor;
- ground water and surface water contamination;
- ground water failure from overuse by the landfill;
- impacts to Great blue heron rookery and possibly bald eagle nesting sites;
- evacuation safety concerns;
- concerns about destruction of archaeological sites.

There are concerns regarding the impacts from the closure of Coffin Butte Road.

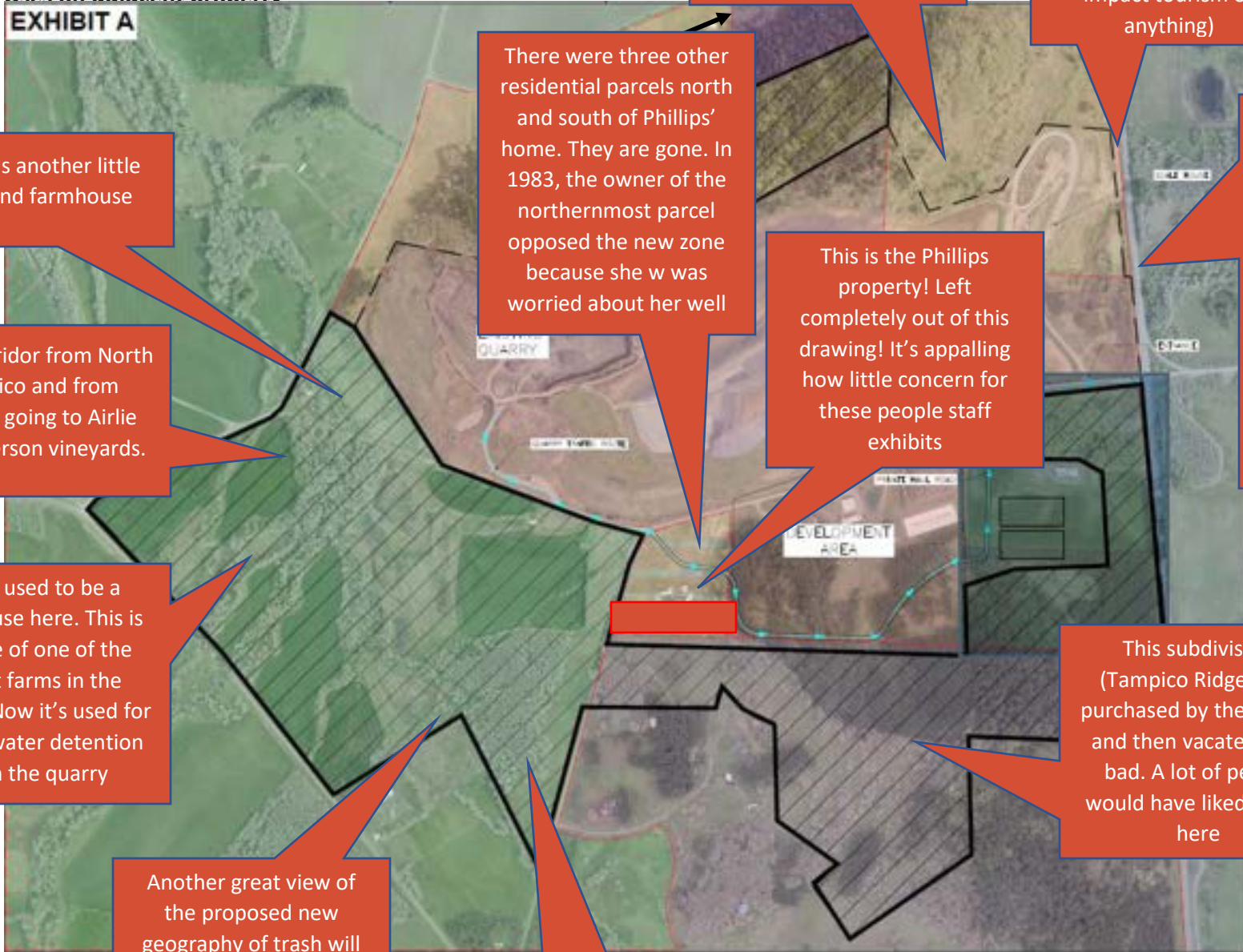
- increase of traffic on Tampico Road;
- damage to cultural and natural features on Tampico Road;
- increase of traffic on Wiles and Robison Roads;
- increase in exhaust fumes, garbage along roadways, dust, sounds;
- evacuation concerns;
- safety concerns for school children, pedestrian, bicyclists and people pulling onto Tampico Road from driveways or into Hwy 99W traffic.

Site of Eagle Scout project hiking trail.

Welcome to Benton County (this won't impact tourism or anything)

Uses on adjacent property

EXHIBIT A



There were three other residential parcels north and south of Phillips' home. They are gone. In 1983, the owner of the northernmost parcel opposed the new zone because she was worried about her well

This is the Phillips property! Left completely out of this drawing! It's appalling how little concern for these people staff exhibits

Be a great view of garbage from EE Wilson. But since this proposal is unscreenable, the screening provision IN THE CODE does not apply, even though in every single prior C.U.P. screening – with berms, fencing and trees, has been a significant focus of Staff/P.C./BoC

This was another little farm and farmhouse

View corridor from North Tampico and from tourists going to Airlie and Emerson vineyards.

There used to be a farmhouse here. This is the site of one of the oldest farms in the county. Now it's used for groundwater detention from the quarry

Another great view of the proposed new geography of trash will be readily visible from Soap Creek residents (not fleeing from fire, we hope)

This was another little farm

This subdivision (Tampico Ridge) was purchased by the landfill and then vacated. Too bad. A lot of people would have liked to live here

REFERENCE
1. No. 100-100000-1000
2. No. 100-100000-1000



APPLICANT'S RESPONSE to some of the concerns– Excerpted from the Supplemental Memo – Oct 5 – other responses are included in the memo.

Regarding impacts from the private haul route [new internal roadway]:

“Opponents has expressed concerns that the new private haul road could generate noise and visual impacts, suggesting that additional buffer maybe needed. Furthermore, opponents questioned the safety and the structural integrity of the private haul road. This Supplemental Submittal Packet is accompanied by a Final Grade Plan (Exhibit C), a Final Grade Cross Section (Exhibit D) and a Final Grade Color Graphic (Exhibit E).

Collectively, these items clearly document that the elevation of the road will be approximately 370 feet, whereas the existing natural grade between the landfill and the properties to the south (which will continue to be a buffer) is over 500 feet. The Cross Section Sheet (Exhibit D) also includes a cross section that is oriented from southwest to northeast. This area does not contain quite the same amount of topographic, however the structures in this areas are buffered by existing landscaping:



STAFF ANALYSIS Regarding Uses on Adjacent Property:

A landfill by its nature is highly likely to have impacts on adjacent residential uses. Placing excavation, landfilling and truck traffic south of Coffin Butte Road will bring those activities closer to residential uses on adjacent properties. The question before the Planning Commission is whether the proposed expansion of the long-existing landfill will “seriously interfere with uses on adjacent property.” Staff has identified odor, noise and groundwater as the types of potential impact that would have the greatest chance of seriously interfering with uses on adjacent properties. Other identified concerns either are unlikely to rise to the level of “seriously interfering” with adjacent uses or are more relevant to other criteria (such as impacts to public facilities).

Past expansions of the landfill have “seriously interfered with uses on adjacent property.” Properties that formerly were adjacent to the landfill have been subsumed by it. The landfill now threatens properties that were formerly distant. There is no reason that the historic pattern will not repeat. Or, as so many people say, “who would buy a house/farm/forest near the landfill?” Well, none of the neighbors who are currently concerned about significant impacts did buy properties that were adjacent to the landfill. The landfill has come to them.

Odor: Expanding landfill activities approximately 1,300 feet to the south within the same valley will bring the landfill odor source that much closer to residences to the south. However, the existing topographic buffers to odor distribution will remain in place and the odor mitigation methods employed at the current landfill will be continued. Therefore, it seems unlikely that odor at nearby residences would increase to an extent that would seriously interfere with residential use, compared to the existing level of odor resulting from the landfill.

Staff does not understand how landfill gas travels

Character of the area

Most of the properties adjacent to the site are used for residential purposes with minor degrees of agricultural production. The landfill, which has been in operation since 1948 and owned by the applicant since 1974, and the quarry, which has been in operation since 1994, are major contributors to the character of the area, inserting two rural industrial uses within an area that is otherwise zoned mostly for agricultural and forestry uses, along with some rural residential uses. There is also a rifle range approximately 1.8 miles northwest of the Landfill and quarry and a gun range on EE Wilson Wildlife Preserve, approximately .5 miles to the east, that contribute to rural industrial uses of the area. The creation of a new landfill cell in the area currently zoned for Landfill Site will not create a new impact to the character of the area.

There is a big difference in a landfill that has a volume of 88,000 tons/year (1973), a landfill that has a volume of 275,000 tons/year (1992), a landfill that has a volume of 450,000 tons/year (2003), a landfill that has a volume of 860,000 tons/year (2020), and a landfill with no yearly volume cap. The very largest landfills in Oregon & Washington accept about 2 million tons/year, and those are served to a large extent by rail and barge. They also have vast buffer areas; Columbia Ridge owns 10,000 acres around their landfill operations, and Roosevelt Landfill in Washington is likewise far away from incompatible uses.

Roosevelt Landfill Manager Don Tibbets said, “The closest neighbors live about four or five miles away” (source: *Competing for Your Trash*)

Impact of re-routing traffic: A change to the current traffic patterns may change the character of the area for residents along the Tampico Road corridor from Soap Creek to Hwy 99W (affected section), and an impact to residents along Wiles and Robison Roads. As mitigation for the vacation of Coffin Butte Road, should that be approved, the applicant will be required to bring a portion of Tampico Road up to major collector standards and bring Wiles and Robison Roads up to minor collector standards. The status of these roads as collectors has been adopted by Benton County in the Transportation System Plan.

The affected section of Tampico Road will gain truck traffic that is currently required to use Coffin Butte Road. In addition, there will likely be an increase in passenger vehicles and farm vehicles that currently use Coffin Butte Road because they feel it has a safer intersection with Hwy 99W wider and less windy, or it is closer to their destination. Many of the submitted public comments state that the affected section of Tampico Road is currently unsafe, and others state that making improvements will make it unsafe. The truth of the matter is that the affected section will need to be improved because it is substandard. The change to the character of the area will occur whether the improvements are done by the applicant or by the County. Once improvements take place, by whichever party, truck traffic will be allowed to utilize the affected section.

Improvement to Wiles and Robison Road will improve the safety of that corridor as well, specifically for evacuation purposes. It is predicted that there will not be much daily change to the traffic patterns of this corridor.

Purpose of the zone

Landfill Site: The LS zone was created to establish a specific landfill area in Benton County and the application of the zone is to recognize existing and continued use of the landfill, pursuant to Oregon Department of Environmental Quality permits.

The proposed new cell in the LS zone fulfills the purpose and application of the zone.

Expansion of the landfill onto parcels that are not zoned landfill indicates that the landfill does not have enough land zoned LS for this scale of expansion. At the time the LS zone was created, the volume that was deposited at the landfill was 375 tons per day, or about 137,000 tons per year. In 1983, Benton County had a population of about 68,000.

In 2020 the volume was 860,000 tons per year. So between 1983 and today, volume has increased 623%.

In 2020 the population of Benton County was about 92,500. So between 1983 and today, population has increased only 136%.

Forest Conservation: The primary purposes of the FC zone are to promote the growth and management of trees for commercial harvest, primary processing of wood products, and to protect air, water, and wildlife resources within the zone.

Tax Lots 1101 and 1104 are proposed to contain a portion of the internal access road. These lots already contain an office building. These lots are not being used for forestry activities and adding the roadway will not impact forestry uses on these parcels, or farm or forestry uses on adjacent parcels.

Tax Lot 1200 is proposed to contain a portion of the internal access road, an employee building, and new leachate ponds.

The property is already being used for the methane gas power generating plant. Douglas fir is planted outside of the area to be used for any of the proposed uses, except for the internal access road. The new proposed uses on this site are not anticipated to seriously impact existing forestry on the parcel, or farm or forestry uses on adjacent parcels. Conditions of Preliminary Approval and Operating Approval Conditions have been incorporated into Section VII of this staff report to guard water and wildlife resources within the zone.

Tax Lot 801 is already fully impacted by landfill uses. The new scale house access road will not create any further impacts.

The CUP Condition isn't "is this area already ruined because of poor prior landuse decisions and/or Applicant ignoring prior prior CUP Conditions" the Condition is that the land use:

(a) Will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agricultural or forest lands;

Clearly it is difficult to engage in accepted farming and/or forest practices on parcels that have haul road/leachate ponds on them.

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

Findings: This proposal imposes a large change to roadway facilities in the area of the landfill. The closure of Coffin Butte Road as a public right-of-way will require establishment of other travel routes for freight vehicles, forestry vehicles, agricultural vehicles, passenger vehicles, pedestrians, and bicyclists. As mitigation, Public Works will require the applicant to improve the affected portion of Tampico Road to major collector standards. This will allow freight, forestry, and agricultural vehicles to use Tampico Road safely. It will increase the safety of all travelers along this road section, as well as pedestrians and bicyclists. To mitigate evacuation safety concerns, the applicant will be required to bring Wiles and Robison Roads up to minor collector standards. This will provide evacuation capacity comparable to the Coffin Butte Road route.

The traffic study that resulted in this finding is materially flawed

CHAPTER 77 LANDFILL SITE (LS)

77.310 Conditional Use Review.

- (1) The applicant for a conditional use permit shall provide a narrative which describes:
- (a) Adjacent land use and impacts upon adjacent uses;
 - (b) Future use of site as reclaimed, and impacts of that reclamation on adjacent uses;
 - (c) Provisions for screening of the site from public roads and adjacent property;
 - (d) Egress and ingress; and
 - (e) Other information as required by the Planning Official.

Findings: The applicant has submitted responses and information related to items (a), (b), and (d). Screening is not considered a requirement of this application.

By what authority does Staff say “Screening is not considered a requirement of this application?” All prior C.U.P.’s in the Landfill Zone have taken screening requirements very seriously. That it is impossible to screen this proposal is alone sufficient to deny the C.U.P.

Conclusion: These criteria are met These criteria are not met. The visual impact of this proposal is vast and it will significantly and permanently change the character of the site and the vicinity of the site for literally miles around.

I would like to close with a quote from a letter opposing expansion of the Landfill:

“Although the date of closing the present operations has been delayed time after time, the people felt the commitment was made in good faith and therefore have demonstrated patience, tolerance and understanding concerning the difficulties entailed in finding an alternate site”

Arthur L. Tollefson, Chairman

North Benton Advisory Committee, Letter dated **November 5, 1973**