

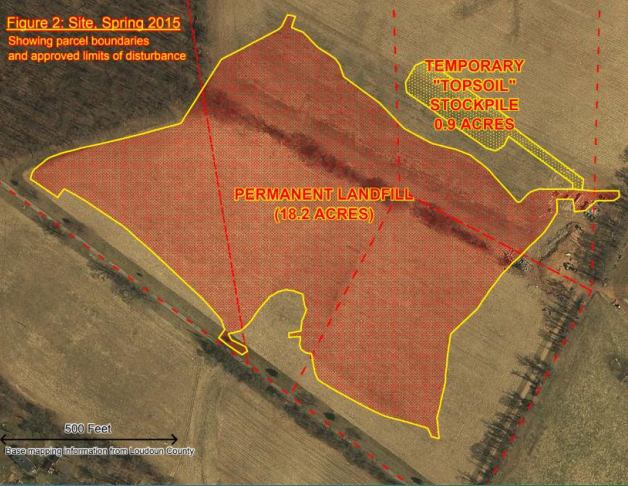


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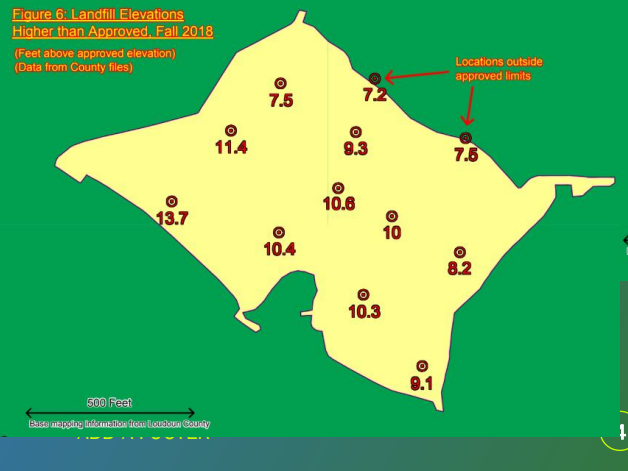
Gable Farm - Landfill



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Gable Farm - Landfill



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Revised 1993- ZONING ORDINANCE Review



§5-657 STOCKPILING OF DIRT

A.1.(b) Pile Area. A single stockpile of direct shall not exceed an area greater than two (2) acres.

(c) Height. . . . Shall not exceed 25 feet above original natural grade. . . . Additionally, no stockpile shall be visible above the existing tree line as viewed from any property line.

(d) . . . Shall not exceed a 3:1 ratio.

2. Siting. No stockpile of direct is permitted in the Mountainside Overlay District.

3.b. No stockpile of direct shall be located within 100 feet of any lot line.

C. Materials. Stockpiles of direct may be comprised only of uncontaminated dirt and naturally occurring rock.

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Revised 1993- ZONING ORDINANCE Review



§5-657 STOCKPILING OF DIRT

Compliance with other Ordinances.

Nothing herein shall relieve the stockpile of dirt activity from complying with other Federal, State or County Codes.


Where there is a conflict in the applicable ordinances, the more restrictive shall apply.

A Zoning Permit is required prior to the commencement of the Stockpiling of Dirt.

In addition, prior to commencing any stockpile of dirt activity, a preliminary soil report shall be provided to the County Soil Scientist in accordance with Chapter 6 of the Facilities Standards Manual.

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ZONING COMMITTEE INPUT: INCIDENT CHRONOLOGY

LOCATION: Gable Farm, Hamilton, VA

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

DATE	KEY EVENT (e.g., application, permit, construction, violation notice, etc.)	BRIEF DESCRIPTION OF PROBLEMS/IMPACTS
6/11/2015	<p>COUNTY COMMENTS PRIOR TO REST-2015-0003 APPROVAL. 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 reviewed 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>"</p>	<p>"PERSONAL RECREATION FIELD" IS NOT DEFINED IN COUNTY REGULATIONS.</p>
10/15/2015	<p>REST-2015-0003 PLAN IS APPROVED. 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 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>	<p>APPROVAL OF THE PLAN EXPOSES A DEEP, SERIOUS FLAW IN THE COUNTY'S APPROACH TO REGULATION OF "EXCESSIVE FILL". THE PLAN SHOULD NOT HAVE BEEN APPROVED IN THE FIRST PLACE FOR THE FOLLOWING REASONS:</p> <p>SUBJECTIVE DETERMINATION. The County refers to the waste in the "personal recreational field" as "excessive fill" that is acceptable if it meets the "technical requirements for the project", as determined by the Zoning Administrator. Building and Development relied solely on the Zoning Administrator's understanding and interpretation of the Zoning Ordinance.</p> <p>How did the Zoning Administrator 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 220,000-420,000 cubic yards of waste and be constructed without public notice or public hearings?</p>

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LCPCC Zoning Committee

WORK with Coalition Members & Citizens to

INFORM & Update members on Case Study and other findings,

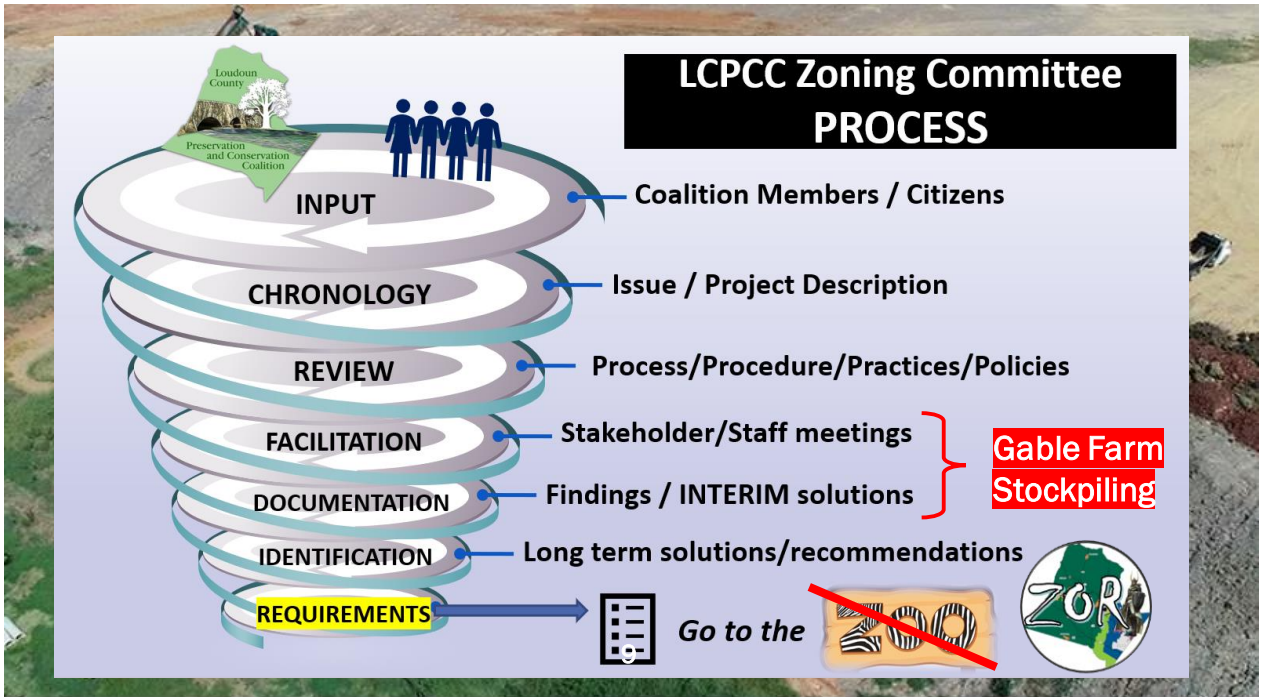
IDENTIFY common issues through case study and application consolidation,

FACILITATE stakeholder meetings and issues review with County/State Staff, and

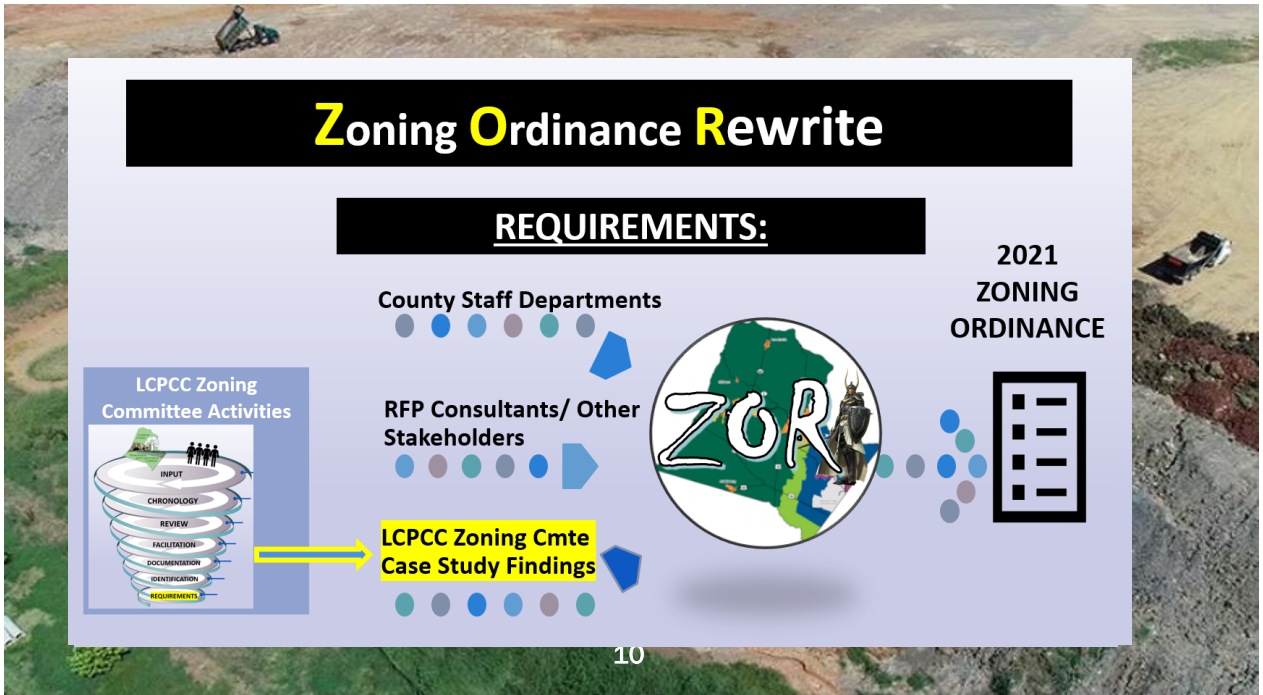
DOCUMENT findings & recommendations – primary input for 2021 Zoning Overhaul.

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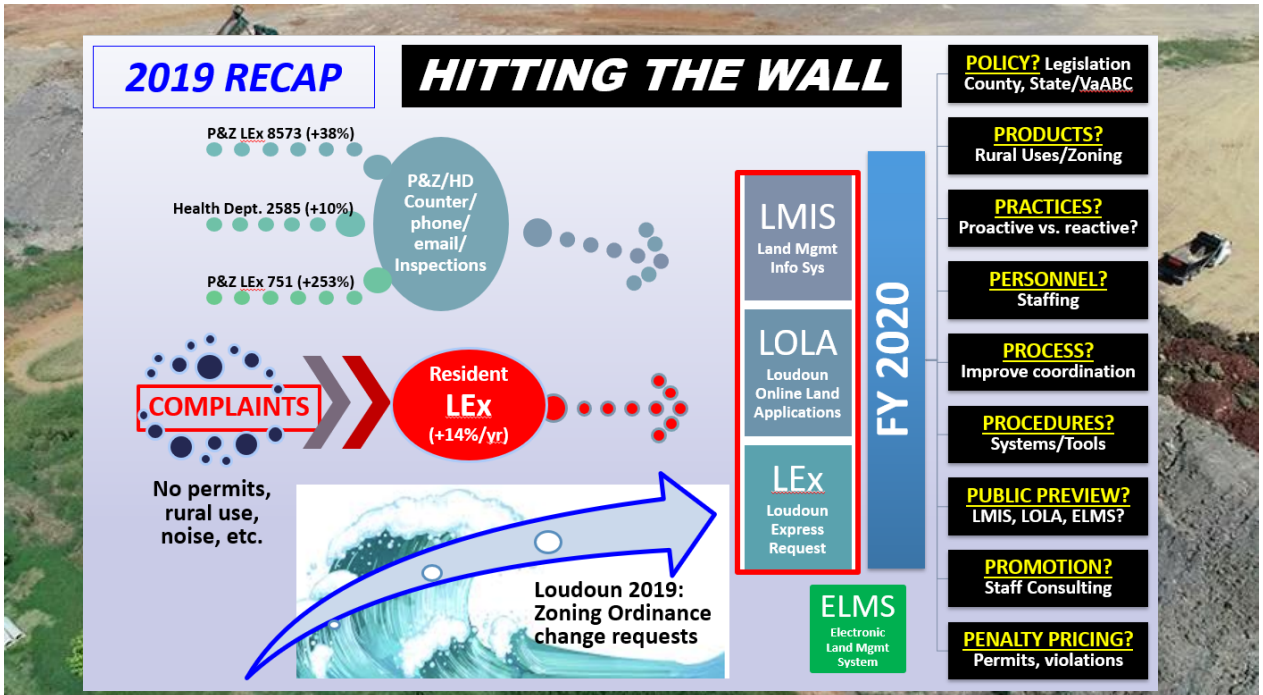


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Gable Farm Stockpiling

AGENDA & GOALS

February, May, & July Meetings

- 💬 **COMMUNICATE** questions/concerns to County Staff in a timely, coordinated manner
- 🔍 **IDENTIFY** conflicts with 2019 Comprehensive Plan policies and/or current Zoning Ordinances and standards.
- 🗨️ **DISCUSS** process/procedures to ensure compliance/PREVENTION
- 🎯 **DETERMINE** next steps to reach resolution and long-term requirements

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Stockpiling: Resolution & Prevention	
POLICY? Legislation County, State/VaABC	2019 Comp Plan motion / Ch.3 Strategy 1.1 C Language change Notice of Violation "take off Plan" input
PRODUCTS? Rural Uses/Zoning	P&Z: Added grading plan/permitting requirements clarification for new businesses (grading permit req'd for ANY dirt movement)
PRACTICES? Proactive vs. reactive?	Commissioner of Revenue: Requests Notices of Violations (before ELMIS) to confirm commercial revenue reporting
PERSONNEL? Staffing	Staff to investigate attendance at regional meetings on stockpiling
PROCESS? Improve coordination	New B&D Standard Operating Procedures drafted, with improved referral deadlines/internal review
PROCEDURES? Systems/Tools	E&S Application: Added form field (Qty of fill) . Language added stating all importation of fill soil > 5 trucks require plan review.
PUBLIC PREVIEW? LMIS, LOLA, ELMIS?	Identified B&E, E&S and COR requirements for ELMIS
PENALTY PRICING? Permits, violations	Discussion: COR commercial revenue roll-back tax enforcement may be more "effective" than Notice of Violation penalties.

**LCPCC/
STAFF
ACTIONS
Feb-July
2019**

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STATUS: July 25, 2019

1. LANDFILL STATUS
 - a. Take off Plan? Currently with County Atty office.
 - b. No additional fines issues
 - c. No sanctioned activity/no new disturbance
 - d. County filing lawsuit?
 - e. Measure to prevent further erosion/water run-off? Berm recommended
 2. INTERNAL B&D OPERATING PROCEDURES
 - a. Draft completed; in review
 3. APPLICATION FORM FIELD/SYSTEMS UPDATES
 - a. Application updated: "More than 5 loads of dirt" require review
 - b. Default is all applications reviewed/SPEX
- **FOR DISCUSSION AT NEXT MEETING:**
- a. **PROCEDURES: "Duty to report change of Zoning Use w/in 60 days."**
 - b. **How other jurisdictions are addressing landfills/illegal stockpiling?**

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NOVEMBER, 2019: I. STATUS OF LANDFILL

Restitution & Mitigation

- a. STATUS OF TAKE OFF PLAN?
- b. LAWSUIT: Has a lawsuit been filed? What is the Schedule?
- c. NEW FINES: Have new fines issued? What is the process and status?

COUNTY WEBSITE: Next Steps

As of May 20, 2019, an acceptable plan has not been submitted. **County officials expect to receive an update from the property owner in May or June 2019.** Upon receipt of the "Take Off Plan," county zoning staff will determine whether the plan adequately addresses the requirements necessary to bring the site into compliance with the approved site plan.

If the **"Take Off Plan"** adequately addresses the requirements necessary to bring the site into compliance with the approved site plan, the county will meet with the property owner to update all permit and plan applications to begin the work.

Failure to submit a "Take Off Plan" or failure to conform with permit approvals will result in additional actions including potential legal action.



NOVEMBER, 2019: I. STATUS OF LANDFILL

Restitution & Mitigation

- a. **EROSION:** What measures are being taken to prevent further erosion of landfill and surface water run-off?
Has a berm been created to prevent erosion on Gable Farm Lane?
i. (Note: It is no longer safe to drive on Gable Farm lane. Erosion of the lane has forced Harris to install a new driveway.)
- b. **WELL MONITORING:** Need for ONGOING monitoring of Wells in and around landfill, and north of landfill (Scott Jenkins Park) for protection of the public?
i. Who/what entity has responsibility for ongoing well monitoring for Private & Public wells?

Restitution Comparison:

Goodman, Genn & Lutz Equestrian Farm Settlement: October, 2019

B&D/E&S/Zoning:

- Has curative work outlined in the settlement agreement reached on Oct. 11, 2019 between the County and Goodman et.al. been initiated?
(Note: Work is to commence no later than March, 2020, but first requires grading and VSMP permits.)
- Updates on process for curative work will be helpful while reviewing the SOPs and discussing Gable Farm restoration requirements.)

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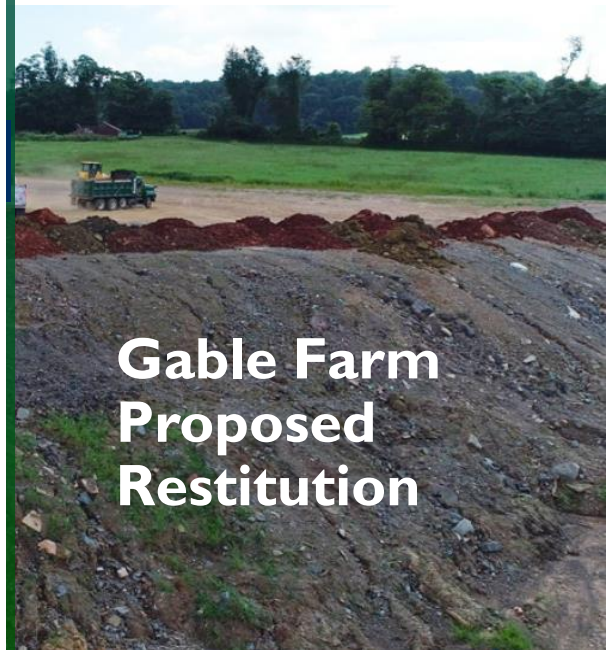
CURATIVE WORK

1. **Grading Plan** (water drainage/wetlands; max 3:1 grade; wildflower buffer; document no hazardous materials; no new offsite soil; no compensation; "pasture;" VSMP permit; Open Space Easement)
2. **Inspections by County**
3. **Monetary Payment** to Loudoun County E&S Control

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Proposed Conditions of a Special Exception Remedy:

1. Preparation of a new site plan incorporating only the waste that is currently present on the site (i.e., only that waste dumped before the County halted activities at the site). The plan should include, for example, revised elevations and limits for the landfill and a revised erosion and sediment control plan that accounts for the added waste.
2. Public notice and public review of the revised plans, notice to be delivered to neighbors and other interested parties.
3. Expedient completion of grading (and/or regrading) and other activities on the site, consistent with the revised plans.
4. Visual screening of the landfill with trees and other evergreen vegetation, subject to the approval and cooperation of neighboring landowners. (In some instances, this might require plantings on neighboring land.)
5. Provision, by the owner and operator, of a list documenting the contents and sources of waste in the landfill.
6. Certification, by both the owner and the operator of the landfill, that it does not contain any hazardous materials or other harmful substances.
7. Subject to the approval and cooperation of neighboring landowners:
 - 7.1. Installation of wells for monitoring groundwater quality on neighboring land.
 - 7.2. Regular monitoring (sampling and analysis by an independent contractor) of surface water and groundwater quality on neighboring land, at a reasonable frequency and for a reasonable length of time.
8. Imposition of permanent restrictions on future uses of the site, consistent with the restrictions specified in the original plan for a "personal recreational field". (See Attachment 2. Restrictions might take the form of permanent deed restrictions). At a minimum, the restrictions should include:
 - 8.1. Prohibition of commercial uses.
 - 8.2. Prohibition of public uses.
 - 8.3. Prohibition of parking lots.
 - 8.4. Prohibition of structures with maximum heights exceeding thirty-five feet, calculated as follows: the height of the structure itself plus the added thickness of any underlying waste.



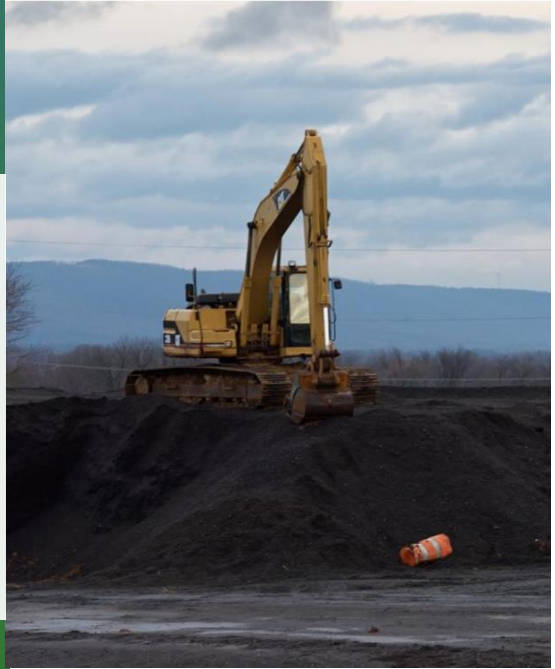
Gable Farm Proposed Restitution

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2. STATUS OF B&D STANDARD OPERATING PROCEDURES PREVENTION

- a. July Status:
 - i. Draft completed May, 2019 (J. Brown).
 - ii. In internal staff review
 - iii. Review Status?
- b. November:
 - i. Can/Will SOP be shared with Harris and LCPC for review?
 - ii. Friendly FOIA required?

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3. STATUS OF E&S ACTIONS

- 3. APPLICATION FORM FIELD/SYSTEMS UPDATES
 - a. Application updated: "Total Amount of Disturbed Land" (p. 3)
 - b. Checklist – Revised 6/17/2019: "More than 5 loads of dirt" require review (p. 12)
- **Importation of Fill (Soils)** – If the project purposes more than five dump truck loads of fill dirt an engineered plan must be submitted depicting the existing contours and final contours. The Erosion and Sediment narrative must describe the reason/use for the placement of fill material and the total cubic yards. Loudoun County Zoning Department will need to review and approve the plan before the Erosion and Sediment Plan Approval Letter is sent out or Grading Permit can be issued.
- c. "Default is all applications reviewed/SPEX" **UNABLE TO LOCATE REFERENCE ON FORMS**
- d. Have any other forms or systems fields (e.g., LMIS) been updated?
 - a. If not, have requirements already been relayed to LMIS replacement (InterGov)?

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Grading Permit No. _____ (Assigned by County Staff)

Loudoun County, Virginia
 Department of Building and Development
 1 Harrison Street, S.E., P.O. Box 7000, Leesburg, VA 20177-7000
 Building & Development: 703-777-0220 • Fax: 703-757-8993

APPLICATION FOR GRADING PERMIT

Date: _____ CP&S/STL No: _____ Property ID (P#) No: _____

PROJECT NAME (NAME MUST APPEAR PRECISELY AS WRITTEN ON THE PLANS)

Name of Owner: _____
 Owner Street Address: _____
 Owner City, State, Zip: _____
 Owner Telephone No: _____
 Email Address: _____

Please Print in this field if you are acting on behalf of the owner. If you are not the legal owner, then you must have a Power of Attorney to sign and under backup on the owner's behalf. If the owner is a company and you are an employee of that company, you must show your ability to sign on behalf of that company such as: John Q. Public, Managing Director of Green Construction LLC.

Name of Applicant: _____
 Applicant Street Address: _____
 Applicant City, State, Zip Code: _____
 Applicant Telephone No: _____
 Applicant Business Name: _____ Title: _____
 Power of Attorney Attached: YES NO

Contractor/Builder: _____
 Street Address: _____
 City, State, Zip Code: _____
 Telephone No: _____
 Loudoun County Business License: _____

Architect/Engineer: _____
 Street Address: _____
 City, State, Zip Code: _____
 Telephone No: _____

Responsible Land Disturber Certification: Civil _____ Director _____
 Name: _____
 Certification No: _____ Expiration Date: _____
If you are grandfathered in as an individual holding a valid Virginia Professional Engineer, Land Surveyor, Landscape Architect or hold an Architect's License, please fill out below.
 Name: _____ License No: _____ Expiration Date: _____

I, _____ hereby request a grading permit for _____ lots or _____ acres,
 located _____ miles (north), (south), (east), (west) of the intersection of State # _____ and _____
 _____ (north), (south), (east), (west) of the intersection of State # _____ and _____
 TOTAL AREA OF DISTURBED LAND FOR THIS PROJECT IS: _____ ACRES.

Type of project: Commercial Residential _____ Purpose of Project: _____

A FEE CONSTRUCTION PERMITS DIVISION IS REQUIRED PRIOR TO ANY DISTURBING ACTIVITY. A PRELIMINARY ZONING CLEARANCE IS PRE-REQUISITE FOR A GRADING PERMIT APPLICATION. A FINAL GRADING PERMIT IS REQUIRED PRIOR TO ANY CONSTRUCTION PERMITS OR PROOF OF PERMIT APPLICATION FOR THE PROJECT. COMPLIANCE WITH ENVIRONMENTAL QUALITY WILL BE REQUIRED PRIOR TO THE ISSUANCE OF A GRADING PERMIT. Revised May 1, 2015.

Environmental Quality

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4. STATUS OF COMMISSIONER OF REVENUE INVESTIGATION

- a. Is the COR investigation complete?
- b. **Change of Use PROCEDURES: "Duty to report change of Zoning Use w/in 60 days."**
 - i. What communication improvements have been proposed or implemented since July?
 - ii. (e.g., shared notices of violations, change of use notices. etc. among the offices of DPZ, B&D, and Commissioner of Revenue?)

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5. RECOMMENDATIONS: OTHER COUNTIES/GROUPS

- a. Piedmont Environmental Council 9/15/2019 article: Emphasizes stockpiling is a state issue; lawmakers need to pass legislation to close loopholes.
- b. What are other jurisdictions doing to resolve this problem?
- c. REDC and ZOAG recommendations?
- d. Input process for the "ZOR?"

Link to article: <https://www.pecva.org/maps-and-resources/publications/piedmont-view/269-fall-2019-piedmont-view/1468-a-dirty-secret-how-construction-waste-is-making-its-way-onto-rural-lands>

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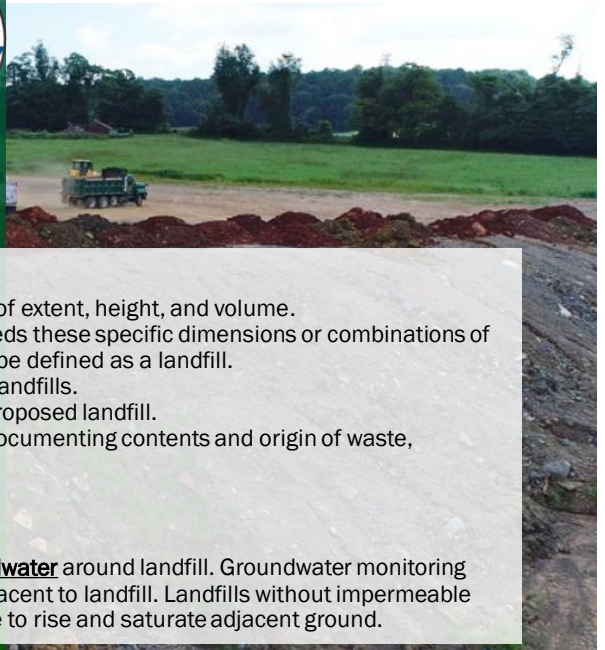


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STOCKPILING REQUIREMENTS



How to discuss/relay to ZOR Team for PREVENTION?



Proposed Minimum Conditions:

1. Establish a **definition of 'landfill,'** including specific limits of extent, height, and volume.
 - a. Any deposit of off-site waste materials that (a) exceeds these specific dimensions or combinations of dimensions and/or (b) charges for dumping should be defined as a landfill.
2. Apply the current requirements for "dirt stockpiles" to all landfills.
3. Require **notice to neighbors and public hearings** for any proposed landfill.
4. Require the operator of the landfill to provide **manifests** documenting contents and origin of waste, manifests to be signed by operator and hauler.
5. **Prohibit the dumping of any liquids or organic materials.**
6. Require publication of a **fee schedule** for dumping.
7. Require **visual screening** of the landfill.
8. Require **monitoring of quality of surface water and groundwater** around landfill. Groundwater monitoring should include measurements of depth to water table adjacent to landfill. Landfills without impermeable caps or subsurface drains can cause adjacent water table to rise and saturate adjacent ground.

Gable Farm/Stockpiling: NEXT STEPS

Report Review / Discussions	STATUS
B&D, E&S, P&Z Staff, Sup. Higgins	Completed Feb. 26, 2019
B&D, E&S, P&Z Staff, Zoning Enforcement	Completed May 9, 2019
Commissioner of Revenue	Completed July 22, 2019
B&D, E&S, P&Z Staff, Zoning Enforcement	Completed July 25, 2019
County Attorney, B&D, E&S, P&Z	November 14, 2019



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