

YAMHILL COUNTY PLANNING COMMISSION

Thursday, January 8, 2009 - 7:00 p.m.
Yamhill County Courthouse, Room 32
535 NE 5th St.
McMinnville, Oregon 97128

Roll Call: Bob White, Marjorie Ehry, Michael Sherwood, Daryl Garrettson, Alan Halstead, David Polite, John Abrams. **Staff:** Ken Friday, Mike Brandt, Rick Sanai

QUASI-JUDICIAL PUBLIC HEARINGS:

DOCKET NO.: PAZ-05-08/FP-04-08/SDR-16-08

APPLICANT: Riverbend Landfill Company, Inc.

REQUEST: The request involves three applications to allow for the eventual expansion of the Riverbend Landfill. The first application is for a comprehensive plan amendment and zone change. The second is for a floodplain development permit. The third is for a site design review of the proposed landfill expansion.

The comprehensive plan amendments and zone changes are as follows:

A comprehensive plan amendment for an approximately 82.7 acre portion of Tax Lot 5501-200 to be changed from Public to Agriculture/Forestry Large Holding; a zone change from PWS Public Works Safety to EF-80 Exclusive Farm Use. The purpose is to shift the landfill zoning away from the South Yamhill River. Riverbend Landfill plans to do some wetlands mitigation in this area.

A comprehensive plan amendment for approximately 74 acres made up of Tax Lot 5501-400 and a portion of Tax Lot 5501-401 to be changed from Agriculture/Forestry Large Holding to Public; a zone change from EF-80 Exclusive Farm Use to PWS Public Works Safety. The request includes an exception to Goal 3. The purpose of rezoning this property is for eventual expansion of the landfill over 20 to 30 years.

A comprehensive plan amendment for approximately 25 acres, made up of the southern portion of Tax Lot 5501-401, to be changed from Commercial to Public; a zone change from RC Recreation Commercial to PWS Public Works Safety. The purpose of the rezoning of this property is for eventual expansion of the landfill.

A comprehensive plan amendment for approximately 19.3 acres, made up of a portion of Tax Lot 5501-101, to be changed from Agriculture/Forestry Large Holding to Public; a zone change from EF-80 Exclusive Farm Use to PWS Public Works Safety. The request includes an exception to Goal 3. The purpose of the rezoning of this property is for ancillary facilities, including but not limited to, public drop/recycling area, gas-to-energy facility and surface water facilities. This land would not be used for waste disposal.

A comprehensive plan amendment for approximately 10 acres made up of a portion of Tax Lot 5511-600 to be changed from Agriculture/Forestry Large Holding to Public; a zone change from EF-80 Exclusive Farm Use to PWS Public Works Safety. The request includes an exception to Goal 3. The purpose of the rezoning of this property is for ancillary facilities, including but not limited to, landfill maintenance/storage yard and future leachate management facilities. This land would not be used for waste disposal.

A floodplain development permit to allow for the relocation of a small, unnamed tributary of the South Yamhill River that currently bisects the proposed landfill expansion area. The request would

allow for the placement of two earthen berms. One berm is to be near the mouth of the stream but well outside of the floodway and one is to be just east of Highway 18 where the stream emerges from its culvert under the highway.

A site design review application to review the development of the 98 acres proposed for landfill expansion and ancillary facilities.

TAX LOTS: 5501-101, -200, -400, -401 and 5511-600

LOCATION: 13465 SW Highway 18, McMinnville, Oregon
13469 SW Highway 18, McMinnville, Oregon
13965 SW Highway 18, McMinnville, Oregon
14325 SW Highway 18, McMinnville, Oregon

CRITERIA: Sections 402, 601, 802, 901, 1101 and 1208.02 of the Yamhill County Zoning Ordinance (YCZO). Section 904, Limited Use Overlay may also be applied. Comprehensive Plan policies may be applicable. Oregon Administrative Rule 660-004, related to exceptions. OAR 660-12-0060 Transportation Planning Rule. The floodplain development permit is subject to Section 901 of the YCZO. The site design review is subject to Section 1101 of the YCZO.

Adopted 11-06-08 meeting minutes.

Chair Garrettson opened the public hearing at the point of “staff recommendation.”

Ken Friday gave the staff recommendation:

FLOODPLAIN

Related to the application for development in the floodplain - the floodplain overlay zone and criteria are based on the requirements of the Federal Emergency Management Agency. The applicant has submitted information to show that the maximum rise that has occurred in the floodplain since the construction of Riverbend Landfill is 0.2 feet. In addition, the application contains information demonstrating that the proposed development will result in a rise of less than ½ an inch. The actual impact of the existing landfill and the estimated impact of the expanded landfill are therefore both well below the regulatory limit of 1.0 foot maximum rise.

Based on the evidence in the record, our office recommends approval of the floodplain development permit.

SITE DESIGN REVIEW

Section 1101.02(A) provides that review of a site development plan shall be based upon seven factors including:

- characteristics of adjoining and surrounding uses;
- provisions for adequate visual buffering; and
- interests of adjacent and vicinity property owners.

The proposal is to increase the height of the landfill to over 400 feet above MSL. There has been much testimony related to the visual impact of the proposed expansion. In the past we have required screening of incompatible uses from neighborhood properties. The screening is not intended to completely blanket the site from neighboring properties but rather to obscure or buffer the view of the proposed use. In this case, because of the proposed height of the landfill, we are not satisfied that the proposed screening goes far enough to reduce the visual impact to vicinity properties.

We are not saying that these factors can not be addressed, but at this point we do not believe that the visual impacts of the proposed landfill expansion have been adequately addressed so we are recommending denial of the site design

review.

Lastly THE REQUEST FOR A PLAN AMENDMENT/ZONE CHANGE and EXCEPTION

This is a difficult recommendation, made more difficult because there were good arguments submitted on both sides of the issue. We have been grappling with the issues pertaining to the legal arguments for the past several weeks. We have spent many hours evaluating the court cases cited in the testimony. We have also looked over our past decisions and rulings made by the Land Use Board of Appeals related to our zone change criteria and exceptions to the Goals. Based on the evidence in the record and our reading of the past decisions, we believe the applicant has met their burden related to the zone change and exception criteria.

At least a portion of this is a policy decision. By that I mean that the application must be found to comply with the Solid Waste Management Plan and the Yamhill County Comprehensive Plan. These are basically policy documents. One of the themes of the Solid Waste Management Plan is to ensure that the County continues to have long term, cost effective, and environmentally safe disposal options. We believe the evidence in the record supports the expansion as being the best option that fits this stated policy.

Based on the criteria, our office recommends approval of the plan amendment, zone change and exception portion of the application.

Chair Garrettson closed public hearing for deliberation.

Deliberation:

John Abrams stated this is a complicated issue and Yamhill County (YC) needs it's own landfill. Taking the garbage out of county is not the answer. Regarding the zoning criteria, Waste Management has met its burden of proof but he is inclined to vote against this process because it is difficult to sentence the neighbors to 30 more years of the landfill. YC needs something different. By the very name, Riverbend, he has concerns with it being that close to a bend in the river regardless of the technology. It may not be a problem 10 or 20 years from now but at some point it will be YC's problem. He has serious concerns about where they are expanding the landfill and recommends denial.

Bob White thinks it is a case of the economy vs. the environment. Money comes and goes, the environment is forever. The noise, smell, visual problem, wine industry, and NIMBYS has made up his mind to vote no on all three issues.

Marjorie Ehry stated she doesn't live near the landfill so she doesn't have to deal with the problems. The applicants have done a good job of making it as visually acceptable as possible. She drove by the other day and thought she would not want to live there. YC does need a landfill, we need alternatives, one of them is an incinerator. She understands it is expensive and any alternative option will be expensive. Ehry stated she is definitely leaning against the proposal but would like to hear what the rest of the commissioners have to say.

Daryl Garrettson stated that when the landfill was sited it was sited for the purpose of taking care of YC. It was done based on regulations at the time and would have been economically viable at that time. Then the county started to recycle and combined with new regulations it made the landfill no longer economically feasible unless they increased the amount of waste they accept and now the landfill is regional. This creates a catch 22 for the applicant. Clearly there is a need for a disposal facility. The applicant has demonstrated that in the future, there will be that need that will need to be met. The problem is if that need is a YC need, the footprint is out there to fill that need for a significant period of time without the expansion, at least, for the next approximately 15 years. If you continue to receive out of county waste the footprint is insufficient. But the applicant tells us that when you look at alternative sites you can only look inside the county. Garrettson stated he has a hard time with the fact that the only alternative sites that can be looked at are within YC when the need is driven by several other counties. Where in our zoning

ordinance does it say we have to accommodate that waste? There is an alternative site available, that includes Columbia River. The way he looks at the zoning ordinance, staff might disagree, Columbia River is an alternative site for that waste that drives the need that YC is supposed to be looking at. Therefore, the applicant hasn't met the burden of proof and probably can't.

David Polite stated there are many alternative sites that the proponents were able to discredit. One or two did have some viability. Only one third of the waste is from YC and two thirds is from out of county. Therefore, that alternatives analysis needs to be expanded greatly. We need to look at alternatives outside of YC. Money is going to be made available for alternative energy that may allow us to address our own needs as a county. We do have tourist to the county and the landfill is incompatible. The expansion of the landfill will be more harmful and cost more money to the county in the long run. Polite said he would vote against the proposal.

Michael Sherwood stated he has been interested in the impact the landfill will have to tourism, the wine industry and home values. Many new tourism industries have moved into YC and will continue to grow. Tourists are coming to the county from all over the world. Sherwood said he would vote against the proposal.

Alan Halstead stated the ORS specifically address' alternative sites and he unable to change that. There also needs to be alternative uses, i.e. an incinerator or some other way that something can be done to meet the needs of the people other than what is being proposed. He doesn't think the alternative sites were adequately addressed and voted against the proposal.

Mr. Abrams stated he sympathized with the applicant's situation because it is very difficult, and close to impossible, to get an alternative site and get the application pushed through the land use process which is very unfortunate. Even with alternatives it will be an uphill battle with citizens that are against virtually everything. YC needs to reflect on that as we try to come up with a solution.

Chair Garrettson agreed because if the landfill is shut down we become part of the problem; our waste will be shipped out of county. That is why we have a regional landfill now, b/c other counties failed to solve their own problem. But at same time, because of the criteria, he doesn't see a way they can meet the alternatives study.

David Polite believes there is competition that might come with some solutions that go towards green alternatives. We were in this situation when it came to the resort. What didn't we have? Properly zoned land. We should have been pro-active and started to try and find a site that would have been suitable.

Michael Sherwood stated he thinks the people that started the Whiteson Landfill didn't have the vision of those today especially when you look at Oregon's wine industry compared to Washington's. Washington does over 3.1 billion dollars per year where Oregon does 1.3 billion. Things have changed a lot along the corridor along Highway 18 to the coast and towards Newberg. That is going to be wide open for a major expansion in tourism. That \$750,000 that YC gets from RLI is going to look like chicken feed in five or 10 years.

Motion:

Alan Halstead moved to deny the application based on the discussion of the Planning Commission. Bob White second the motion.

Moved and seconded to recommend denial to the Board of Commissioners.

Vote 7-0 unanimous.

New business:

Election of officers: Daryl Garrettson for chair. David Polite for vice president.

Martin Chroust-Masin retired.

Next PC meeting will be in March.
Chair Garrettson adjourned the public hearing at 7:38pm.