

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

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WEST HILL & ISLAND)
NEIGHBORS, INC.,)
)
Petitioner,)
)
vs.)
)
MULTNOMAH COUNTY,)
OREGON,)
)
Respondent.)

LUBA No. 83-018

FINAL OPINION
AND ORDER

Appeal from Multnomah County.

Jay T. Waldron and James M. Finn, Portland, filed the
Petition for Review and argued the cause on behalf of
Petitioners. With them on the brief were Schwabe, Williamson,
Wyatt, Moore and Roberts.

Laurence Kressel, Portland, filed the brief and argued the
cause on behalf of Respondent Multnomah County.

E. Andrew Jordan, Portland, filed the brief and argued the
cause on behalf of Applicant-Respondent Metropolitan Service
District.

BAGG, Board Member; COX, Board Member; participated in this
decision.

REMANDED

6/29/83

You are entitled to judicial review of this Order.
Judicial review is governed by the provisions of Oregon Laws
1979, ch 772, sec 6(a), as amended by Oregon Laws 1981, ch 748.

1 the site supports "a diverse wildlife community." The soils
2 are primarily Douglas Fir Site Class I-III, and the site is
3 suitable for growing timber. There are agricultural
4 enterprises in the vicinity, including a dairy farm.

5 ASSIGNMENT OF ERROR NO. 1

6 "The Applicant Failed to Demonstrate Full Compliance
7 with the Approval Criteria for a Community Service
8 Designation Required by MCC Section 11.15.7015.

9 "(A) The County Emasculated or Ignored its Criteria."

10 In this subassignment of error, petitioner advises that in
11 order to approve the facility, the county must find the
12 standards required for community service designation have all
13 been satisfied. Petitioner points to MCC 11.15.7015, the code
14 section controlling approvals of community service designation
15 requests, and argues the section is stated in mandatory terms.
16 There is no room, according to petitioner, for any finding of
17 only "substantial compliance."¹ According to the petitioner,
18 however, the county found only substantial compliance with
19 applicable criteria, and use of this standard is error.²

20 Respondent Metro argues petitioner has confused the
21 question of whether the standards were applied at all with a
22 question of how they were applied. Respondent Metro, and
23 Respondent Multnomah County, argue it is up to the county to
24 decide how the standards are to be applied through
25 interpretation of its own ordinance. The county and Metro
26 argue the county properly interpreted the ordinance to allow

1 Policy 31 itself states:

2 "THE POLICY OF THE COUNTY IS TO PROVIDE FOR THE
3 LOCATION OF COMMUNITY FACILITIES IN A MANNER WHICH
4 ACCORDS WITH:

4 "A. THE APPLICABLE POLICIES IN THIS PLAN:

5 "B. THE LOCATIONAL CRITERIA APPLICABLE TO THE SCALE
6 AND STANDARDS OF THE USE."

7 The policy includes no siting criteria for solid waste
8 facilities but says the issue is a "regional" one. A
9 subheading entitled "Solid Waste Management" states:

10 "Solid waste is a regional concern requiring regional
11 solutions. The County recognizes Metro's
12 responsibility and authority to prepare and implement
13 a solid waste management plan and the Metro
14 'Procedures for Siting Sanitary Landfill' and will
15 participate in these procedures as appropriate."

14 This reference is unlike the other community facility and use
15 categories which list criteria and standards for siting.³

16 The siting criteria used for the various broad community
17 facility categories may be read to modify or, indeed, control
18 the more strict siting criteria in the implementing ordinance
19 (MCC 11.15.7015). With solid waste, however, we are cited to
20 no other siting criteria in the plan or plans. We conclude,
21 then, that the specific siting criteria are in MCC 11.15.7005,
22 et seq.

23 The purpose of the community service designation, MCC
24 11.15.7005, states as follows:

25 "MCC .7005 through .7030 provides for the review and
26 approval of the location and development of special
uses which, by reason of their public convenience,

1 the use must always be "consistent with the character of the
2 area."

3 Further, we believe subsection 7015 should be applied
4 consistently no matter what use is proposed. That is, the
5 county has made a legislative determination that sanitary
6 landfills and certain other uses are to be subjected to the
7 scrutiny of the community service designation criteria. Had
8 the county wished to ease one or more criterion for a
9 particular kind of use, it should have said so in the
10 ordinance.⁴

11 "(B) The County Cannot Substitute Subjective
12 Conditions for Proper Findings of Fact."

13 In this subassignment of error, petitioner argues the county
14 has improperly delegated to county staff, decisions that must
15 be made in a quasi-judicial forum. For example, petitioner
16 points to a condition requiring Department of Environmental
17 Quality approval for the proposed use. Petitioner argues in
18 order to receive this approval, the applicant must meet DEQ
19 air, water and noise standards. County Comprehensive Plan
20 Policy 13 requires a statement from DEQ that it can meet air,
21 water quality and noise level standards "prior to
22 quasi-judicial action." Comprehensive Plan at 6-2; Petition
23 for Review at 14. Petitioner reports that the applicant
24 submitted a letter which discussed air and water quality, but
25 the letter did not state the applicant could meet the standards
26 required. Further, there is evidence in the record, from a Mr.

1 include the following:

2 "(A) The applicant shall have obtained written
3 approval from the Oregon Water Resources
4 Department and the Oregon Department of
5 Environmental [sic] Quality, for the proposed use.

6 "(B) The applicant shall have performed all Phase II
7 studies and final design. Phase II studies and
8 engineering shall have been performed as proposed
9 in the application.

10 "* * *

11 "(D) The applicant shall have received written
12 evaluation from the Department of Fish and
13 Wildlife for a wildlife and aquatic life habitat
14 enhancement program designed to minimize negative
15 habitat impacts." Record, p. 40.

16 As to the condition requiring project approval by the
17 Department of Environmental Quality, we generally do not find
18 the county to have committed error. The county found the
19 statutes and regulations governing DEQ and DEQ's enforcement
20 procedures to be "adequate to ensure compliance with state
21 standards on air quality, water quality, noise and landfill
22 construction and operation." Record, p. 114. Further, the
23 county found air quality standards would not be violated.
24 Record, p. 108-109. The county based these findings on the
25 testimony of experts, and we do not understand petitioner to
26 challenge the veracity of the testimony. Most importantly,
however, there is conditional approval from DEQ in the record.
See record, p. 1377. In short, it appears the county correctly
concluded that conformity to most DEQ rules and regulations and
permit criteria can be achieved. See also record, p. 119-129,

1 affects. We note that at page 124, the county recognizes an
2 adequate erosion and sediment control plan is essential to
3 prevent loss of fish habitat, but the county goes on to find
4 that it "is possible to properly design the project to account
5 for the surface water to be diverted from the north fork of the
6 Crabapple Creek and to keep sediment out of the creek below the
7 landfill." These statements constitute findings that the
8 county believes the project may be designed so as to minimize
9 the impact on fish. We do not, then, find the conditions
10 imposed to be substitutes for needed findings.

11 We hasten to add that the question of whether indeed the
12 project meets all plan policy and objective standards is a
13 separate matter. What we hold here is that the county has not
14 substituted conditions calling for future work for findings and
15 it has, therefore, not made an error of method.

16 We sustain this assignment of error, in part.

17 ASSIGNMENT OF ERROR NO. 2

18 "The County Erred In Finding that this Dump Will Be
19 Consistent With the Character of the Area."

20 This assignment of error attacks the county's conclusion
21 that the proposal "is consistent with the character of the
22 area" as required by MCC 11.15.7015(A). Petitioner advises the
23 character of the area is rural with a predominance of natural
24 resource uses. Record, p. 93. Petitioner says the county's
25 conclusion that the use is consistent with the area is based
26 upon the county belief that "it will not result in a permanent

1 county argue the county must be free to interpret the ordinance.

2 The county findings on consistency with the character of
3 the area as required under MCC 11.15.7015(A) appear at pages 91
4 through 95 of the record. The county notes the ordinance does
5 not define the terms "consistency" or "character of the area."

6 The county interpretes the terms in light of the

7 "public nature and benefits of the use in question,
8 the legislative judgment that a rural resource area is
9 not inherently 'inconsistent' with the community
10 service use, and the possibility that the use can be
11 managed so as to reasonably co-exist with neighboring
12 uses." Record, p. 91.

10

11 The county goes on to explain it believes a distinction between
12 short term and long term consistency is important because the
13 proposed landfill is for a duration of 30 years.

14 Inconsistencies will not last in the long term. The land will
15 be reclaimed for forest use, and the county argues it is simply
16 not productive to debate how many years make a short term use.

17 Record, p. 92. The county also finds that Comprehensive Plan
18 Policy 31 governs landfills and expressly recognizes the need
19 for the facilities. The policy requires a minimization of

20 impacts, not a prohibition on adverse impacts. The county,
21 therefore, concludes that policy 31 controls how this

22 "consistency" requirement is to be read. See Comprehensive
23 Framework Plan at 8-53. We take the county's findings to say
24 this use is "consistent" only in terms of the condition of the
25 land after the use is ended. During its life, the use is

26 "consistent" in that inconsistent conditions are "substantially

1 accord, not for a kind of sliding scale of harmony and accord.

2 "2a: Marked by harmony, regularity or steady
3 continuity throughout: showing no significant change,
4 unevenness, or contradiction * * * *" Websters 3d
International Dictionary (1961).

5 It is important to note the community service ordinance
6 recognizes that its enumerated uses may be suitable for any
7 district in the county. Whether or not a particular enumerated
8 use is suitable for a particular district depends on whether
9 the use can meet or be made to meet the requirements of MCC
10 11.15.7015. Here, the county has not explained how it is that
11 this use will be consistent with the character of the area.
12 Instead, the county has altered the standard by saying that it
13 can only achieve eventual consistency. For now, the county
14 uses mitigation measures that the county states will
15 "substantially" mitigate the impacts of the fill. There is
16 nothing in the plan or ordinance that says substantial
17 mitigation means consistency. "Mitigate" means "to make less
18 severe, violent, cruel, intense, painful * * * *" Websters 3d
19 International Dictionary (1961). Had the county intended to
20 legislate a substantial consistency standard, based on
21 mitigation of effects, it could have done so.

22 Our view that strict standards apply is supported by the
23 lack of any controlling plan policies on solid waste in
24 contrast to plan policies on siting of other community service
25 uses. See footnote 3, supra. Also, we add that, in part, our
26 holding here is based on our holdings under assignment of error

1 150 acres to be used as a landfill would be reduced from Class
2 II to Class IV. The reduction in site class would render the
3 land unsuitable for commercial timber production according to
4 petitioner. Yet, the county found the site will be returned to
5 commercial timber production after the fill is completed.
6 Petitioner complains the county based this finding on a text
7 which talks about revegetation of landfill sites, but there is
8 no study or testimony available in the record to show that the
9 property could be returned to Douglas Fir Site Class II
10 soil.⁷ Petitioner complains further that county reliance on
11 testimony by Jim McClinton and Mr. McClure on these matters at
12 record, p. 118, is not supported adequately in the record
13 because there were no such persons ever appearing or testifying
14 or providing material to the hearings officer. Petitioner
15 alleges that the staff made "ex parte" contacts with these
16 individuals in order to get their statements before the county
17 board in the form of a second staff report. See record, p.
18 681. We understand petitioner to complain it did not have the
19 opportunity to rebut this evidence, and the evidence should
20 therefore have been ignored. However, we note petitioner does
21 not say it had no access to the staff report.

22 Metro argues the county realized a strict reading of the
23 ordinance would mean no landfill. The county therefore applied
24 a balancing test and found the landfill would cause impacts on
25 natural resources, but the impacts could be mitigated. Stream
26 loss could be mitigated by use of an alternate channel.

1 The fact the report was peppered with evidence that did not
2 come out of a public hearing does not mean the report may not
3 be used or the county may not rely upon on it providing there
4 has been a meaningful opportunity to rebut. We believe such an
5 opportunity was presented because the record was left open for
6 comment. Whether or not petitioner availed itself of this
7 opportunity was not the responsibility of the county.⁸ See
8 1979 Or Laws, ch 772, sec 5(B), as amended and Carlson v City
9 of Eugene, 3 Or LUBA 175 (1981).

10 We sustain this assignment of error, in part.

11 ASSIGNMENT OF ERROR NO. 4

12 "The County Erred In Finding that this Dump Will Not
13 Conflict with Farm or Forest Uses in the Area."

14 Petitioner uses the hearings officer's finding that the
15 landfill will conflict with forest uses to support its argument
16 that MCC 11.15.7015(C) has not been met. Forest uses are
17 allegedly adversely affected because of the loss of streams,
18 impact on wildlife habitat, impact on timberland, impact on
19 visual and recreational resources which a forest area provides
20 and increased fire risk. Petitioner argues an increase fire
21 risk will result around the dump area, and the county's
22 findings fail to address fire fighting measures. Petitioner
23 characterizes the county's findings as claims that whatever
24 conflicts may exist during the life of the use are allowable
25 because they may be mitigated by conditions. Petitioner also
26 alleges potential injury to farm enterprises in the vicinity.

1 With respect to farm uses, Metro argues the county's
2 findings show a low probability of any contamination of the
3 nearby dairy farm or water contamination generally. The county
4 also found there are control techniques that will prevent a
5 bird population from being attracted to the site in sufficient
6 numbers to affect agricultural activities on Sauvie Island.
7 Metro concludes there are sufficient findings and supported by
8 sufficient evidence in the record to show that no "conflict" as
9 the county understands the term exists with respect to farm
10 uses. See record, p. 68-72, 105, 1326-1328.

11 Again, we do not find the county plan and ordinances to
12 lend themselves to the interpretation the county attaches. MCC
13 11.15.7015(C), as with the other six subsections, imposes a
14 strict standard. The ordinance does not say that the proposed
15 use is not to cause "irreparable damage" to forest and farm
16 uses. The standard is a bald statement requiring "no
17 conflict." Because the county findings recognize short and
18 long term loss of forest land, we must agree with the
19 petitioner that the county has failed to meet the requirements
20 of this subsection.

21 This assignment of error is sustained.

22 ASSIGNMENT OF ERROR NO. 5

23 "The County Erred in Finding that this Dump will Not
24 Require Additional Public Services Not Programmed for
25 the Area."

26 As we understand this assignment of error, petitioner

1 simply because it may require additional services. The
2 services have been "programmed" in that the county and Metro
3 are responsible to plan (or "program") for solid waste disposal
4 and Metro has "programmed" the use of the site and the services
5 needed to run it. We believe the city's understanding, as it
6 appears from its analysis at page 106-107 of the record, is
7 correct. Since the needed services are planned for and may be
8 provided, the condition is met.

9 This assignment of error is denied.

10 ASSIGNMENT OF ERROR NO. 6

11 "The County Erred in Finding that this Dump Will Not
12 Create Hazardous Conditions."

13 Petitioner here argues that hazardous conditions will be
14 created in violation of MCC 11.15.7015(F). Petitioner points
15 to what it believes it to be a lack of necessary geotechnical
16 and engineering evidence to show that potential dangers on this
17 property do not exist. Petitioner cites evidence in the record
18 showing the property to have a landslide potential. In sum,
19 petitioner says there is a potential for landslides, fire and
20 contamination that makes it impossible for the county to comply
21 with MCC 11.15.7015(E).

22 Metro argues that landslide potential can be overcome. The
23 county found that sliding would not be a hazard. Record, p.
24 161-165. This conclusion is supported by evidence in the
25 record at 1652-73, 1699-1701, 1694-1697, 1509-1515, according
26 to Metro. Respondent Metro argues that the county is entitled

1 matter of leachate contamination, landslide potential and fire
2 danger. The county chose to believe evidence that said in
3 essence that these dangers could be eliminated through
4 available engineering techniques and other controls. The
5 county has the duty to pass on this conflicting evidence and
6 has done so. Norvell v Portland Metro ALGBC, 43 Or App 849,
7 604 P2d 896 (1979); City of Wood Village v Portland Metro
8 ALGBC, 48 Or App 79, 616 P2d 528 (1980). We believe there is
9 substantial evidence in the record from which the county could
10 conclude that the site may be used without landslide hazards.
11 Whatever slide hazard exists can be rendered safe through
12 controls. See record, p. 68-72. As to fire danger, we also
13 find the county to have sufficient evidence from which to
14 conclude that fire danger is low and that fires that do occur
15 can be extinguished without hazard. See record, p. 81-82, 107.

16 However, in its discussion under plan policy 16, the county
17 findings acknowledge a risk of groundwater contamination
18 significant enough to require monitoring of wells. If
19 pollution is detected, "replacement water will be provided by
20 Metro." Record, p. 123. We do not believe a provision for
21 substitute water is sufficient to satisfy a standard that
22 requires no hazards be created. Here, the county acknowledges
23 a hazard and provides relief that may satisfy an injured person
24 should the hazard become a present danger, but it does not mean
25 the project is without hazard. See also our discussion of
26 noise under assignment of error 8(C), *infra*.

1 nothing to do with development in rural or forest areas. Metro
2 argues LUBA should defer to the county's interpretation.
3 Alluis v. Marion County, 7 Or LUBA 98 (1982).

4 We read the plan policy to control matters of density in
5 developed or developing areas. The policy does not refer to
6 rural areas or uses. We find nothing in the plan to suggest
7 the county intended these considerations to be applicable to a
8 rural setting, and we therefore decline to find the county
9 erred in failing to make findings in plan policy 20.

10 This assignment of error is denied.

11 ASSIGNMENT OF ERROR NO. 8

12 "The County Erred in Finding that this Dump Complies
13 with Comprehensive Plan Policy Nos. 2, 11, 13, 14, 16,
31, 37 and 38."

14 A. Plan Policy 2

15 Policy 2 is about off-site effects. The policy allows the
16 county to apply conditions where it is necessary to protect the
17 public and fulfill the need for public service demand.

18 Petitioner claims the county improperly substituted
19 conditions for findings in violation of this comprehensive plan
20 policy. This assignment is controlled by our discussion of the
21 conditions imposed by the county under assignment of error 1.
22 We do not find the county to have violated this policy as
23 alleged.

24 B. Plan Policy No. 11

25 Plan policy 11 is the "Commercial Forest Land Area
26

1 Respondent Metro argues the petitioner ignored the county's
2 findings. Record, p. 119-120 includes findings about noise
3 levels. The county noted there was conflict about noise
4 evidence, and the county explained why it chose the applicant's
5 evidence over that of the opponents. See record, p. 120 and
6 record, p. 1331-1333, 1685-1686.

7 Petitioner is correct that DEQ did not approve the project
8 as to noise levels. The county explains away this omission as
9 follows:

10 "(7) The County finds that the testimony regarding
11 noise vis-a-vis DEQ standards is in conflict.
12 The County finds that the noise impact of the use
13 can comply with the cited DEQ standards regarding
14 noise, based on the data in Vol. I of the
15 Feasibility Report, pp. 5-74, through 5-85. Mr.
16 Richard's testimony in opposition did not
17 demonstrate DEQ noise standards cannot be met;
18 CH2M/Hill staff adequately responded concerning
19 the basis of their methods and conclusions to
20 rebut Mr. Richards.

21 "(8) The County finds, in addition, that even though
22 the DEQ preliminary approval did not expressly
23 address noise, DEQ must, nevertheless, grant a
24 permit before the landfill can operate.
25 Therefore, compliance with State noise standards
26 will be again addressed in that forum and that
27 process will adequately achieve the purpose of
28 Policy 13. To deny this application solely
29 because DEQ did not or would not comment on noise
30 would 'put formality before substance,' since DEQ
31 must review the noise issue in advance of DEQ
32 permit issuance. Also, DEQ testified that the
33 preliminary review is largely a courtesy to local
34 governments and is not a function required by
35 law. If DEQ fails to comment on an issue in a
36 preliminary review, that should not be held
37 against the applicant as long as DEQ must approve
38 the plan at a later time anyway."

39 The county does not explain why DEQ would make no comment

1 engineering." Brief of Respondent Metro at 38.

2 The county found the use to comply with policy 14 because
3 the design and construction proposed can mitigate harm
4 resulting from development of the site. The county
5 specifically found that the facility has been shown to be safe
6 and feasible from an engineering and geologic standpoint. See
7 record, p. 122. We believe this finding is all that is
8 required now under policy 14. The policy simply requires the
9 county to do what it has done: to determine the feasibility of
10 the project based upon adequate geologic evidence and to ensure
11 that the potential dangers may be mitigated. We do not believe
12 the policy prohibits development that may result in a hazard,
13 and we do not believe the county has approved this development
14 in violation of policy 14.¹⁰

15 E. Plan Policy 16.

16 Comprehensive Plan Policy 16 says:

17 "The county's policy is to protect natural resource
18 areas and to require a finding prior to approval of a
19 legislative or quasi-judicial action that the long-
range availability and use of the following will not
be limited or impaired:

20 "A. mineral and aggregate resources;

21 "B. energy resource areas;

22 "C. domestic water supply water shed;

23 "D. fish habitat areas;

24 "E. wildlife habitat areas; and

25 "F. ecological and scientifically significant natural
26 areas."

1 record, p. 122-125. The county's approval rests in large part
2 on the condition of the Wildwood Site many years from now after
3 the closure of the landfill. The policy speaks of long term
4 protection of the listed resources, but the county does not
5 find there will be no long term impairment in all cases. Under
6 "fish habitat areas," the county states there will be loss of
7 habitat. The county does not say it will eventually be
8 restored, but only that "a portion of this [Class I stream
9 areas] could be regained for the future." Record, p. 124.
10 Further, the county explains that wildlife habitat will be
11 reduced forcing some species out of the site and some "will not
12 be able to relocate." Record, p. 124.

13 These findings do not show compliance with policy that
14 demands no impairment. The policy may indeed be unnecessarily
15 strict when applied to needed community service uses, but the
16 policy nonetheless exists and is part of the approval
17 criteria. Roseta v County of Washington, 254 Or 161, 458 P2d
18 405 (1969). The county might wish to consider amending the
19 policy or exempting certain community service uses from it.¹²

20 F. Plan Policy No. 31

21 Comprehensive Plan Policy 31 states that it is the policy
22 of the county to provide for location of community facilities
23 in such a way that accords with applicable plan policies, and
24 "locational criteria applicable to the scale and standards of
25 the use."

26 We understand petitioner to argue that this policy refers

FOOTNOTES

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MCC 11.15.7015 states:

4 "In approving a Community Service use, the approval
5 authority shall find that the proposal:

6 "(A) Is consistent with the character of the area;

7 "(B) Will not adversely affect natural resources;

8 "(C) Will not conflict with farm or forest uses in the
9 area;

10 "(D) Will not require public services other than those
existing or programmed for the area;

11 "(E) Will be located outside a big game winter habitat
12 area as defined by the Oregon Department Fish and
Wildlife or that agency has certified that the
13 impacts will be acceptable;

14 "(F) Will not create hazardous conditions; and

15 "(G) Will satisfy the applicable policies of the
Comprehensive Plan."

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"The Board considers a strict interpretation to be
18 inappropriate in this case. This proposal involves a
regional landfill sponsored by a regional governmental
19 agency. The Board's review of the proposal is guided
by provisions of the Comprehensive Plan which
20 expressly acknowledge Metro's authority and
responsibility related to the subject matter of this
21 case. There is persuasive evidence in the plan that
the County's intention is to give substantial weight
22 to site selection decisions made by Metro. Strict or
literal interpretation of the very general CS approval
23 criteria would make this virtually impossible."
Record, p. 86.

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25 3

For example, "Major Regional Facilities" include:

1 "(1) The land intended for development has
2 an average site topography of less than
3 a 10% grade, or it can be demonstrated
4 that through engineering techniques,
5 all limitations to development and the
6 provision of services can be mitigated.

7 "(2) The site is of a size which can
8 accommodate the present and future uses
9 and is of a shape which allows for a
10 site layout in a manner which maximizes
11 user convenience and energy
12 conservation.

13 "(3) The unique natural features, if any,
14 can be incorporated into the design of
15 the facilities or arrangement of land
16 uses."

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We treat this subassignment of error only as an announcement of the applicable standards, not as a holding that the county has committed some sort of remandable or reversible error.

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"(E) In granting approval of a Community Service Use, the Hearings Officer may attach limitations or conditions to the development, operation or maintenance of such use including but not limited to setbacks, screening and landscaping, off-street parking and loading, access, performance bonds, noise or illumination controls, structure height and location limits, construction standards, periods of operation and expiration dates of approval." MCC 11.15.7015(E).

6

We are uncertain as to why the county did not enact more liberal standards for siting such uses. From the briefs, it appears the county recognizes the severe problems in locating unpopular and yet necessary uses. It would appear special criteria emphasizing mitigation instead of consistency would be in order.

7

In other words, commercial timber production equates with a need for Class II soils.

- 1 "(j) Plantings on residential properties to obscure
 views from residential areas.
- 2
- 3 "(k) Stream diversion channels to maintain habitat and
 restrict surface water from entering the landfill
4 area.
- 5 "(l) Sedimentation control measures to assure surface
 water quality.
- 6 "(m) Fire prevention and suppression measures to
7 protect the facility and surrounding forest and
 residential areas.
- 8 "(n) Daily cover of waste material to eliminate odor
9 and reduce vector and bird attraction. Bird
 dispersion measures, if appropriate.
- 10 "(o) Improvements to Highway 30 to eliminate traffic
 hazards at landfill access point.
- 11
- 12 "(p) Provision of potable water, if needed.
- 13 "(q) Retention of timbered areas not needed for
 landfilling.
- 14 "(r) Dust control measures to prevent air quality
 deterioration.
- 15
- 16 "(s) Continuous monitoring of groundwater and
 environmental impacts, and continuous enforcement
 of conditions by the County and DEQ.
- 17
- 18 "(t) Other measures proposed by the applicant to
 mitigate off-site impacts resulting from the
 landfill."
- 19

20 12

21 We have the same comment about MCC 11.15.7005, et
22 seq. See footnote 6, supra.

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