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## Planning commission testimony

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Fri, Sep 17, 2021 at 2:57 PM

To: "lup-hearings@multco.us"



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Hello,

Our names are Kirk and Susan Andrews, we live at [13410 NW Springville Road, Portland, OR 97229](#).

We would like to provide testimony as an open item at the Oct. 4 Planning Commission hearing but may be unable to attend due to travel plans. Please add us to the list of public commenters, but if we are not able to attend, please forward the information below to the Planning Commissioners.

Dear Multnomah Planning Commission,

I wanted to share some feedback with you about how difficult it is to get enforcement of a code violation which causes significant harm to a property or neighborhood with the current enforcement process and its restrictions, and to urge you to take this issue into account when you consider approving code regulations in the future.

In 2018, you approved amendments for a new agricultural fill standard to help close some gaps left by the state law and county code. Some restrictions were put in place to try and improve problems related to unregulated agricultural fill operations, such as creating large fill sites on slopes, the monetary incentive for taking construction fill, and the impact to our roads and commuters of large volume activities.

We have two sites on our road in the West Hills that have brought in huge quantities of "agricultural" fill over the last few years. The new amendments apply, but we are still having problems. In fact, we have over 50 emails to the county compliance office about the issues with these sites, and just this summer, since July 17, 2021, we have logged compliance violations almost daily. Other neighbors have also been registering complaints.

We are really pleased over the last 30 days to be getting great communication from the compliance office and planning director, but their hands are significantly tied in terms of the process of enforcement. In the meantime, while the wheels slowly turn, we regularly have hundreds of trucks a day bringing in fill, in many cases NOT the preferred top soil the homeowner claims and which was permitted (we have photos of brush, gravel, rocks, cement blocks, and have tracked trucks back to sites that don't have the right soil types.) We have terrible road degradation, noise that goes from 7am to 6pm and includes Saturdays (actually some of the heaviest days because the commuter time restrictions don't apply), safety issues for getting out of our driveways, and bikers and walkers and farm equipment on our rural two lane road that lacks shoulders.

One property owned by Scott Reed has a permit to add four feet of topsoil over 11 acres, or 71,000 cu.yards of soil between March 2021 and March 2022. I've spoken with Jim Cathcart from West Multnomah Soil and Water District and he cannot understand why this would be necessary for agricultural practices here. There is no way we, as neighbors, can understand why the county would permit 6,500 truck loads to run on our tiny two lane rural road over the course of 12 months with thousands of tons of material. And then go back out again to collect the next load. 13,000 trucks over a year, which would be 35 trucks every single day for this one property. However, they don't run at an even rate, and regularly exceed the daily maximums set for them.

Not untypically, today since 8:00 am we have had trucks going by our house to the Reed property at the rate of one every 2 1/2 minutes. This is a violation of the daily conditions within their permit, but not uncommon over the last 3 months. Neighbors have provided lots of documentation to the county, and they have done inspections and documented permit violations, then finally after seven weeks were able to gather enough evidence to issue a red stop work order on September 1. This didn't stop the activity obviously. We have continued reporting violations of the conditions of the permit, and today, we were told that they recorded a formal violation yesterday, and that the owners now had two weeks to appeal, and then it would go to a hearings officer, who might not even hold a public hearing on this situation. Carol Johnson told us her hands are tied and that this is moving as fast as it can. One of the main questions we have, whether Mr. Reed is getting monetary compensation in violation of his permit, cannot even be

determined without a lawsuit involving a subpoena and that she can't give the hearings officer that information even though it is a core issue in the case.

The other landowner does not even have a permit. They have created a wall of dirt with a 6 foot high unsupported downhill slope which we are sure is going to slide onto a neighbors home with a earthquake or heavy rainfall year. They have repeatedly started and stopped fill deliveries at their property, and will probably continue to do so, because after a stop work order expires, and a few months have gone by, they can just start it back up again.

When violations occur, in general the worst punishment is a fine, and if they are being compensated at \$35 a load, those 100 trucks create plenty of income to offset any fine the county seems able to punish them with. None of the trashy fill is removed. None of the issues such as slide hazard or damage to wetlands are remediated. Nothing is done about repairing the potholes that now run all the way up the road. No money in the county budget to offset the additional workload for the inspectors. Nobody pays the therapist for the stress and frustration of the neighbors who can't have a BBQ on a Saturday evening with their family, or the anxiety of a house constantly vibrating from the noise, the inability to open windows on a hot day. For months at a time. And in these two cases, we have years of them bringing in stuff, and strangely, no agriculture on their sites to show for it.

I understand the county staff will be working on some additional amendments to this fill code in the future. I want you to consider that having any code, which allows the violations to go on for months at a time while enforcement is hung up in bureaucracy, and doesn't address the entire impact of one of these operations on the neighbors and the roads, is problematic. Clearly there are opportunistic landowners who know they can get away with doing whatever they want and unless they are held accountable in some significant way, they are going to keep breaking the rules. In the meantime, the message this sends others is that they should do whatever they want and they won't be held accountable. We have other neighbors who have gone through complicated steps and a lot of expense complying with county rules about development and now they feel betrayed. In the meantime, we have personally paid a lawyer to try and enforce what the county seems unable to impact.

I understand that the commission is not an enforcement body, and this is not a complaint about the county compliance office. But if there are no tools the county can use to enforce promptly and hold the owner fully accountable for the real damage done, then the code needs to be a lot more restrictive and the enforcement process as a whole needs to be reconsidered.

Thank you for your attention and giving me the chance to share our experience.  
Susan and Kirk Andrews