

Emails Received from Interested External Parties Regarding Zoning Fill Regulations

** separation between individual comments

11 years ago, a friend I made in a new mother's group was senselessly killed as she was strapping her infant in a mini van around noon, directly outside her oldest's elementary school. I think of a family member that was tasked contacting the husband, and it took hours of trying. I went to school with her husband's family and can picture graphically that he heard an accident and was caring for the middle child, and came out to see her mangled leg in the middle of the road. It raises my heart rate and makes me have tremors when they nearly side swipe me turning far too wide. That the movement of dirt is prioritized over safely getting our children is morally repugnant.

The harsh reality of the future is that parents that were school shooting victims (VT2007 for example) have to sit in dreadful pickup lines due to bus shortages. I was off campus that day, but there will be community members that experienced a 7 hour building lockdown in which that last four hours were spent chained inside a building being massacred. The first classroom hit was also the last classroom hit so students that were injured suffered for three hours only to be shot again or see more classmates killed. I think about how dangerous it is to put dump trucks driving this road, causing a possible blockade in an emergency during school zone hours. That the county cared about speeding but nothing of a dump truck driver repeating a route ten times a day that teenagers drive to get to school. I have a lot of anxiety about the dump trucks because they impede an already potentially deadly massacre and drive aggressively or intentionally disruptive to all the extra drivers because the schools don't have enough busses. The dump trucks create a school shooting potential that is amplified by the lamb lane campus.

In short: every dump truck makes me feel unsafe. A Mangled leg when I'm in my home office and on the road I think about the Hokies slightly younger than me and how hard it must be to stave off a panic attack from CPTSD about your child in a school shooting, but a 40 minute stop and go wait to exit middle school is being further impeded by DIRT.

Dirt is being prioritized over safety and it makes me disgusted.

I have yet to feel/see/hear/follow a dump truck and not have at least a micro reaction of anxiety I have to fight off. It's exhausting and unsafe. Little kids and big kids need to cross the streets and they can't because a dump truck would not be able to stop in time. Pedestrians have the right of way if the road is 35mph or under in Virginia. They would not be able to stop in time. I am cut off from my neighborhood trails, my high functioning autistic kid can't ride a scooter or walk to the hiking trail safely. I would kindly remind you that kids missed out on a lot of recess and socializing in the Covid years and we should be prioritizing improving their quality of life instead of blocking essential roads by a dump trucks turning over and taking out the school bus ahead sign on advanced mill. Our students deserve a moratorium of dump truck travel on two-lane roads that are essential routes to school. The dump trucks are making Earlysville and especially the hydraulic road campus.

Most especially I resent having to revisit tragedies and expend more energy when nothing will change.

The dump trucks tell me that Albemarle county does not care one bit about kids.

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Thank you so much for chatting with us about these draft regulations. At our HOA meeting last week, there was quite a bit of anger about our current situation. Bart and Ann Mallek got an

earful. We certainly want to prevent what's happening going forward (I understand about grandfathering). Specifically, here are my comments:

—What are the provisions for monitoring fill activity and what, exactly, will be done about enforcement?

—What are the penalties for not being in compliance or violating any part of these regs? It has been frustrating that violations have simply prompted reminders to comply, rather than consequences for noncompliance.

—Specifically, please do NOT allow any special use permit to get around the following provisions:

—access must be from a public collector or artery road, **NOT** a neighborhood road such as Earlysville Drive

—10 “truck round trips” per day **MAXIMUM** —already plenty for one day

—**no more than** 30 days in a rolling calendar year that begins the first day of fill

Our experiences without these provisions—mandatory use of main road, max of 10 truck trips per day, and activity limited to 30 days per year rather than 300+ days per year—has been intolerable and well documented with Albemarle County through years of complaints to the County Zoning department, the County Attorney, the Board of Supervisors, state and federal elected representatives, and the police. Such a dangerous, unhealthy, and abusive situation cannot be allowed to happen again.

I'm pleased to see that these draft regs recognize what constitutes plenty of freedom for a fill operation to work, but not detrimentally affect the surrounding property or the ability to enjoy life—like step outside of one's home—in a neighborhood environment.

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We have reviewed the various documents and we have these comments:

In your draft ordinance Section 5.1.28 section 13 and 14 we approve of these changes/additions/clarifications and hope they will become part of the code:

- Maximum 10 round trips per day for 30 days

- hours Monday-Friday 7am-7pm we see that some localities require 7am-6pm and we prefer that.

- height of fill may not exceed 15 ft above the elevation existing prior to grading.

- maximum fill area on any parcel is 2 acres

- completion within one year-Does this include grooming and leveling the fill area? If the active dumping can only occur Mon-Fri for 30 days, then the management of the area is to be completed in the next 11 months?

- No fill activity may occur until VDOT has approved the entrance onto a public road. This is an important requirement, but we have contacted VDOT on several occasions and they have told us that they don't know anything about this provision. Can you clarify this for us?

-under special exceptions, **Use of a Private Roads**-thank you for adding this important class.**Does this mean that using a private road to access a dumping area will require a special exception?**

Please keep this language:

If a special exception is requested to allow direct access from the subject property to either a private road or of a lower functional classification, the applicant must provide the following justification:

b. Demonstrate how the proposed access will not negatively impact other properties served by the road. (this is very important and should be strengthened as in Fauquier County below)

c....applicant must demonstrate that the access is adequate for the proposed activity...

Note: Fauquier County requires "if access via private road,

the applicant must demonstrate legal access and that **it is adequate to accommodate the fully loaded vehicle used with sufficient width to allow passing traffic**; Note: this is an important addition. In our situation, Seven Hills Lane is a one lane road, 12-14 feet wide, and normal car traffic is unable to pass. When the large dump trucks are hauling dirt in, they take up the entire width of the road and we have two blind curves. We have feared for our lives during these dumping projects when met head on with a truck that has no concern for other property owners using the road.**I urge you to add the provision that there must be sufficient road width for passing traffic on private roads.**

-Is the existing soil dump (I emailed the photo to you earlier today) that Clayton brought in in September of 2020 considered Soil Stockpiling? If so, are there regulations for this? I see that other counties have regulations for soil stockpiling.

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I have the following comments:

Living through the nightmare of the Earlysville Forest dumping operation I have first hand knowledge how these fill operations can make residents' lives miserable. More consideration should be given in the regulations to limit operations for access to the dump in residential areas. The hours of operation should be limited to 08:00 to 17:00, Monday to Friday and no operations at all on public holidays. The operation should be tailored to the residents of the area through which the trucks are rolling and not simply to the construction site hours. If they want to transport fill outside those hours I am suggesting they should go to a dump that is accessed not through residential streets.

There needs to be a limit of truck movements through residential neighborhoods; for example the Earlysville Forest operation is a "fleet" limit of 10 trucks. Even trucking from Charlottesville, 10 miles away results in 100s of movements. A total limit of truckloads should be prescribed for residential areas.

Trucks should be washed when leaving the dump site, not just the construction site. What guarantees are there otherwise that the trucks are distributing unwanted materials from the dump site through residential neighborhoods where there are children and vulnerable and elderly people?

There needs to be some consideration on the ability of residential streets to handle 40 ton trucks. Earlysville Forest Drive and Carriage Hill Drive have been badly damaged by in excess

of 100 truck movements per day. Surfaces have been torn up and shoulders have failed allowing sideways movement of surface and subsoil into the ditches. VA DoT repairs have recently been carried out but two weeks later several of the repairs are failing. No matter what the County experts say these roads are not built to withstand the frequency of operations they are being subjected to. More specific wording needs to be included to avoid destroying residential neighborhoods.

The regulations need stronger wording for supervision including weekly inspections if not more. The impression gained in my neighborhood is that supervision barely exists and the County does not care about residents if the dump operations continue.

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PEC's comments:

Definition of inert waste fill / asphalt pavement: The issue of whether or not asphalt pavement leaches harmful chemicals under certain conditions should be addressed during the update process. It will be helpful to the public to understand what research or research-based information has been or will be relied on by the County.

Definition of inert waste fill / block: It may be helpful to utilize the terms *concrete masonry unit (CMU)* and *cinder blocks* versus the term block.

E.8.a: *Except within the Rural Areas district, no fill activity may occur within the drip line of any tree.* It would be helpful to understand the County's rationale for allowing filling within the drip lines of trees in the Rural Area. Filling over the critical root zone of trees can lead to tree mortality.

E.8.b: *Trees up to 36 inches may be cut, provided a plan required by subsection (b) is approved. However, no tree of 36 inches or greater in diameter may be cut or covered in fill.* It would be helpful to understand the County's rationale for establishing 36 inches in diameter as a threshold. Also, it may be helpful to reference the diameter of a tree measured at breast height (DBH) or some other metric to avoid uncertainty regarding how the diameter of a tree will be measured.

H.1.b.1): *the proposed fill activity would further agricultural use of the property;* It will be important to reference a defensible definition of "agricultural use" and "agriculture."

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Thank you for the opportunity to review and comment on the draft new Zoning Fill Regulations. I support many of the conditions, but have the following feedback based on my own experience.

- Sec. 4.3.1 Fill areas: the exception that has been imposed on our neighborhood was approved for five and a half years. For my children, that's 1/3 of their childhood. I see here that fill activity is only permitted as supportive or preparatory activity. We heard from Bart Svbeda and Ann Mallek that they are not monitoring how much dirt is currently being moved through our neighborhood against an identified total volume needed. I think it's reasonable that this kind of activity should only occur with an established end goal, be regularly monitored, and conclude once that goal is reached, regardless of time left on the exception or regulations.
- Sec. 5.1.28, subsection A, 3. a and b: this still permits the Board of Supervisors to extend beyond one year, and allow fill on a property that is not on a collector or arterial public road. How do any of these changes help us if those two points alone can lead us

right back to where we started? I encourage the county to strike these. Otherwise, wouldn't it be great if, for any special use permit/exception, each Board member voting in favor had to verify that:

- They would be fine with this activity happening in their own neighborhood/road.
- They had not been intimidated into voting “yes”. (In a recent meeting, Ann Mallek said she was intimidated into voting yes to the exception, to the point, as I understood it, of being worried about her grandchildren. Her action then passed the risk on to us. How is this okay?)
- Sec. 5.1.28, subsection D: there cannot be a permit or exception that does not limit truck traffic. If there *is* an exception, it means people are going to be affected in ways they could not anticipate. There has to be some kind of limit on trips per day (not trucks). The existing so-called limit on trucks per day means we can still see upwards of 160 passes of our house in a single day. That's one truck every 3.9 minutes.
- Sec. 5.1.28, subsection E, 13.: while I am very grateful that you have excluded Saturdays from the standard expectations (trucks are typically quite active on Saturdays here), the hours are too long. Our current 7:30am-6pm is long enough: it disrupts entire working days, school bus routes, commutes, and, heaven forbid, any chance for a brief period of quiet before the rush of dinner and bed-time. Also, federal holidays must be excluded. Trucks were active here on Memorial Day and Juneteenth. I expect we'll have to hear them on July 4.
- Sec. 5.1.28, subsection H, 1 a and b: what is in Section 5.1? I only see 5.1.28. Between this and subsection A, it appears the Board can still do whatever they want. A residential neighborhood, and everyone living along the roads between it and the sites that need to get rid of dirt, can still be sacrificed to their whims - or ability to be intimidated. Again, I encourage you to reconsider the ability to issue exemptions or special permits - these regulations exist for a reason.
- Sec. 5.1.28, subsection H, 1. b. 4.: the abutting owners must actually live there. The Board of Supervisors took Charles Hurt, a developer who doesn't live or work here, as the “abutting landowner consent” over the voices of over a dozen actual neighbors who are affected.
- Sec. 5.1.28, subsection H, 2.: please cut this entirely. Any property that wants access to fill should have proper access off of a public road that is collector or arterial. If it stays it must require support from multiple, actual people living at “other properties served by the road”. See above.
- Sec. 5.1.28, subsection H, 2. b.: again, this should not even be an option. That aside, this language is not nearly specific enough. The demonstration of lack of negative effect on other properties served by the road must include:
 - Full road inspection. VDOT must certify that the road in question was designed for the activity proposed.
 - Proof that the traffic will not produce levels of noise above standard traffic on said road.
 - Proof that the proposed exception will not interfere with existing county activities on the road. For months, ACPs refused to change our stop, even after we made sure they knew what was going on here. They had no problem with our

elementary-school children walking alongside 80,000 pound dump trucks full of construction dirt (often from ACPS sites) in a 35mph with no sidewalk to get to the bus stop. They have been strapped for drivers and were clearly desperate to not make any changes.

Things have meaning: people buy in a quiet neighborhood for quiet. Schools assume neighborhood roads are different from main roads and that kids can walk along them to a bus stop. Roads are built for different purposes and those that buckle and rupture and break are doing so because they're being put to a use they were never intended to serve. I had no idea that the Board would be so incapable of considering these basic realities. Anything that can be done to limit their ability to do what they've done in our neighborhood to others should be adopted.

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I live on the end of Earlsville Forest where I have documented as many as 161 dump trucks that will pass my house per day. I believe others have explained the history of how we have gotten to this place with the legal details that our local government officials have contorted to create this situation.

My purpose in writing to you is to underscore, in plain terms, the impact of this county government decision.

The stretch of this subdivision road from Quail Ridge Circle to Carriage Hill Drive now sees as many as 161, five and six axle truck passings, in a single day. This is allowed six days a week and holidays from early in the morning in till early in the evening.

We recently just enjoyed a Memorial Day holiday with trucks on both Saturday and Monday.

If there was an impact assessment done by the county in this process, it was lacking in so many ways that it should be embarrassing.

This quiet subdivision Street is now a place where children can't ride bikes safely, People cannot safely walk their dogs, run, walk as we have for the past 35+ years.

In addition to safety concerns of using the street, the homes along the stretch both both Hear and Feel the trucks daily.

We hear and feel it on our decks, in our living rooms, in the shower – everywhere.

It must be reiterated that this stretch of road has (had) one purpose, and that was to access homes. It was not a thruway to anywhere.

Today we all feel like an unwanted guest in our own neighborhood

This stretch of the road's Primary Purpose now is to serve landfill access.

I say that not only because of the number of trucks that we've seen per day, but the percentage of trucks versus normal neighborhood, traffic.

On one random day, June 11, 2025 - a light truck day, A total of 162 vehicles passed our home...61 were a mixture of cars, mail trucks, garbage trucks residents coming and going, etc. 101 of the 162 vehicles of the vehicles passing our house that day were the five and six axle dump trucks. Approximately 63% of total traffic in our neighborhood is now giant dump trucks. Six days a week.

I am positive on the days where we see higher numbers of trucks, that percentage is even higher.

Giant dump trucks revving to go uphill and breaking downhill all day.

It just cannot be overstated how offensive this is to the people who bought into a quiet subdivision neighborhood 30+ years ago or even three years ago to now be bombarded daily like this.

Besides the emotional toll of this, there is, of course, the property devaluation, road damage, which has been extensive and overall diminished quality of life .

How a local government can find it appropriate to take a quiet subdivision Street and turning it into construction waste landfill access road is beyond logic and comprehension.

And to use the word, one more time, it is also horribly offensive to those of us who live here.

Thank you for reading this far and considering this as a real impact assessment in helping you draft further future regulations.

I think a major issue that needs to be addressed by the Clean Earth Fill code is to differentiate one-time property improvement projects from commercial dump sites for Clean Earth material. We need to make sure that if someone wants to start a “dirt farm” to profit from receiving Clean Earth excavated from construction sites, we recognize it as a business that will be receiving dump trucks regularly and for a long time, and we regulate that accordingly. So, the code needs to come out and say something like this...

Any property owner or tenant who receives compensation for accepting Clean Earth Fill from entities that generate or transport such material is deemed to be operating a waste disposal business. Such activity is not agricultural in nature and therefore is prohibited on any Conservation Easement. Clean Earth Fill received for compensation must be placed only on properties with direct access to Arterial or Collector roads and transport of Clean Earth Fill to such property shall not pass through residential neighborhoods. The Board of Supervisors may not grant any exceptions to the Clean Earth Fill code where the material is received for compensation. Therefore, all such activities shall abide by all setbacks, height limits, cleanliness, safety, abutting property-owner approval, etc. as required in this Code.

I propose something like this because I acknowledge we need a reliable way to dispose of dirt excavated to build new things in this county. We have a lot of great roads to use for transport and if someone wants to run a business like this, they should be allowed to do so, provided it doesn't damage our roads or prevent the peaceful enjoyment of life inside our own homes and neighborhoods.

I'd also like to see a few more guidelines to prevent a situation like the one we're enduring in Earlsyville Forest. Here, a Clean Earth Fill project was presented to the board as something finite: to improve pasture land on a specific farm. But the exception that was granted had no finite definitions to it. An unlimited amount of fill is now being brought in and will continue for years with no regard to the damage it may cause. So, here are a few limitations for Special Exceptions to consider.

1. *No special exception may last for more than one year.*
2. *No special exception may authorize fill activity for more than 30 days in any rolling 1-year period.*
3. *No special exception may authorize more than 10 truck round trips to a fill site per*

- day.
4. *No special exception may authorize fill activity on a Saturday or Sunday.*
 5. *Where a special exception is needed due to the receiving property lacking direct access to an Arterial or Collector road, the following conditions must be met:*
 - a. *Any transport of Clean Earth Fill that crosses another property must be specifically authorized by that property's owner, regardless of any easement which may be in place on such property.*
 - b. *Transport of Clean Earth Fill between the applicant's property and the nearest Arterial or Collector road shall be limited to weekdays between the hours of 9am-5pm, and shall not coincide with scheduled School Bus pick-ups or drop-offs between the property and the nearest Arterial or Collector road.*
 - c. *Owners of property abutting residential or private roads to be used for transport of Clean Earth Fill under a Special Exception must be notified of the proposed activity by Registered Mail at least 60 days before the Exception is to be granted and offered an opportunity to object in writing. Such objections shall be read into the public record and considered before the Exception is granted by the Board of Supervisors. The applicant for any special exception shall be held responsible for damage to roadways between the fill site and the nearest Arterial or Collector road. Road conditions shall be documented prior to activity commencement and after completion to ensure compliance.*

I also saw where you were considering listing some roads instead of just using the Arterial/Collector definitions. I think the definitions are best because it allows for roads to be upgraded in the future without needing to have this Code amended.
I hope this stuff makes it into the final draft!

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I strongly support most of the changes described. I ask that the county consider these additional restrictions, each based on personal observation of the impacts of a clean earth fill exception in my neighborhood.

- Clean earth fill activity shall not be permitted on conservation easements. Conservation easements are subject to restrictions on grading, industrial use, and accumulation of junk under Albemarle County Code ([link](#)).
- The conservation easement in question has had multiple acres cleared for piles of fill, visible via public satellite photography.
- Per the documentation you shared, clean earth fill should be free of contaminants in toxic concentrations and amounts. I propose that clean earth fill material should be tested prior to the start of activity, and tested again periodically.
- We have never been able to get a clear answer from the County on testing required for fill coming from construction sites.
- The Board of Supervisors should not be permitted to grant a special use exception to allow fill activity that will not be completed within one year from its commencement.

- Given our demonstrated challenges in managing the current multi-year special use permit and the difficulty of engaging with County staff in monitoring activity, this should not be allowed to occur again.
- The Board of Supervisors should not be authorized to approve fill activity on property that does not directly access a public road that is a collector or arterial based on the VDOT functional road classification system.
- The ongoing special use permit has caused substantial damage to our public road, requiring multiple rounds of repairs at taxpayer expense.
- Albemarle County Board of Supervisors should not be permitted to allow an exception to permit more than 10 truck round trips to the site per day, defining one truck round trip as one truck entering and exiting the site without regard to the number of unique trucks.
- Our current situation, with the number of trucks and not trips restricted, results in an excess of 100 trips per day on busy days.
- Hours of operation should be further restricted if fill activity occurs in residential areas, taking place between 10:00 a.m. to 2:00 p.m. to avoid overlap with County school bus traffic.

I would ask that the county consider some of the regulations that apply in Fauquier county, including

- no activity within 500 ft of existing residential structure. Helpful for noise control, ensuring residential areas remain residential
- the applicant must demonstrate legal access and that it is adequate to accommodate the fully loaded vehicle used with sufficient width to allow passing traffic. This is not the case on our public street, where passing traffic damages roadsides
- public roadway shall be cleaned/hosed on a daily basis
- There should be some responsibility for the condition of roads on behalf of the party bringing in the fill. I see this is addressed in some of your changes, but I want to add:
 - Our roads show heavy signs of wear, and dirt from uncovered loads builds up. Just this week, I turned into the neighborhood to view a line of trucks backed up to within 100 feet of the turn, waiting to pass construction equipment repairing truck damage. The driver in the rear truck in the convoy was outside of his idling vehicle, urinating directly onto the street. I didn't report it because it is rare that we see any response from county PD, but that's a mental image I could do without.

Finally, I'd like to offer a narrative summary of my lived experience over the past several years. Prior to the Board of Supervisors' decision to allow a multi-year special exception, many of my neighbors reached out to protest against the conditions already being created in our neighborhood. I personally reached out to Ann Mallek, Bart Svoboda, and other members of the County staff in December 2022 and did not receive a response. Please see attachment 13 in the February 15, 2023 County Board of Supervisors meeting ([here](#)) to view numerous concerns that were shared and disregarded.

In the years since, I have experienced intense truck traffic from contractors hauling clean earth fill from construction sites: many weeks this occurs six days per week, upwards of 10 hours per

day. The turn lane into the neighborhood is next to my house. The trucks literally serve as my alarm clock most days, as they engine brake to approach the turn. Then, as I work from home, they shake my desk and rattle my windows for the rest of the day. Occasionally, it starts even earlier - the trucks do not enter the neighborhood before the permitted time, but they park in a convoy in the turn lane and sit with engines running. I have yet to have any successful contact with ACPD to address the situation.

I've given up on walking in the neighborhood. It simply isn't safe, and I feel for families who have to use the school bus stops along the route, which has upwards of 100 truck passes per day on busy days. There are no sidewalks, no shoulders in many places, and the road is crumbling over a broken water main. There are ruts from passing trucks in our lawns from when they have to pass one another on the way in and out of the neighborhood. I've also been disturbed by footage a neighbor shared of a driver stopping his vehicle, exiting his truck and stealing marker stakes from her yard. Again, there was no resolution from ACPD. The only time I've personally seen ACPD respond was when a dump truck ran off the road just outside of our neighborhood and plowed through a Schoolbus Stop sign. Fortunately, no one was hurt, but it points to the hazardous conditions created by this exception.

I am at a loss to understand why the interests of a single property owner were placed above the interests of an entire neighborhood, why the Board permitted a multi-year exception on such a massive scale, or why this was allowed to happen on a conservation easement. I've attached publicly available satellite imagery taken over the past few years - the impact to the easement is only expanding. I hope that changes to the county code

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Thank you. Yes, I support limiting road access, duration of fill operation, **and the number of truck trips (no more than 10 trips per day—not trucks).**

I also want to see those three elements exempted from the ability to obtain a special use permit. **In other words, I would not want anyone to be able to get around provisions regarding road access (stick to major roads only, not neighborhood roads), the duration of the fill operation (no more than 30 days in a calendar year), or the number of truck loads per day (no more than 10 truck trips per day—not trucks) via special use permit or any other method.**

The County already has volumes of complaints and evidence of how NOT having such restrictions has negatively affected an entire community. Do you need copies of all of that at this time? Or does that come after the draft is complete and you're ready for public comments?