

Yamhill County Department of Planning & Development
APPEAL APPLICATION

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This form must be completed and submitted to the Planning Office within 15 days of the date of the decision being appealed, as indicated on the notice of decision. Please complete the application fully, and with as much detail as possible. Please type or print carefully.

Appellant's Name STOP THE DUMP COALITION
Address c/o Ilsa Perse, PO Box 1744, McMinnville, OR 97128
Telephone (home) 971-241-7503 (work) (same)

Docket number of decision being appealed: SDR-16-14/FP-03-14

The Docket request is: for site design review and a floodplain development permit for Riverbend Landfill expansion and ancillary activities, and placement of berm in floodplain.

The decision was made by: Planning Director Planning Commission

The decision being appealed is a(n): Approval Denial Condition of Approval

Person appealing the decision is: the applicant an affected party

If you are an affected party, please explain how you are aggrieved or adversely affected by the decision:
Appellant participated orally and in writing, directly and through counsel, in opposition to these applications before the Planning Commission. Appellant is dedicated to the preservation of farming operations adjacent to and near the site, and preventing further degradation of the environment and scenic resources at and around the site, and further degradation of Yamhill County and its values by the applicant. Appellant's members include farmers who would suffer adverse economic impacts if these applications were approved and the subject expansion were allowed to occur.

EXHIBIT A—GROUNDS FOR APPEAL

1. The appealed decision violates YCZO 402.02(V) and OAR 630-033-0130(2) and (18)(a). The benefit of these provisions is not available in the case of a preexisting landfill such as that of the applicant, which was not wholly in a farm use zone at the time the above Oregon administrative rules took effect in 1996. The applicant's 2014 comprehensive plan designation amendment and zoning map amendment to EF-80 were ineffective if intended to bring the applicant's site within the purview of the above provisions.
2. The appealed decision violates YCZO 1101.02(A)(1) because the applicant has not met its burden of adequately describing the characteristics of adjoining and surrounding uses, including but not limited to farm uses.
3. The appealed decision violates YCZO 1101.02(A)(2) because it fails to address the issue of the loss of valuable farmland on the site due to the proposed expansion, as well as failing to address the economic impacts upon the surrounding agricultural community.
4. The appealed decision violates YCZO 1101.02(A)(4) because the applicant has failed to adequately provide for adequate noise and/or visual buffering from non-compatible uses.
5. The appealed decision violates YCZO 1101.02(A)(5) because it fails to adequately identify the natural features on the expansion site, or address retention of such natural features.
6. The appealed decision violates YCZO 1101.02(A)(6) because it fails to adequately address problems that may arise due to the proposed development within potential hazard areas, which in this case include but are not limited to risks of flooding and seismic risks.
7. The appealed decision violates YCZO 1101.02(A)(7) because it fails to adequately take into account the comments and recommendations of adjacent and vicinity property owners whose interests have been shown to be affected by the proposed use.
8. The appealed decision violates YCZO 402.02(V) because the applicant has not demonstrated compliance with the provisions of YCZO 1101 for site design approval.

9. The appealed decision violates YCZO 402.02(V) and ORS 215.296(1) in that it will force a significant change in accepted farm practices on surrounding lands devoted to farm use, and significantly increase the cost of accepted farm practices on surrounding lands devoted to farm use.

10. The appealed decision violates YCZO 402.02(V) because the applicant does not have a solid waste disposal permit granted by DEQ under ORS 459.245.

11. The appealed decision violates YCZO 402.02(V) because the applicant's properties do not comprise a single tract.

12. The appealed decision violates YCZO 1101.01, which establishes that the stated purpose of site design review includes that of insuring "safe, functional, energy-efficient developments which are compatible with the natural and man-made environment, and to resolve potential conflicts that may arise between proposed developments and adjacent uses."

13. The appealed decision violates the development standards of YCZO 1101.02(B) by approving a structure in violation of the EFU height limitation of 45 feet established by YCZO 402.09(C).

14. The appealed decision violates Ordinance 887 (2014), which imposed an overlay zone on certain parcels owned by the applicant, prohibiting landfill disposal of solid waste and any solid waste disposal activities that would prevent the siting and construction of an alternative solid waste disposal technology. The applicant's proposed access road, berm, and land filling activities will extend into the reserved area, as will the applicant's "operational support" activities.

15. The appealed decision violates the Endangered Species Act *vis-a-vis* the South Yamhill River Critical Habitat for spring chinook salmon and Upper Willamette winter steelhead trout. No floodplain development permit can issue under YCZO 901.06 until and unless the applicant first obtains a Biological Assessment and Biological Opinion from NMFS and USFW.

16. The appealed decision is erroneous because the existing landfill is a nonconforming use in the EF-80 zone and must be evaluated under the YCZO 1205 provisions for nonconforming uses and the related provisions set out in ORS 215.130.

17. The appealed decision violates the requirements for issuance of a floodplain development permit under YCZO 901.06 and 901.09 for the reasons listed below, and because the applicant's design itself is insufficiently complete to allow review or approval at this time under said provisions.

18. The appealed decision violates YCZO 901.06(A) because the proposed development does not conform to the permit requirements and conditions of YCZO 901.06, and the standards and limitations of the underlying EFU zoning district and overlay district described above.

19. The appealed decision violates YCZO 901.06(B) because the applicant has not satisfied the provisions of YCZO 901.09 by providing the necessary certification under YCZO 901.09(B) and has not demonstrated proof of the required notices under YCZO 901.09(C)(1) or that it has all appropriate state and federal permits as required by YCZO 901.09(C)(2). Such permits must first be obtained from the US Army Corps of Engineers, DEQ, DSL and, apparently, DOGAMI and FEMA.

20. The appealed decision violates YCZO 901.06(C) because the applicant has failed to demonstrate by persuasive evidence that the proposed development will not increase the water surface elevation of the base flood by more than one foot at any point.

21. The appealed decision violates YCZO 901.06(D) because, again, all applicable permits have not been obtained from federal and state governmental agencies, and applicable National Flood Insurance Program requirements have not been satisfied. Among the missing permits are the applicable DEQ permits. In addition, the required permits from the US Army Corps of Engineers, DSL, DOGAMI, and FEMA have not been obtained.

22. The appealed decision violates YCZO 901.06(E) in that the proposed development is not consistent with Policies j. and k. of the Comprehensive Plan as amended by Ordinance 471.

23. The above deficiencies and violations contained in the appealed decision are not resolved or cured, and neither compliance nor the feasibility of compliance with the above approval standards has been demonstrated, by means of the conditions of approval adopted by the Planning Commission.