

## STAFF ANALYSIS

**STAFF PERSON:** Francis H. MacCall, Deputy Zoning Administrator  
**BOARD OF SUPERVISORS:** November 19, 2025  
**PROJECT:** SE-2025-00029  
**PARCEL IDs:** 07800-00-00-04800, 07800-00-00-048A0 and 07800-00-00-04900

**Proposed special exception to waive the 50-foot setback from the property line for access to the clean earth fill activity.**

### PROPOSAL

Pursuant to County Code § 18-5.1.28(d), the applicant is seeking a special exception to waive the requirement pertaining to the access setback from property lines to the clean earth and inert waste fill activity on Parcels 07800-00-00-048A0 (78-48A) and 07800-00-00-04900 (78-49). (Attachment B)

Access to the area where the clean earth fill is proposed is on parcel 078-48A. That access is shown to range from 31 feet to 48.9 feet from the adjacent property line of parcel 07800-00-00-047A0 (78-47A). (Attachment B)

The area for the proposed placement of clean earth fill is approximately 1.77 acres and is shown to be distributed between parcels 78-48 and 78-49 (Attachments B & C). The applicant states that the purpose of the fill is "development." There is no pending application to develop the site further with a subdivision, but the area to be filled appears to be a potential home site, which would be a use permitted by right with a building permit. (Attachment B)

The applicant has submitted a Water Protection Ordinance (WPO) plan (Attachment C), which is pending approval contingent upon the approval of this Special Exception. Clean earth fill activity is permitted by right under County Code § 18-4.3.1, provided it complies with County Code § 18-5.1.28 (Attachment D).

### CHARACTER OF THE PROPERTY AND AREA

Parcel 78-48A is zoned HC, Highway Commercial, and parcels 78-48 and 78-49 are zoned RA, Rural Areas. The parcels are located on Richmond Road, US Route 250E, approximately 2000 feet east of the Interstate 64 interchange. Parcel 78-48A contains 2.1 acres, parcel 78-48 contains 11.7 acres, and parcel 78-49 contains 28.61 acres. Two of the three parcels are developed with either an automobile repair facility (parcel 78-48A) or a single-family dwelling (parcel 78-48), and one parcel is vacant (parcel 78-49). Parcels 48A and 48 contain a perennial stream. The abutting parcel 78-47A is zoned RA, Rural Areas and is used for religious assembly. Across Route 250 is property owned by the Thomas Jefferson Foundation, Inc., and vacant fields used for hay production.

### PLANNING AND ZONING HISTORY

The following is the brief relevant history of the subject parcels:

- Parcel 78-48A, zoned HC, has a building and other improvements on the property that have been used for various by-right uses over the years, with the current by-right auto repair facility being approved in 2019 with a zoning clearance, CLE2018-00256.
- Neither parcel 78-48 nor 78-49 has a record of activity such as a subdivision or building permit. The dwelling on parcel 78-48 appears to have existed since at least the 1930s.

## **ABUTTING PROPERTY OWNER COMMENTS**

A notice was sent to the abutting property owners for parcel 78-47A on October 20, 2025. On November 5, 2025. Staff received an email from the Pastor of the abutting church property, which stated there was no objection to the proposed special exception. (Attachment E)

## **COMPREHENSIVE PLAN**

The subject property is designated as Rural Area in the Comprehensive Plan. This designation includes preserving and protecting agricultural, forestal, open space, and natural, historic, and scenic resources; and residential (0.5 unit/acre in development lots) in the Comprehensive Plan. Staff finds that the proposed special exceptions would not conflict with the Comprehensive Plan's goals.

## **FACTORS TO CONSIDER**

There is an existing paved and graveled travelway that exists on parcels 78-48A and 78-48. This travelway is the proposed access to the area where the clean earth fill is to be placed (See the maps in Attachment B). As the travelway is parallel to the adjacent parcel, parcel 78-47A owned by the Faith Christian International Church and does not meet the defined setback in Section 5.1.28(d), an exception to that requirement is requested. As stated in the applicant's narrative (Attachment B), the use of this travelway is an alternative to the existing driveway to the single-family house on parcel 78-48, to avoid the impact of numerous trucks hauling clean earth fill to the proposed fill area.

## **ANALYSIS OF THE SPECIAL EXCEPTION REQUEST**

Special exceptions are subject to County Code § 18-33.5, under which the Board may either approve or deny an application, defer action to allow for changes before final action, or refer the application to the Planning Commission.

To grant the requested special exception, the Board must make both general and specific findings in support of its action.

### **General finding:**

Pursuant to County Code § 18-5.1, the Board of Supervisors may waive or modify any supplementary zoning requirement upon a finding that such requirement would not forward the purposes of the Zoning Ordinance or otherwise serve the public health, safety, or welfare or that a modified regulation would satisfy the purposes of the Zoning Ordinance to at least an equivalent degree as the specified requirement. Staff's review of the proposed exception to modify the required 50-foot setback from the property line for the access to the fill activity finds there is no detriment to the abutting property, and there is no harm to the public health, safety, or welfare.

### **Specific finding:**

County Code § 18-5.1.28(d)(1) states that the Board **may** approve a variation or exception from any requirement of this section upon finding that **any** of the following factors are satisfied:

- i) the proposed fill activity would further agricultural use of the property;
- ii) the variation or exception would allow for a more natural appearance of the site after the fill activity has occurred;
- iii) a reduction in setback from the entrance corridor is recommended by the Architectural Review Board;
- iv) the variation or exception is supported by the abutting owners impacted by the variation or exception;
- v) approval of any variation or exception is consistent with an approved and valid initial or preliminary site plan or any other land use decision of the County;

- vi) the proposed fill activity will be of limited duration (less than 90 days) and involve not more than 10,000 cubic feet of fill within any 12 months.

In staff's opinion, there is no detriment to any abutting property, nor is there any harm to public health, safety, or welfare. Factor (iv) above is the only factor that would apply to the review of this proposal and has been satisfied.

### **RECOMMENDATION**

As factor (iv) of County Code § 18-5.1.28(d) is satisfied, staff recommends that the Board adopt the proposed resolution (Attachment F) to approve the special exception for the access to the proposed clean earth fill area on parcels 07800-00-00-048A0 and 07800-00-00-04800, provided that placement of any fill on parcels 07800-00-00-04800, and 07800-00-00-04900 must be in general accord with the Water Protection Ordinance (WPO) plan entitled VESMP Plan, 2238 Richmond Road, Albemarle County, Virginia, dated February 10, 2025 and last revised on July 10, 2025 (Attachment C) and any duly-issued building permit.