



# ZONING EXAMPLE INPUT CHRONOLOGY: [GABLE FARM STOCKPILING, HAMILTON, VA](#)

The following provides a chronology of key events related to this issue or location, with the purpose of identifying key problems (e.g., uses, permits, policies, procedures, enforcement, etc.) to improve.

KEY EVENT/ACTIVITY/ISSUE (e.g., application, permit, construction, violation notice, etc.)	BRIEF DESCRIPTION OF PROBLEMS/IMPACTS
<p><b>Background Information.</b></p> <p><b>4.28.2015.</b> The Gable Farm “Personal Recreational Field” Site Plan is submitted to County showing a design for a polo field. There is no formal record of a pre-application meeting. Site plan states the use as: “Rural Recreation Establishment, Outdoor.” (In final site plan, the polo field is removed from the plan and the “use” is changed.)</p> <p><b>6.11.2015.</b></p> <p>County comments prior to REST-2015-0003, approval based on first site plan. Memorandum to Bo Liu, Building and Development Project Manager for REST-2015-0003, from Brian Fish, planner, Zoning Administration and Mark Stultz, Acting Zoning Administrator: “The Project Information table on Sheet C-01 needs to be revised to state that the proposed use is a personal recreation field that will not be open to the public or used for any commercial purposes. Delete the reference to a <i>Rural Recreation Establishment, Outdoor.</i>” Why was the polo use removed?</p>	<p><b>ISSUE: <a href="#"><u>CHANGE IN USE / TERMINOLOGY &amp;/OR DEFINITION FLAWS</u></a></b></p> <p>How can a rural economy plan be approved by the county for a use that is not defined?</p> <p><b>RECOMMENDATION:</b></p> <p>The term used to describe this project is “<u>personal recreation field</u>” and was suggested by the county, but it is not defined in county regulations or listed as a use in county regulations. Only defined uses should be approved by the county.</p>
<p><b>ISSUE: COUNTY REGULATIONS LACK DEFINITIONS.</b></p> <p>Related to above: Additionally, there are no definitions for ‘excessive fill’, “fill”, “dirt”, “construction debris” and “commercial”.</p>	<p><b>ISSUE: COUNTY REGULATIONS LACK DEFINITIONS.</b></p> <p><b>RECOMMENDATION:</b></p> <p>Regulations should define “excessive fill”, “fill”, “dirt”, “construction debris” and “commercial” in the county ordinance.</p>
<p><b>Background Information.</b></p> <p><b>10.15.2015.</b> Loudoun County approves Rural Economy Plan (Rest-2015-0003) for 4 parcels (zoned AR-1). Plan is for an 18-acre “Personal Recreational Field”. Use is by right. No notices to neighbors are required. No public hearings are required. No screening of the site is required. No monitoring of water quality is required.</p> <ul style="list-style-type: none"><li>• The County refers to the waste in the “personal recreational field” as “excessive fill”.</li><li>• In 2010, a policy was established to help regulate “excessive fill”. As a result of this policy, “the Zoning Administrator and the Director of Department of Building and Development established a</li></ul>	<p><b>ISSUE: LACK OF REGULATORY/PERFORMANCE STANDARDS</b></p> <p>There is no evidence of regulatory standards applied by the county to the rest-2015-0003 project. Determination by staff was subjective and arbitrary.</p> <p>Review of “personal recreation field” resulted in less stringent standards than a “dirt stockpile.”</p>

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<p><i>policy that any use that proposed to import in excess of 50,000 cubic yards of fill to a site would be subject to more <b>stringent review</b> to determine whether “stockpiling of dirt” was occurring, which is only allowed with the approval of a special exception application in the AR-1, AR-2, and TR-10 zoning districts, subject to the additional requirements of Section 5-657 of the Zoning Ordinance.</i></p> <ul style="list-style-type: none"><li>• With respect to this policy, how did the staff determine that it was technically necessary to have the “personal recreational field” rise more than 30 feet at the top of the Watershed over 18 acres and consist of more than 220,000 cubic yards of waste and be constructed without public notice or public hearings? Where is documentation of a “stringent review” for the Gable Farm Landfill? What is the criterion for regulation of excessive fill?</li><li>• On January 19, 2017, the policy changed. The new policy shifted the responsibility of review from staff to the Zoning Administrator for a determination as to whether or not the amount of fill proposed to be imported is necessary and appropriate to meet the “<i>technical requirements for the proposed development activity or use, or is deemed to be “stockpiling of dirt”</i>”. The new policy gives no consideration to the previously 50,000 cubic yards of fill as a determining factor for ‘stockpiling’. (See results of vote on Action item #14c, January 19, 2017 BOS Business Meeting. )</li><li>• A “<b>dirt stockpile</b>” having exactly the same physical characteristics as the “personal recreational field” would not be permissible on this site without a special exception. Dirt stockpiles are regulated by the County. For example, dirt stockpiles having an area greater than <b>2 acres</b> are prohibited in AR districts by Loudoun County zoning ordinance, Section 5-657 A1b. (The Gable “personal recreational field” or landfill is 18 acres.)</li><li>• If the “personal recreational field” was called a “dirt stockpile”, the zoning ordinance (5-657 A1c) would require that it not be visible above the existing tree line as viewed from any property line. Additionally, landscaping and screening would be required in accordance with Section 5-650. Noise created by the activity at the stockpile of dirt would comply with Section 5-649 (B).</li><li>• If the “personal recreational field” was called a “dirt stockpile” the waste could only be “comprised of uncontaminated dirt and natural occurring rock”. Because no manifests are required by the County for “personal recreational fields”, contamination cannot be determined. If the field was called a “landfill” even more stringent restrictions would apply.</li></ul>	

KEY EVENT/ACTIVITY/ISSUE (e.g., application, permit, construction, violation notice, etc.)	BRIEF DESCRIPTION OF PROBLEMS/IMPACTS
<b>ISSUE:</b> The fundamental problem with “excessive fill,” as described in the BOS action plan for the new (2017) and old (2010) excessive fill policies, is that there are no objective standards regulating “technically necessary” excessive fill, unlike the standards for dirt stockpiles. There is no evidence of a “stringent review.” Therefore, determination by staff is subjective.	<b>RECOMMENDATION: STANDARDS FOR “DIRT STOCKPILE” SHOULD APPLY TO A “PERSONAL RECREATIONAL FIELD”.</b> <ul style="list-style-type: none"><li>• Current regulations and policies regarding “excessive fill” will not prevent future activities of this kind and should be significantly revised to achieve that end.</li><li>• The revisions should provide for public notice, public hearings, clearly defined physical standards that are not subjective, manifesting of waste, and careful monitoring and regulation</li></ul>
<b>ISSUE: INFORMATION ON PLAN SHEETS IS NOT BINDING/DEFINITION OF COMMERCIAL</b>  <b>Background Information.</b> Plan Sheets for REST-2015-0003 provide information and describe the use: “Personal Recreational Field (not open to the public or used for any commercial purposes.)”  Although plan sheets state it is “not open to the public or used for commercial purposes”, the process of creating the “personal recreational field” is a highly commercial and lucrative business. It is estimated that over a three-year period, 28,000 truckloads of waste (420,000 cubic yards) have been dumped and that this dumping has generated potentially millions of dollars.  In an email dated March 30, 2017 to Henry Harris, Gary Clare, Chief of Engineering Division, states ‘plans often have notes not specifically aimed at the County reviewers but rather contractors and subcontractors completing the project.” (It appears that anything can be described on a plan sheet and be ignored.)  However, when a violation was issued to Gable Farm limited partnership on 1/30/2018, it included this description taken from the plan sheets: <i>“The property’s approved REST-2015-0003 states that the use of the property shall be for a ‘personal recreational field’ (not open to the public or used for any commercial purposes”. The bulk sale of topsoil and asphalt millings is considered to be a commercial use and violates the property’s approved REST-2015-0003.”</i>  What is the County’s definition of “commercial”? How would the Commissioner of Revenue define “commercial”?	<b>ISSUE: INFORMATION ON PLAN SHEETS IS NOT BINDING/DEFINITION OF COMMERCIAL</b>  <b>RECOMMENDATIONS:</b> <ul style="list-style-type: none"><li>• Plan sheet descriptions for “use” should be binding.</li><li>• The county should define “commercial” and reevaluate its definition for “commercial use”.</li></ul>

<p><b>ISSUE: Criteria for notification to neighbors appears to be inconsistent for uses in county regulations.</b></p> <p><b>Background information.</b> For example, neighbors to home day-care centers receive County notices. However, an 18-acre “personal recreational field” that rises more than 30 feet and dominates a quarter-mile-long boundary with neighboring land, does not.</p> <p>The “personal recreational field” has an egregiously intrusive presence, magnified by the additional height of the unapproved layers of waste. It has destroyed the neighboring view shed and has potentially negative impacts on the watershed, water quality, environment and property values.</p> <p>Neighbors have the right to peace and tranquility on their property. Why did neighbors to the 18 acre “personal recreational field” not receive County notices?</p>	<p><b>ISSUE: PROPER NOTICE TO ADJACENT PROPERTIES</b> Criteria for notification to neighbors appears to be inconsistent for uses in county regulations.</p> <p><b>RECOMMENDATION:</b></p> <ul style="list-style-type: none"><li>• <b>Because this was a by-right use, no public notice or public participation was required.</b></li><li>• <b>Owners of a “personal recreational field” or rural by-right dumps should be required to give notice to their neighbors and local jurisdictions.</b></li></ul>
<p><b>ISSUE: LACK OF REGULATORY TOOLS.</b></p> <p><b>Background Information.</b> <b>3.3.2017.</b> Henry Harris, Managing Partner for Cattail, LC, observes liquid dumping of waste, photographs the dumping and reports to Loudoun County in an email to Mr. Caminiti. Harris requests that the County “require the operator to identify the origin, nature, and volume of the liquid waste; to provide chemical analyses of it; and to report the number, dates, origins, nature and volumes of any other such discharges during the lifetime of the landfill.”</p> <p>Mathew Zabick, Easement Stewardship Coordinator with the Nature Conservancy, informs Harris and the County that manifests (reports of content and origin) should be required of all truck operators.</p> <p>The County declines to test soil after liquid dumping and does not respond to need for manifests. County enforcement of this complaint is only a discussion with the site’s manager. Photographs of the dumping clearly show a disposal operation. The County declines request to stop work and test, but later asks them to stop. The County does not respond to the need for manifests.</p>	<p><b>ISSUE: LACK OF REGULATORY TOOLS / ENFORCEMENT LIMITATIONS</b></p> <p><b>RECOMMENDATION:</b></p> <ul style="list-style-type: none"><li>• <b>County approved the landfill but currently lacks regulatory tools to properly monitor the landfill to protect the public.</b></li><li>• <b>County regulations need to incorporate new tools (manifests, testing of soil, etc.) to properly monitor “personal recreational fields/rural dumps.</b></li></ul>