



December 20, 2021

Via Regular Mail and e-mail ([Inga.Williams@co.Benton.or.us](mailto:Inga.Williams@co.Benton.or.us))

Inge Williams, Associate Planner  
Benton County Community Development Department  
360 SW Avery Avenue  
Corvallis, Oregon 97333-1139

Re: Appeal of the Planning Commission's decision on LU-21-047 (conditional use permit to expand the Coffin Butte Landfill).

Dear Ms. Williams:

Enclosed please find the appeal by Valley Landfills Inc. (Republic Services) of the December 7, 2021, decision of the Benton Planning Commission to deny the above noted permit. We will contemporaneously call you to pay the appeal deposit of \$3,435.

Valley Landfills Inc. (Republic Services) requests that Benton County stay the appeal proceedings on this matter until March 21, 2022 so that we can determine how best to address the Planning Commission's decision. Valley Landfills Inc. (Republic Services) hereby waives the 150-day local action deadline in ORS 215.427 for the period of this stay.

Thank you for your courtesies.

Sincerely,

Ryan Lawler  
Area President

Attachments: Completed Appeal Application Form  
Applicant's Appeal Narrative





**Benton  
County**

**COMMUNITY DEVELOPMENT  
DEPARTMENT**

Community Development Department

Office: (541) 766-6819  
360 SW Avery Avenue  
Corvallis, OR 97333

co.benton.or.us/cd

## APPLICATION

### APPEAL OF A PLANNING COMMISSION DECISION

File # LU-21-047

Fee\*: Cost of Original Application \$\_\_\_\_\_

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

#### Appellant

Name: Valley Landfills Inc. (Republic Services) co/ Ryan Lawler Phone #1: **541-230-5543**  
Address: **28972 Coffin Butte Road** Phone #2: \_\_\_\_\_  
City & Zip: **Corvallis, OR 97330** Email: **imacnab@republicservices.com**

Other individuals to be notified of this application:

Name	Address	City & Zip
Blackmore Planning and Development Services,	19454 Sunshine Way,	Bend OR 97702
Jeffrey G. Condit, Miller Nash LLP,	111 SW 5th Avenue, suite 3400,	Portland, OR 97204

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

File Number: **LU-21-047** Nature of Application: **Conditional use permit to expand Coffin Butte Landfill**  
Decision: **Denial by the Planning Commission** Decision Date: **December 7, 2021**  
Assessor's Map & Tax Lot Number: T **10 S** S, R **4 W** W, Section(s) **18**, Tax Lot(s) (see attached)

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

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

**See attached Applicant's narrative**

2. A statement of the standing to appeal: **Valley Landfills (Republic Services) is the applicant and appeared orally and in writing during the Planning Commission's proceedings.**



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

*Ryan P Lawler*

Signature

12/20/2021

Date

*(For Office Use Only)*

Date Application Received: \_\_\_\_\_ Receipt Number: \_\_\_\_\_

File Number Assigned: \_\_\_\_\_ Planner Assigned: \_\_\_\_\_



## APPLICANT'S APPEAL NARRATIVE

FILE # LU-21-047—Conditional Use Permit to Expand Coffin Butte Landfill

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

### DISCUSSION

The Benton County Planning Commission misapplied the following standards from the Benton County Code (BCC or the “Code”), and the evidence in the record does not support the Planning Commission’s decision:

*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;*

The Planning Commission decision misapplied the “seriously interfere” standard, and the evidence does not support the Planning Commission’s conclusions with regard to odor, air quality, or noise. For example, the Applicant submitted evidence from its environmental engineer that the landfill is and has continuously been in compliance with DEQ’s required air quality permit regulations, and submitted 2019 testing showing nondetectable levels of hydrogen sulfide.

The evidence does not support the Planning Commission’s finding that the proposed expansion will “seriously” interfere with the character of the area. A landfill is allowed under the Code at this location. By its nature it fills land, and the existing landfill has been in operation for 45 years.

The evidence does not support the Planning Commission’s finding that closure of Coffin Butte Road will “seriously interfere” with the character of the area. Both the staff memoranda and the Applicant’s traffic study demonstrate that the improvements to Wiles/Robison and Tampico Road will more than mitigate for closure of Coffin Butte Road on freight traffic and emergency access. Tampico Road is designated as a major collector in the Benton County Transportation System Plan, so impacts on the character of the neighborhood as a result of improvements/widening will occur regardless of this application.

The Planning Commission misapplied the purpose of the Forest Conservation zone, which expressly allows multiple uses, including landfill uses, as conditional uses. None of the wildlife identified by the Planning Commission is protected by the County’s Sensitive Fish and Wildlife Habitat Overlay because none the subject property is within the overlay zone. The Applicant is required to and will address wildlife impacts as part of its DEQ permit.

The Planning Commission misapplied the Code with regard to buffering/grading on the RR-zoned lot and could have addressed their concern by imposition of a condition.



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

The Planning Commission misapplied the “undue burden” standard with regard to closure of Coffin Butte Road. As noted above, both the staff memoranda and the Applicant’s traffic study demonstrate that the improvements to Wiles/Robison and Tampico Road will more than mitigate for closure of Coffin Butte Road on freight traffic and emergency access.

The Planning Commission’s conclusion that the hauling and disposal of leachate will unduly burden public facilities and impact water quality is based solely on unsubstantiated speculation and is unsupported by the evidence in the record. The evidence in the record indicates that leachate disposal has not created any of these issues.

*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.*

The Planning Commission’s finding that closure of Coffin Butte Road will force a significant change, or significantly increase the cost of accepted farm and forest lands because of a change of route, is not supported by the evidence in the record for the reasons previously discussed. The Planning Commission’s finding that closure of Coffin Butte Road will significantly increase fire-hazard or fire-suppression costs, or significantly increase risks to fire-suppression personnel, is also not supported by the evidence in the record. The proposed improvements to Wiles/Robison and Tampico Road will more than adequately mitigate these issues.

*77.310 Conditional Use Review. (1) The applicant for a conditional use permit shall provide a narrative which describes: \* \* \* (c) Provisions for screening of the site from public roads and adjacent property;*

The Planning Commission’s finding that the site cannot be adequately screened is conclusory and misapplies this Code provision.

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