



APPLICATION ACCEPTED: June 15, 2007
PLANNING COMMISSION: October 25, 2007
BOARD OF SUPERVISORS: Not Yet Scheduled

County of Fairfax, Virginia

October 11, 2007

STAFF REPORT

EAGLE LOCAL AGRICULTURAL AND FORESTAL DISTRICT

APPLICATION AA 89-D-001

DRANESVILLE DISTRICT

APPLICANT: The Eagle Family Limited Partnership

ZONING: R-E

PARCEL(S): 20-2 ((1)) 8Z, 13Z, 14Z, and 48Z
20-2 ((13)) 4Z and 5Z

ACREAGE: 80.90 acres

PLAN MAP: Residential, 0.2-0.5 du/ac and

PROPOSAL: Amendment of a Local Agricultural and Forestal District to combine two previously approved agricultural and forestal districts into one district

STAFF RECOMMENDATIONS:

Staff recommends that the request to amend Appendix F of the Fairfax County Code to amend the Eagle Local Agricultural and Forestal District be approved subject to the Ordinance Provisions listed in Appendix 1.

It should be noted that approval of an agricultural and forestal district application does not automatically qualify a property for land use value assessment. Upon application to the Department of Tax Administration (DTA) for taxation on the basis of land use assessment, DTA must independently determine if the subject property meets the definition of either agricultural and/or forestal use, as well as the appropriate guidelines, including minimum acreage, for either use, as required by Title 58.1 of the Code of Virginia, which is found in Appendix 8.

O:\jpapp0\Ag & Forest\Districts\2007-2 Eagle\Final Materials\FINAL - Eagle - Staff Report.doc

Department of Planning and Zoning

Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703 324-1290
FAX 703 324-3924
www.fairfaxcounty.gov/dpz/

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

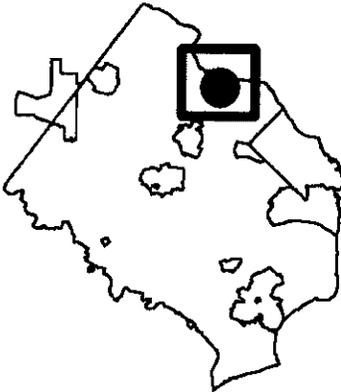
For information, contact the Zoning Evaluation Division, Office of Comprehensive Planning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290 or TTY 711 (Virginia Relay Center).



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.
For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

A & F District Amendment

AA 89-D-001



Applicant:
Accepted:
Proposed:

THE EAGLE FAMILY LIMITED PARTNERSHIP
06/15/2007
AGRICULTURAL AND FORESTAL
DISTRICT AMENDMENT

Area:

80.90 AC OF LAND; DISTRICT - DRANESVILLE

Located:

8008 GEORGETOWN PIKE

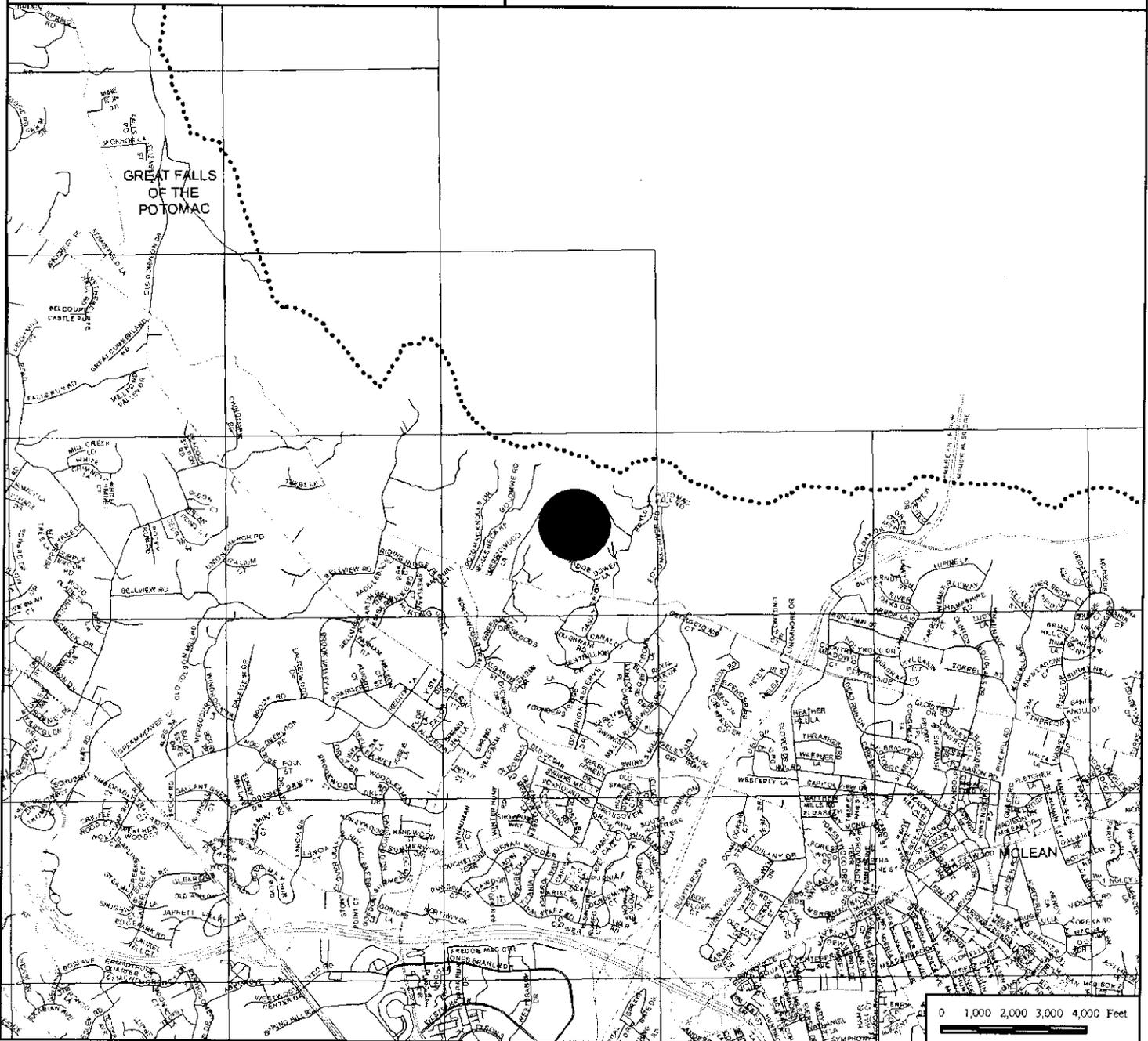
Zoning:

R- E

Overlay Dist:

Map Ref Num:

020-2- /01/ /0008Z /01/ /0013Z /01/ /0014Z
/01/ /0048Z
020-2- /13/ /0004Z /01/ /0005Z

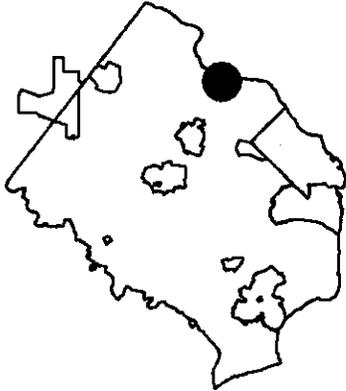


A & F District Amendment

AA 89-D-001

Applicant:
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THE EAGLE FAMILY LIMITED PARTNERSHIP
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AGRICULTURAL AND FORESTAL
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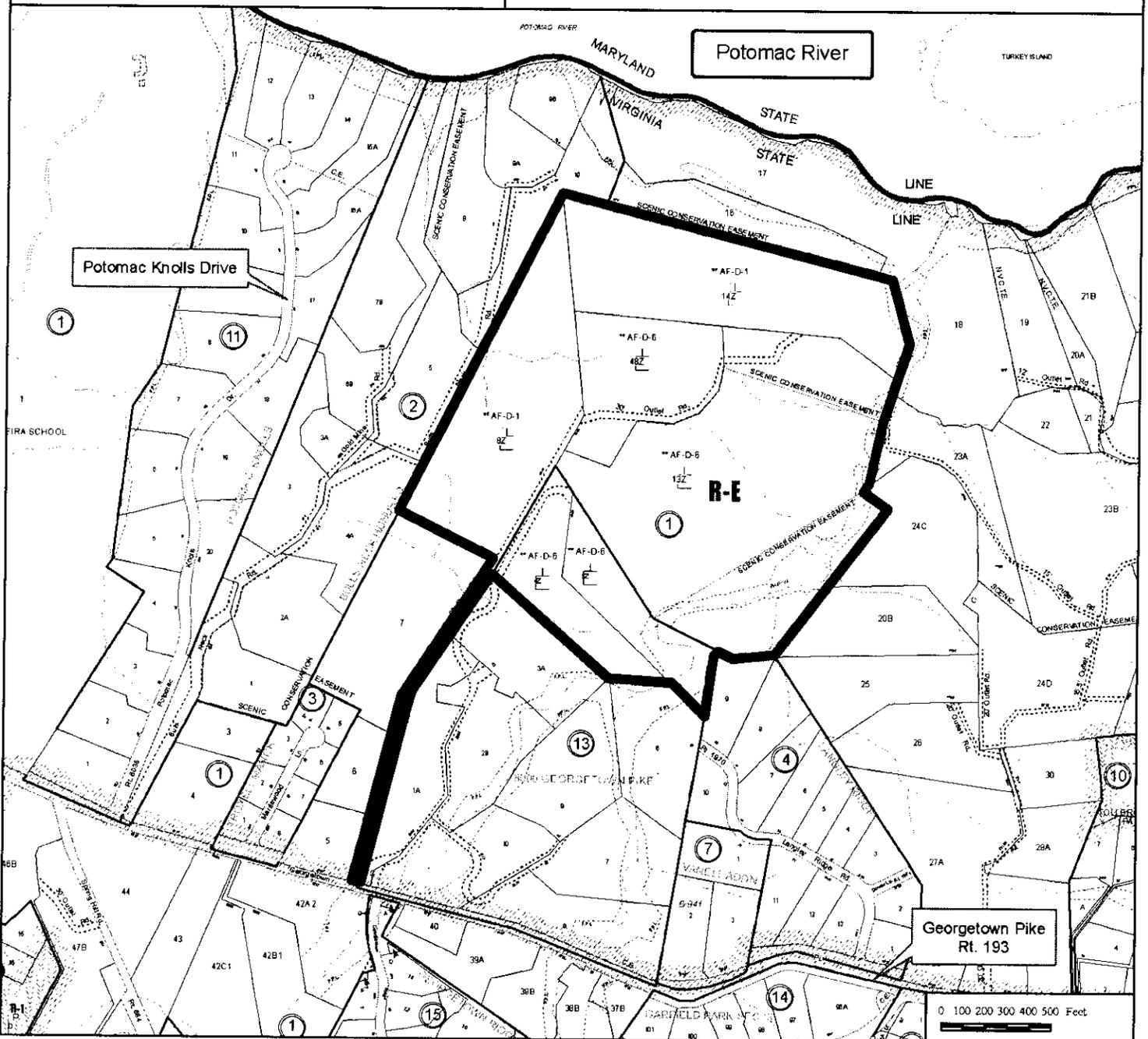
Zoning:

R- E

Overlay Dist:

Map Ref Num:

020-2- /01/ /0008Z /01/ /0013Z /01/ /0014Z
/01/ /0048Z
020-2- /13/ /0004Z /01/ /0005Z



**A GLOSSARY OF TERMS FREQUENTLY
USED IN STAFF REPORTS WILL BE
FOUND AT THE BACK OF THIS
REPORT**

DESCRIPTION OF APPLICATION

Proposal:	AA 89-D-001 is a request to amend the existing Eagle and Eagle II Local Agricultural and Forestal Districts to combine both into a single agricultural and forestal district under the provisions of Chapter 115 of the Fairfax County Code for an eight year term. The subject property consists of 80.90 acres located on the north side of Georgetown Pike, approximately 2000 feet north of Langley Ridge Road.
	Copies of the applicant's Statement of Justification and related application materials are contained in Appendix 2. Staff's Proposed Ordinance Provisions are contained in Appendix 1.
Applicant:	The Eagle Family Limited Partnership
Acreage:	80.90 acres

LOCATION AND CHARACTER

Surrounding Area Description:

The subject property and the surrounding area are zoned R-E (Residential Estate) and planned for Residential Use at 0.2-0.5 dwelling units per acre. The surrounding lots contain single family detached residences and most are approximately five acres in size, with several one acre lots. The Madeira School campus is nearby.

Location and Character of the District:

The 80.90 acre site is located in the McLean Planning District in Area II, and is currently zoned R-E (Residential Estate). The subject property overlooks the Potomac River and lies along an outlet road 2,000 feet north of Georgetown Pike, near its intersection with Merriewood Lane. Bullneck Run and the associated floodplain encompass a portion of the site and border the property on the northeast side. A portion of the property is located within a scenic/conservation easement donated to the Northern Virginia Regional Park Authority. The subject property is, with the exception of three acres containing the applicant's residence, undeveloped forest land.

BACKGROUND:

The majority of the subject property, 70.55 acres, has been owned by the applicants since 1967 and has been maintained in an undisturbed forested state. Over half the site is located within a permanent Scenic Conservation Easement donated to the National Park Service.

The Eagle Local Agricultural and Forestal District was originally created on January 14, 1991, and consisted of 20.05 acres on two parcels proposed to be used for forestal and open space uses.

The Eagle II Local Agricultural and Forestal District Application AF 91-D-006, was originally established by the Board of Supervisors for an eight year period on March 23, 1992. As approved, the district contained 40.50 acres in the name of Charlotte F. Eagle. On November 25, 1997 AA 91-D-006 was approved to simultaneously renew the existing District, and to add an additional 10.35 acres of adjoining land which had been acquired.

On May 24, 1999, the Eagle Local Agricultural and Forestal District was renewed on the same 20.05 acres that was originally approved in 1991.

On November 21, 2005, the Eagle II Local Agricultural and Forestal District was renewed on the amended application acreage of 50.86.

The current amendment application seeks to combine the two Eagle Local Agricultural and Forestal Districts into one district in order to make the renewal process simpler for the applicant. The total acreage for the proposed combined district is 80.90 acres.

COMPREHENSIVE PLAN PROVISIONS

Plan Area:	Area II
Planning District:	McLean
Planning Sector:	Potomac Palisades Community (M5)
Plan Map:	Residential use at a density of 0.2 to 0.5 dwelling units per acre

ANALYSIS**Land Use Analysis (Appendix 3)**

The establishment and continuation of agricultural and forestal districts is in conformance with the Plan goals of preserving the rural and scenic character of the surrounding area.

Transportation Analysis (Appendix 4)

The subject site is not affected by the recommendations of the Transportation Plan Map.

Environmental Analysis (Appendix 3)

There are no Environmental issues with this application

The Forest Management Plan and Soil and Water Conservation Plan are contained in Appendices 5 and 6, respectively.

The subject property is located between two Environmental Quality Corridors (EQCs); one along the Potomac River to the north of the site and the other along Bull Neck Run, which crosses the northeastern corner of the site. These EQCs are delineated on a map in Appendix 3. Preservation of EQCs is critical to maintain the overall environmental integrity of the property and the surrounding area. As such, those portions of the property within the boundaries of the EQC should remain undisturbed. The boundary of the EQC impacting the subject property is defined as the permanent limits of clearing and grading in the Ordinance Provisions contained in Appendix 1.

The Forest Management Plan dated July 21, 2005, states that tree species present on the site include various oak species, red maple, American beech, tulip poplar, hickory, black gum, American holly, and walnut with an understory of paw paw, dogwood, mountain laurel, spice bush, and ironwood. The trees were recorded as being in good health, quality, and form. The report also noted that the site had been managed in the past with selective harvesting techniques resulting in well-stocked, 50-75 year old stands. The subject property includes a portion of property which has historically been clear-cut as a viewshed for the applicant's house. The forest management plan suggests options for maintaining the viewshed without clear-cutting, such as control of woody growth and replanting with shrubby growth such as mountain laurel. A proposed Ordinance Provision requires that the applicant abide by the Forest Management Plan.

Steep slopes and highly-erodible soils are predominant on the subject property. These extend to the floodplain of the Potomac River to the north, and to the narrow floodplain of Bull Neck Run to the east. The majority of the site is too steep and too erodible to be easily developed, and is best suited for preservation and wildlife habitat uses. Due to the steep slopes and the susceptibility of the soils to erosion, conservation practices are essential to minimize soil loss and to protect the stream valleys and bodies of water. A proposed Ordinance Provision lays out the protection of the EQC areas on the property.

Agricultural and Forestal District Criteria Analysis

Article 5 of Chapter 115 of the Fairfax County Code contains two sets of criteria which are designed to serve as a guide in the evaluation of proposed Local Agricultural and Forestal Districts. All of the criteria in Group A, and least two criteria from Group B should be satisfied by the proposed district. It is important to note that these criteria are a guide to be applied when establishing, renewing or amending a District; they are not prerequisites. The following is an evaluation of the proposed district's conformance with these criteria:

Criteria Group A:

1. All district acreage should be currently devoted to agricultural use or forestal use or should be undeveloped and suitable for such uses, except that a reasonable amount of residential or other use, related to the agricultural or forestal use and generally not more than five acres per district, may be included.

Approximately 77 acres of the site are undeveloped and densely forested, and will be conserved in this condition. Approximately 3 acres are used for residential and residential accessory uses. Therefore, staff believes that this criterion has been satisfied.

2. All lands in the district should be zoned to the R-P, R-C, R-A, or the R-E District.

The property is zoned R-E. This criterion is satisfied.

3. In general, the district should be consistent with the Comprehensive Plan. The following land uses identified in the Plan are appropriate for a district: 0.1-0.2 dwelling units per acre; 0.2-0.5 dwelling units per acre; 0.5-1.0 dwelling units per acre; Private Recreation; Private Open Space; Public Park; Agriculture; Environmental Quality Corridor. Lands not planned as such may be considered for a district if they meet at least 3 of Criteria Group B.

The property is planned for residential use at a density of 0.2 to 0.5 dwelling units per acre (du/ac). Therefore, this criterion has been satisfied.

4. A majority of the surrounding land within one-quarter mile of the district should be planned according to the Comprehensive Plan for uses identified in A(3) above. Exceptions may be made for lands located at the edge of a planned growth area or which meet at least three of the criteria of Criteria Group B, if no conflicts with surrounding uses, existing and planned, are evident or likely.

The Comprehensive Plan designates a majority of the surrounding land within one-quarter mile of the district for low density residential use at 0.2 to 0.5 du/ac. Therefore, this criterion has been satisfied.

5. All farms to be included in a district should be at least twenty (20) acres in size. A farm may include several parcels of land; however, all parcels must have the same owner or else owners must be members of the same immediate family or a family trust or family corporation. A farm must contain at least fifteen acres of land in agricultural use. A farm may include non-contiguous parcels within one mile of the core acreage (the largest parcel or group of contiguous parcels or the parcel where the farm buildings are located) as long as the non-contiguous parcels are predominately agricultural in use and as long as the total acreage of each individual farm (including contiguous and non-contiguous land) is at least twenty acres.

This criterion is not applicable because this is a forestal district, containing a minimum of 77 acres of undisturbed forest.

6. All other properties not included in a farm as defined in (5), that is, forested and partially forested properties, and properties with less than 15 acres in agricultural use, should be at least twenty acres in size. These properties may contain several parcels, but all parcels must be contiguous, and all must have the same owners or else owners must be members of the same family or a family trust or family corporation.

The proposed district is comprised of a total of 80.90 acres which are owned by the same family. Therefore, this criterion has been satisfied.

7. Approximately 2/3 of the land in agricultural use in the district should contain Class I, II, III, or IV soils as defined by the USDA Soil Conservation Service. Districts having more than 1/3 of the land in agricultural use containing Class V-VIII soils may be considered if such lands have been improved and are managed to reduce soil erosion, maintain soil nutrients, and reduce non-point pollution.

This criterion is not applicable because this is a forestal district.

8. Agricultural land in the district should be used in a planned program of soil management, soil conservation, and pollution control practices which are intended to reduce or prevent soil erosion, maintain soil nutrients, control brush, woody growth and noxious weeds on crop land, hay land, and pasture land, and reduce non-point source pollution. Exceptions to this criterion may be made only for those agricultural lands which, upon initial application for the establishment of a district are not used in such a program, but for which a conservation plan is being prepared or has been

requested from the Northern Virginia Soil and Water Conservation District.

This criterion is not applicable because this is a forestal district. A Soil and Water Conservation Plan was prepared by the Northern Virginia Soil and Water Conservation District for the subject property on September 18, 2007. A copy of the plan is contained in Appendix 6, which provides recommendations regarding pest management, record keeping and tree harvesting. The applicant has been advised that the Soil and Water Conservation Plan should be implemented for at least the life of the A&F District. A Proposed Ordinance Provision in Appendix 1 addresses this issue.

9. Forest land and undeveloped land in the district should be kept in an undisturbed state, or if periodically harvested or experiencing erosion problems, shall be used in a planned program of soil management, soil conservation, and pollution control practices which are intended to reduce or prevent soil erosion, maintain soil nutrients, and reduce non-point source pollution. Exceptions to this criterion may be made only for those lands which upon initial application for the establishment of a district are not used in such a program but for which a conservation plan is being prepared or has been requested from the Northern Virginia Soil and Water Conservation District or the Virginia Division of Forestry.

A Forest Management Plan was prepared for the subject property by the Area Forester on July 21, 2005. The Area Forester points out that fire represents the greatest risk of damage to the well being of the forest, and protection of this property from wildfire is essential. Furthermore, the deer population control must be continued in some manner in order to allow understory to regenerate. The applicant has been advised that the Forest Management Plan should be implemented for at least the life of the A&F District. A Proposed Ordinance Provision in Appendix 1 addresses this issue.

10. There should be evidence of a history of investment in farm or forest improvements or other commitments to continuing agricultural or forestal use(s) in the district. In particular, districts with no history of investments in farm or forest improvements must evidence a firm commitment to agricultural or forestal uses for at least the life of the district.

The applicants have resided on the property since 1967. Since purchasing the property, the land in the currently existing A&F District has been kept in an undisturbed state, with exception to the residential portion of the district. This is consistent with the forest management plan prepared for this site which is dated December 6, 1991. The applicant's commitment to continuing conservation and forestal use of the land in the Eagle Local Agricultural and Forestal Districts has been done through the dedication of scenic easements along the northern portion of the site along the Potomac River to the United States of America and Northern Virginia Regional Park Authority. Copies of the easements are

included in Appendix 7 of this report. In addition, the applicant has consistently supported native forest dwelling wildlife on the property by planting trees which provide food sources, as well as installation of other habitat enhancing improvements.

Criteria Group B:

1. Farm and/or forest products have been regularly produced and sold from the property during the last five years.

No forest products have been sold from the property during the last five years. Therefore, this criterion is not satisfied.

2. The land provides scenic vistas, improves the aesthetic quality of views from County roads or contributes to maintaining the existing rural character of an area.

The land provides scenic vistas and helps to maintain the rural character of surrounding area. Therefore, this criterion has been satisfied.

3. The property contains an historically and/or archaeologically significant site which would be preserved in conjunction with the establishment of a district. A site that is listed on the Federal Registry of Historic Places, the State Registry of Historic Places and/or the County Inventory of Historic Places will be considered historically and/or archaeologically significant. A property which contains a site that is historically and/or archaeologically significant by the County Archaeologist, or is located in an area with a high potential for archaeological sites, provided that the property owner has agreed to permit the County Archaeologist access to the site, may also be considered historically and/or archaeologically significant.

The property includes the Bull Run Gold Mine complex, an important Fairfax County historical and cultural resource; in addition, the County Archaeologist has stated that the property has a high potential to contain significant Native American archaeological sites. In order to better understand the prehistory of the Potomac Gorge and Great Falls, the County Archeologist believes that an archaeological identification survey of the site should be performed. The County Archaeologist indicates that the applicants are supportive of conservation of any historic sites found on the property. Therefore, this criterion is satisfied.

4. Farming or forestry operations practice unique or particularly effective water pollution control measures (BMPs).

There are no unique farming or forestry operations on this site. Therefore, this criterion has not been met.

5. The land is zoned R-A, R-P, or R-C.

The subject property is zoned R-E. This criterion is not satisfied.

6. The land is entirely in a permanent open space easement.

The majority of the subject property is located within permanent conservation/scenic easements. This type of easement qualifies as open space easement; therefore, the criterion is satisfied. Copies of the conservation/scenic easements are contained in Appendix 7.

As previously noted, these criteria serve as a guide in determining whether or not an agricultural district should be established; they are not a prerequisite for establishing a district. As previously stated, all of the applicable criteria in Group A and at least two criteria in Group B should be satisfied. It is staff's opinion that all of the applicable criteria in Group A and three of the criteria in Group B have been satisfied.

AFDAC RECOMMENDATION

To be distributed under separate cover prior to the Planning Commission public hearing.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

Staff believes that the application for the Eagle Local Agricultural and Forestal District satisfies the criteria contained in Sect. 115-5-1 of the County Code, and that commitments made by the applicant for agricultural improvements to the property are consistent with the intent of the program. In addition, the property does exceed the minimum acreage requirement and is in conformance with the Comprehensive Plan.

Staff Recommendations

Staff recommends application AA 89-D-001, to amend Appendix F of the Fairfax County Code to amend the Eagle Local Agricultural and Forestal District, be approved subject to the proposed Ordinance Provisions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Supervisors.

APPENDICES

1. Proposed Ordinance Provisions
2. Statement of Justification and Application Material
3. Land Use and Environmental Analysis
4. Transportation Analysis
5. Forest Management Plan
6. Soil and Water Conservation Plan
7. Scenic/Conservation Easements
8. Virginia State Tax Code Provisions
9. Glossary

PROPOSED ORDINANCE PROVISIONS**October 10, 2007****AA 89-D-001**

If it is the intent of the Board of Supervisors to amend the Eagle Local Agricultural and Forestal District as proposed in Application AA 89-D-001 pursuant to Chapter 36.1 of Title 15.1 of the Code of Virginia and Chapter 115 of the Fairfax County Code on Tax Map Parcel 20-2 ((1)) 8Z, 13Z, 14Z, and 48Z, 20-2 ((13)) 4Z and 5Z, the staff recommends that the approval be subject to the following Ordinance Provisions:

Standard Provisions (From Chapter 115)

1. No parcel included within the district shall be developed to a more intensive use than its existing use at the time of adoption of the ordinance establishing such district for eight (8) years from the date of adoption of such ordinance. This provision shall not be constructed to restrict expansion of or improvements to the agricultural and forestal use of the land.
2. No parcel added to an already established district shall be developed to a more intensive use than its existing use at the time of addition to the district for eight (8) years from the date of adoption of the original ordinance.
3. Land used in agricultural and forestal production within the agricultural and forestal district of local significance shall qualify for an agricultural or forestal value assessment on such land pursuant to Chapter 4. Article 19 of the Fairfax County Code and to Section 58.1 et seq. of the Code of Virginia, of the requirement for such assessment contained therein are satisfied.
4. The district shall be reviewed by the Board of Supervisors at the end of the eight-year period and it may, by ordinance renew the district or a modification thereof for another eight-year period. No owner(s) of land shall be included in any agricultural and forestal district of local significance without such owner's written approval.
5. The applicants shall implement and abide by the recommendations of the Soil and Water Conservation Plan dated September 18, 2007, for the life of the Eagle Local Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to time as determined necessary by the Soil and Water Conservation District.
6. The applicants shall implement and abide by the recommendations of the Forest Management Plan dated July 21, 2005, for the life of the Eagle Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the State Forester. If the applicants choose to harvest the timber on the lands within this Agricultural and Forestal District, such harvesting shall be in coordination with

the State Forester so that special techniques designed to protect water quality may be utilized.

7. Those areas delineated as Environmental Quality Corridors (EQCs) shall be left undisturbed, with the exception of selective thinning operations performed to enhance existing vegetation and the removal of dead, dying and diseased vegetation in accordance with the Forest Management Plan and as approved by the Urban Forester. The boundaries of the EQC shall be the permanent limits of clearing and grading for the life of the Whitehall Local Agricultural and Forestal District.
8. The Resource Management Division of the Fairfax County Park Authority shall be permitted to survey the property and to recover artifacts from the property. Surveys and other similar activities of the Resource Management Division shall be conducted only with prior permission of the property owner and at terms mutually acceptable to both parties and establishment before each occurrence.
9. The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if warranted in the discretion of the Board of Supervisors upon determination by a court or any declaration or enactment by the General Assembly that renders any provisions illegal or unenforceable. The reconsideration shall be in accordance with procedures established by the Board of Supervisors and communicated to the property owner(s) to demonstrate that the determination by a court or the declaration or enactment by the General Assembly does not apply to the conditions of this district.

Application No. AA-89-D-001
 RECEIVED
 Department of Planning & Zoning

MAY 31 2007

Zoning Evaluation Division

APPLICATION FOR THE ESTABLISHMENT OF A
 AGRICULTURAL AND FORESTAL DISTRICT

FAIRFAX COUNTY

1. Type of application: Local Statewide
 Initial Amendment Renewal
2. Please list the Tax Map number, the name and address of each owner and other information for each parcel proposed for this district:

Owner's Name & Address	Tax Map Number	Year Acquired	Zoning District	Acres
THE EAGLE FAMILY LP. PARSONS RD 8008 GEORGETOWN PIKE Mc LEAN, VA 22102	20-2 ((1)) 8z	1967	RE	15.0
	20-2 ((1)) 13z	1993	RE	32.73
	20-2 ((1)) 14z	1987	RE	15.05
CHARLOTTE FREDERTE SMITH EAGLE 8008 GEORGETOWN PIKE Mc LEAN, VA 22102	20-2 ((1)) 48z	1965	RE	7.77
FREDERICK SMITH TRUST LMSR WILL FOR THE BENEFIT OF CHARLOTTE FREDERTE SMITH EAGLE, REGGANS MORGAN HEBBURN TRUST, TRUSTEE 1100 RIDGEWAY LANE RD., SUITE 520 MEMPHIS, TN 38120	20-2 ((13)) 4z	1996	RE	5.35
	20-2 ((13)) 5z	1996	RE	5.0

3. Total acreage in the proposed district: 80.90 acres.
4. Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm forest 6.

5. Name, address and telephone number of the property owner or representative who will act as a contact person for this application:

Name: + TABITHA EDGE
Address: 8008 GEORGETOWN PIKE
MCLENN, VA 22102
Telephone: 713- 844 549-6734

6. Signature of all property owners:

CHARLOTTE FREDRICK SMITH EDGE
MANAGING GENERAL PARTNER OF THE EDGE FAMILY
LIMITED PARTNERSHIP, AND INDIVIDUALLY
X Charlotte Fredrick Smith Edge
FREDRICK SMITH TRUST UNDER WILL FOR
THE BENEFIT OF CHARLOTTE FREDRICK
SMITH EDGE, REVEREND MOLLAN KERRAN TRUST, TRUSTEE
X SEE ATTACHED PAGE FOR SIGNATURE

KCS 01/21/10

TO BE COMPLETED BY THE COUNTY

Date application accepted: _____

Date of action by Board of Supervisors: _____

- Approved as submitted Denied
 Approved with modifications

5. Name, address and telephone number of the property owner or representative who will act as a contact person for this application:

Name: JADETHA ENGE
Address: 8008 GEORGETOWN PIKE
McLEAN, VA 22102
Telephone: 713- ~~844~~ 898-6734

6. Signature of all property owners:

CHARLOTTE FREDERIE SMITH ENGE
MANAGING GENERAL PARTNER OF THE ENGE FAMILY
LINCOLN PARTNERSHIP, AND TRUSTEES
X Charlotte Frederie Smith Enge
FREDERIE SMITH TRUST UNDER WILL FOR
THE BENEFIT OF CHARLOTTE FREDERIE
SMITH ENGE, REVEREND MOLLAN KEELAN TRUST, TRUSTEE
X REGIONS MORGAN KEELAN TRUST
BY J. J. [Signature]

TO BE COMPLETED BY THE COUNTY

\$50⁰⁰ paid

Date application accepted: 06/15/07

Virginia Ruffen

Date of action by Board of Supervisors: _____

Approved as submitted Denied

Approved with modifications

ALL APPLICANTS

1. List all structures on the property, the year the structure was built and the present use of the structure:

Structure	Year built	Use
MAJOR DWELLING	1950	RESIDENCE
GUEST HOUSE	1950	GUEST QUARTERS
STABLES	1950	STORAGE
TENNIS COURT	LATE 1950s	RECREATION
SWIMMING POOL	LATE 1950s	RECREATION
GARAGE	1967	STORAGE / ARTIST STUDIO
SHED	1989	STORAGE

use additional page(s) if necessary

2. List any historic sites, as listed on the Fairfax County Inventory of Historic Sites, located on the subject property:

ALTHOUGH THERE ARE NO HISTORIC SITES AS LISTED ON THE FAIRFAX COUNTY INVENTORY OF HISTORIC SITES, THE FAIRFAX COUNTY ARCHAEOLOGIST HAS DETERMINED THE GENERAL AREA AND SURROUNDING PROPERTY AS HAVING A HIGH PROBABILITY FOR SIGNIFICANT NINETEEN CENTURY AMERICAN ARCHAEOLOGICAL SITES. A COPY OF THE ARCHAEOLOGIST'S REPORT IS ATTACHED AS EXHIBIT I.

3. List any improvements made to the property in the past 10 years, including buildings, fencing, equipment, drainage projects, and conservation measures:

PLANTED ORNAMENTAL TREES AND SHRUBS IN RESIDENTIAL AREA, AND PLANTED EVERGREENS, AZALEAS, AND SPECIEN TREES SUCH AS BEECHES, LEIPANSE CEDARS, AND BLACK WALNUT ON EDGES OF WOODS AREA. PLANTED APPROXIMATELY 70.55 ACRES INTO A WILDLIFE CONSERVATION EASEMENT WITH THE NORTHERN VIRGINIA CONSERVATION TRUST (NVCT).

4. Is a Soil and Water Conservation Plan on file with the Northern Virginia Soil and Water Conservation District (NVSWCD): yes no

If yes, date prepared: 8/25/2005

If no, has an application been filed with NVSWCD: yes no

If yes, date submitted: _____

5. List the products and yields from this farm or forest property:

Product	Past year's yield	Average yield for previous 4 years
<u>N/A</u>		

RECEIVED
Department of Planning & Zoning
MAY 31 2007
Zoning Evaluation Division

STATEMENT OF JUSTIFICATION REGARDING CRITERIA
UNDER ARTICLE 5, CHAPTER 115 OF THE FAIRFAX COUNTY CODE

Section 115-5-1(a) Criteria Group A

- (1) The entire site is undeveloped forest land except for the approximate 3 acres used for the residency.
- (2) The entire District is currently in either the Eagle I or Eagle II Local Agricultural and Forestal District and is zoned R-E (Residential Estate).
- (3) The District is consistent with the Comprehensive Plan in that it provides for low density development of the subject acreage between 0.2-0.5 units per acre.
- (4) The majority of the surrounding land located within one-quarter mile of the District is planned for 0.2-0.5 units per acre under the Comprehensive Plan.
- (5) This criterion is not applicable because there are no farms included on the land in the District.
- (6) The land comprising the 80.9 acre in the Eagle I and Eagle II Agricultural and Forestal Districts consists of entirely of forested parcels except for the approximately 3 acres that contains the residency. Charlotte Fredette Smith Eagle is either the owner, managing general partner of the limited partnership and the sole beneficiary of the trust that currently owns the land.
- (7) This criterion is not applicable because none of the land in the District is in agricultural use.
- (8) This criterion is not applicable because none of the land in the District is in agricultural use.
- (9) The land in the District has been kept in an undisturbed state except for the portion that is used for the residency. The property is already subject to the forest management plan dated August 25, 2005 that was established with the renewal of the Eagle II Local Agricultural and Forestal District.

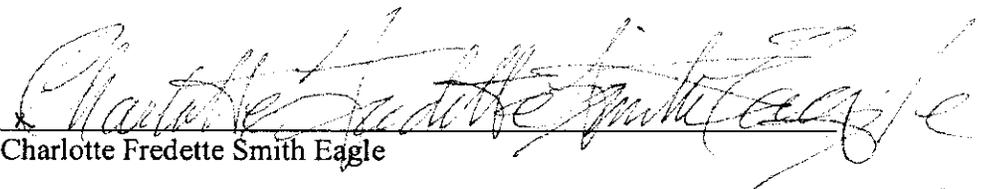
It is foreseeable that the applicant may build an additional residential dwelling on the land in the District for the benefit of her children. The additional residential dwelling is allowed pursuant to Fairfax County Code §115.4-6(a) and would not be built on land in the district that has been previously identified as an environmental quality corridor.

- (10) Charlotte Fredette Smith Eagle, managing general partner of The Eagle Family Limited Partnership, has resided on the land in the District since 1967. Her commitment to continuing conservation and forestall use of the land is demonstrated by her donation

of scenic and conservation easements over the land in both the existing Eagle I and Eagle II Districts to the United States of America, Northern Virginia Regional Park Authority and Northern Virginia Conservation Trust. Copies of the easements are attached to this application. In addition, Ms. Eagle continues to implement the conservation plans prepared for the District by the Virginia Department of Forestry, many of whose recommendations have already been implemented before the preparation of those plans. In this regard, Ms. Eagle has consistently put out salt licks, food for the wildlife, bluebird boxes, and bird feeders on the subject land. She has also planted trees which provide food sources for the inhabitant wildlife.

Section 115-5-1(b) Criteria Group B

- (1) This criterion is not applicable because there are not any actively producing farms on the land in the District.
- (2) The land in the District overlooks the Potomac River and preservation of its underdeveloped nature protects the unique, unblemished, scenic vistas in the area.
- (3) Although there are no historic sites listed on the Fairfax County Inventory of Historic Sites, the Fairfax County Archaeologist has stated that the Bullneck Run Gold Mine and other potential Native American historical sites may exist in or near the District.
- (4) This criterion is not applicable because there are no active farming or forestry operations that are conducted on the land in the District.
- (5) The land in the District is currently zoned R-E
- (6) The land in the District is located entirely within permanent conservation/scenic easements.

April 23, 07 
Date Charlotte Fredette Smith Eagle

April 23, 07 
Date By: Charlotte Fredette Smith Eagle, Managing General Partner

THE EAGLE FAMILY LIMITED PARTNERSHIP
FREDRICK SMITH TRUST UNDER WILL FOR THE BENEFIT
OF CHARLOTTE FREDETTE SMITH EAGLE, REGIONS
MORGAN KEEGAN TRUST, TRUSTEE

Date By: SEE ATTACHED PAGE FOR SIGNATURE
George C. Pappas, JD, Vice President

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April 23, 07 Charlotte Fredette Smith Eagle
Date Charlotte Fredette Smith Eagle

April 23, 07 Charlotte Fredette Smith Eagle
Date By: Charlotte Fredette Smith Eagle, Managing General Partner

THE EAGLE FAMILY LIMITED PARTNERSHIP

FREDRICK SMITH TRUST UNDER WILL FOR THE BENEFIT OF CHARLOTTE FREDETTE SMITH EAGLE, REGIONS MORGAN KEEGAN TRUST, TRUSTEE

5/10/2007 George C. Pappas, ID
Date By: ~~George C. Pappas, ID~~ George C. Pappas, ID, Vice President





County of Fairfax, Virginia

MEMORANDUM

DATE: August 17, 2007

TO: Regina Coyle, Director
Zoning Evaluation Division, DPZ

FROM: Pamela G. Nee, Chief *PHN*
Environment and Development Review Branch, DPZ

SUBJECT: LAND USE and ENVIRONMENTAL ASSESSMENT for: AA 89-D-001
Eagle Family, Limited Partnership

This memorandum, prepared by Mary Ann Welton, AICP, includes citations from the Comprehensive Plan that list and explain land use recommendations and environmental policies for this property. The extent to which the application conforms to the applicable guidance contained in the Comprehensive Plan is noted.

DESCRIPTION OF THE APPLICATION:

The 80.90 acre Eagle Family Agricultural and Forestal District is up for renewal and the size of the district has more than doubled since the previous renewal in 1999. Except for approximately three acres of the site which are currently in residential use with one dwelling unit and a possible future dwelling for the benefit of the applicant's children, the entire site is proposed to remain in an undisturbed state. The future residential dwelling would not be built on land in the district that has been previously identified as an environmental quality corridor.

LOCATION AND CHARACTER:

The subject property is located south of the Potomac River in the northeastern portion of Fairfax County and it falls within the Bull Neck Run Watershed. This agricultural and forestal district is surrounded by land which is predominantly planned for residential use up to .2 dwelling unit per acre (du/ac) or 5- acre lots.

COMPREHENSIVE PLAN MAP: Predominantly planned for residential use at .2-.5 du/ac with the remainder planned for public facilities, governmental and institutional uses, and private open space.

COMPREHENSIVE PLAN CITATIONS:

The Comprehensive Plan is the basis for the evaluation of this application. The assessment of the proposal for conformity with the land use and environmental recommendations of the Comprehensive Plan is guided by the following citations from the Plan:

The Fairfax County Comprehensive Plan 2007 Edition Area II McLean Planning District, M5-Potomac Palisades Community Planning Sector, as amended through July 11, 2005, under the heading Land Use, page 115 states:

- “1. West of the Beltway, where three stream valleys cross the sector and where the land is not sewerred, a density not to exceed .2 dwelling unit per acre is planned.”

The Fairfax County Comprehensive Plan 2007 Edition Area II McLean Planning District, District wide Recommendations, Environment, as amended through July 11, 2005, pages 8 and 9 state:

“The McLean Planning District has a variety of environmental contrasts. It has unique features such as the Potomac Palisades and contains within its boundaries all of five small watersheds: Bull Neck Run, Scotts Run, Dead Run, Turkey Run, and Pimmit Run. Despite the rapid development of Tysons Corner, the area remains ecologically significant, with extensive stream valleys and related steep slopes, large areas of undisturbed forestland, wetlands, and rugged terrain. The westernmost watersheds remain unsewered. Policies for the McLean Planning District should account for the contrasts between intense urban development and the remaining open space. . . .

The McLean Planning District contains an extensive array of environmental resources. The predominant features include the Potomac Palisades and the Georgetown Pike. Outside the Tysons Corner area, development is heavily constrained by rugged terrain associated with the Potomac River, extensive EQCs, highly erodible soils, and areas of hardwood forests. Low density development and innovative subdivision designs should be used to maximize the preservation of these features. Policies should be addressed to maintaining these areas for the valuable habitat they support. The following are environmental objectives for the McLean Planning District:

- Ensure a diversity of habitat types through the provision of wetland, forestland and meadowland EQCs;
- Protect the aesthetic character of Georgetown Pike, a Virginia byway. Fairfax County should limit densities on the land abutting the Pike running in a band on both sides for a depth of 100 to 150 feet; and
- Encourage continued efforts to conserve land along the Potomac River shoreline by the Northern Virginia Regional Park Authority and the Federal government.”

The Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through November 15, 2004, page 5, states:

“Objective 2: Prevent and reduce pollution of surface and groundwater resources. Protect and restore the ecological integrity of streams in Fairfax County.

Policy a. Maintain a best management practices (BMP) program for Fairfax County and ensure that new development and redevelopment complies with the County’s best management practice (BMP) requirements.”

The Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through November 15, 2004, page 7, states:

“Objective 3: Protect the Potomac Estuary and the Chesapeake Bay from the avoidable impacts of land use activities in Fairfax County.

Policy a. Ensure that new development and redevelopment complies with the County’s Chesapeake Bay Preservation Ordinance...”

The Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through November 15, 2004, pages 11-13 states:

“Objective 9: Identify, protect and enhance an integrated network of ecologically valuable land and surface waters for present and future residents of Fairfax County.

Policy a: For ecological resource conservation, identify, protect and restore an Environmental Quality Corridor system (EQC)... Lands may be included within the EQC system if they can achieve any of the following purposes:

- Habitat Quality: The land has a desirable or scarce habitat type, or one could be readily restored, or the land hosts a species of special interest.
- "Connectedness": This segment of open space could become a part of a corridor to facilitate the movement of wildlife.
- Aesthetics: This land could become part of a green belt separating land uses, providing passive recreational opportunities to people.

- Pollution Reduction Capabilities: Preservation of this land would result in significant reductions to nonpoint source water pollution, and/or, micro climate control, and/or reductions in noise.

The core of the EQC system will be the County's stream valleys. Additions to the stream valleys should be selected to augment the habitats and buffers provided by the stream valleys, and to add representative elements of the landscapes that are not represented within stream valleys. The stream valley component of the EQC system shall include the following elements...:

- All 100 year flood plains as defined by the Zoning Ordinance;
- All areas of 15% or greater slopes adjacent to the flood plain, or if no flood plain is present, 15% or greater slopes that begin within 50 feet of the stream channel;
- All wetlands connected to the stream valleys; and
- All the land within a corridor defined by a boundary line which is 50 feet plus 4 additional feet for each % slope measured perpendicular to the stream bank. The % slope used in the calculation will be the average slope measured within 110 feet of a stream channel or, if a flood plain is present, between the flood plain boundary and a point fifty feet up slope from the flood plain. This measurement should be taken at fifty foot intervals beginning at the downstream boundary of any stream valley on or adjacent to a property under evaluation.

Modifications to the boundaries so delineated may be appropriate if the area designated does not benefit habitat quality, connectedness, aesthetics, or pollution reduction as described above. In addition, some intrusions that serve a public purpose such as unavoidable public infrastructure easements and rights of way are appropriate. Such intrusions should be minimized and occur perpendicular to the corridor's alignment, if practical.

Preservation should be achieved through dedication to the Fairfax County Park Authority, if such dedication is in the public interest. Otherwise, EQC land should remain in private ownership in separate undeveloped lots with appropriate commitments for preservation. The use of protective easements as a means of preservation should be considered.”

The Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through November 15, 2004, page 14, states:

“Objective 10: Conserve and restore tree cover on developed and developing sites. Provide tree cover on sites where it is absent prior to development.

Policy a: Protect or restore the maximum amount of tree cover on developed and developing sites consistent with planned land use and good silvicultural practices. . . .

Policy c: Use open space/conservation easements as appropriate to preserve woodlands, monarch trees, and/or rare or otherwise significant stands of trees, as identified by the County.”

LAND USE ANALYSIS

Renewal of this Agricultural and Forestal District in an undisturbed state except for residential use with perpetual scenic and conservation easements over the land is consistent with the existing and planned very low density residential character for the site and surrounding area.

ENVIRONMENTAL ANALYSIS

The application demonstrates a strong commitment to conserve environmentally sensitive and scenic features on site. The application does not raise any environmental concerns and conforms to environmental policies of the Comprehensive Plan.

Water Quality Protection

This request seeks approval to renew an Agricultural and Forestal District which encompasses 80.90 acres of land located in the northeastern part of Fairfax County immediately south of the Potomac River Resource Protection Area (RPA) in the County’s Bull Neck Run watershed.

Except for one three acre portion of the district which is in residential use with one single-family dwelling unit, the district is undeveloped. The site is characterized by a number of environmentally sensitive features including steep slopes, stream valley and densely vegetated hardwood forests. Approximately 57 acres of the district are delineated as Environmental Quality Corridor (EQC) per the Policy Plan and approximately 17 acres are included in RPA per the Chesapeake Bay Preservation Ordinance (CBPO).

The applicant proposes to maintain the district as a conservation area preserved as undisturbed open space. The applicant is continuing to implement conservation plans prepared for the district by the Virginia Department of Forestry and many of these recommendations have been implemented prior to the preparation of these plans. A future dwelling may be developed in addition to the existing residence. The future dwelling, however, would not be located in an Environmental Quality Corridor. Thus, the application conforms to the Comprehensive Plan guidance that calls for the protection and preservation of EQCs. Because no land disturbance

Regina Coyle
AA 89-D-001
Page 6

is proposed for the district, neither a Water Quality Management Plan, nor a Forestry Management Plan will be required for compliance with the County's CBPO.

COUNTYWIDE TRAILS MAP:

The Countywide Trails Plan depicts a natural surface or stone dust trail, as defined as typically 6' to 8' wide in width, along Georgetown Pike.

PGN: MAW

Attachments

AA 89-D-001 The Eagle Family LP

Map prepared by the Fairfax County
Department of Planning & Zoning, July 2007



Areas of AA 89-D-001

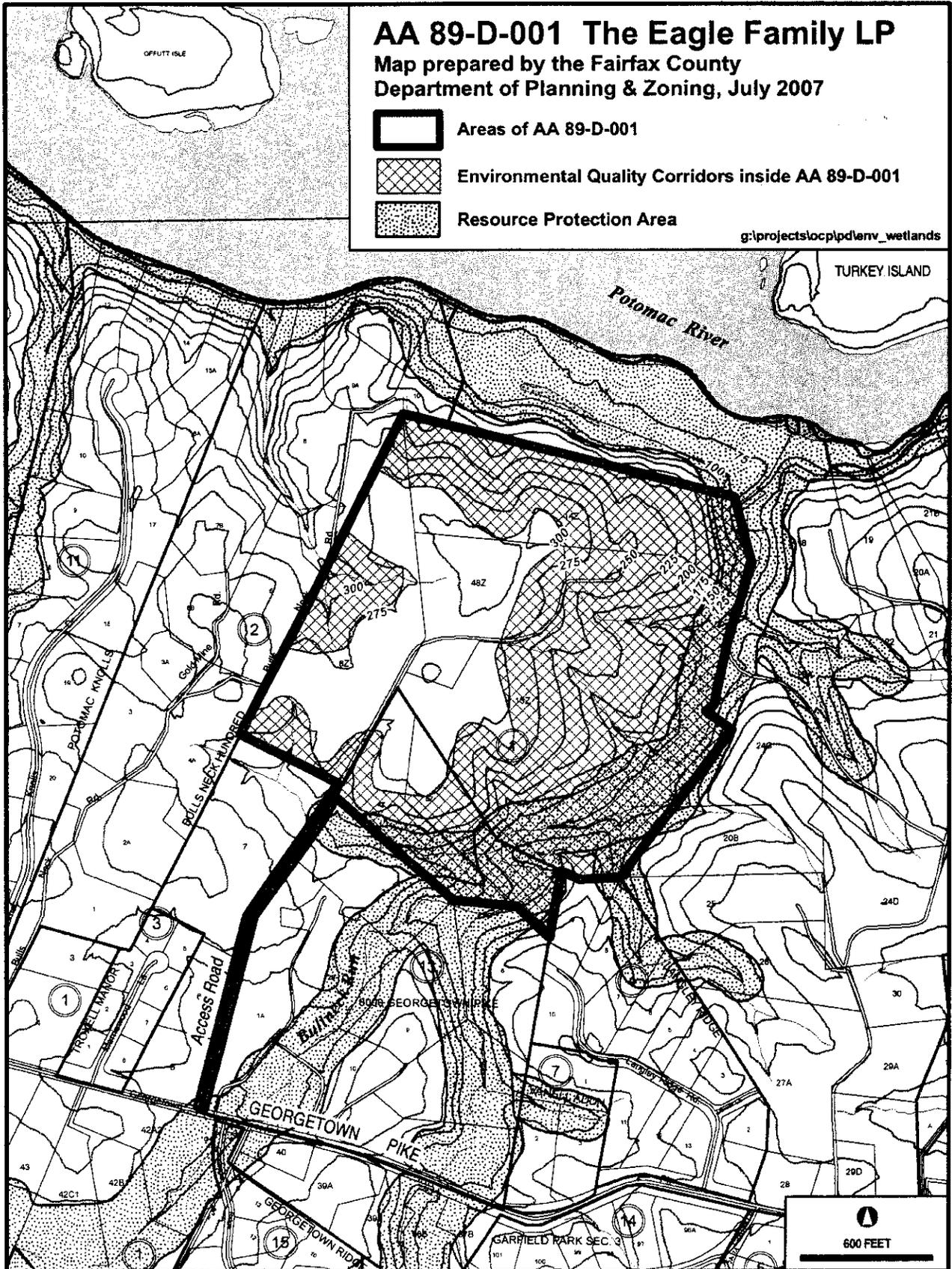


Environmental Quality Corridors inside AA 89-D-001



Resource Protection Area

g:\projects\locplp\env_wetlands





County of Fairfax, Virginia

MEMORANDUM

DATE: July 10, 2007

TO: Barbara A. Byron, Director
Zoning Evaluation Division
Department of Planning and Zoning

FROM: Angela Kadar Rodeheaver, Chief
Site Analysis Section
Department of Transportation

FILE: 3 – 4 (AF 89 – D -001)

SUBJECT: Transportation Impact

REFERENCE: AA 89 –D – 001 The Eagle Family Limited Partnership
Land Identification Map: 20 -2 ((1)) 4Z, 5Z, 8Z, 13Z, 14Z, and 48Z

This application does not represent any conflict with the countywide plan transportation recommendation and would have no traffic impact. However, this department is concerned that approval of agricultural and forestall districts may inhibit the ability of the County and/or VDOT to obtain rights-of-way for reasonably be needed for right-of-way during eight year life of the approval should be excluded from the district.

However, in the subject case no projects that would affect the site are included in the Adopted Plan or in current construction programs. Therefore, exclusion of land for rights-of-way purposes should not be necessary at this time. It is emphasized that future conditions may warrant road improvements along the outlet road footage of this property and that appropriate areas should be excluded from this district to accommodate these improvements in the future.

AKR/kb

**FROM THE DESK OF Willie Woode**

ph: 703-324-1430 ♦ fax: 703-324-1421
e-mail: willie.woode@fairfaxcounty.gov

12055 Government Center Parkway, Suite 905
Fairfax, VA 22035-5512
Internet: www.fairfaxcounty.gov/nvswcd

To : Jon Papp
Department of Planning and Zoning

Subject: Eagle A&F District renewal application – AA 89-D-001

Date : September 18, 2007

I have reviewed the current Eagle A&F District renewal application (AA 89-D-001), and walked the property. I realized the current application incorporates the portion of land for which a soil and water quality conservation plan had been prepared in the year 2005 (AR 92-D-006).

In addition to renewing the status of parcels -8Z and -14Z, the intent of this application is also to synchronize the renewal schedules for these two sets of parcels addressed in AA 89-D-001 and AR 92-D-006.

I observed that the two parcels (not included in the 2005 conservation plan) are maintained as an old forest. Parts of these parcels consist of critically steep slopes. The parcels are heavily treed, and the tree samples consist of unusually large, mature, hard and soft wood trees providing a dense canopy. Over the years, decaying organic matter (mainly from tree parts) has created such a thick duff, that the potential for erosion is greatly reduced.

Soil types on site are mostly highly erodible in nature. Erosion problems observed were confined to the natural drainage areas, especially in areas where channels are steep, or where inadequately controlled offsite storm runoff passes through the property.

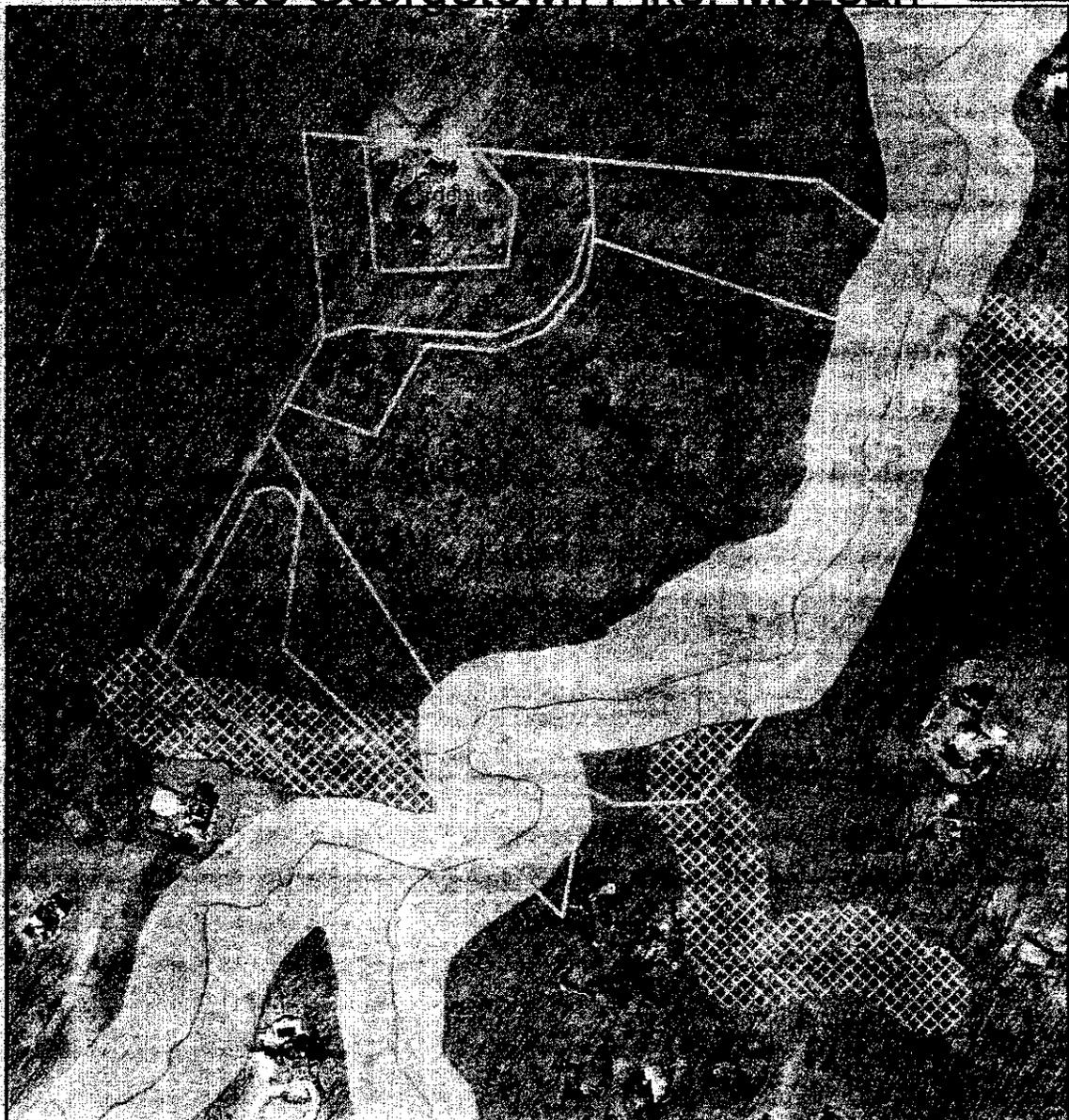
Considering the sensitivity of these areas, the land owner is not advised to make any drastic mitigation attempts without a properly engineered and approved riparian zone/stream stabilization plan.

A copy of the conservation plan prepared in 2005 is attached. This plan is still a valid document. Similar land management practices are recommended for the current additional area. Thus, there is no need for a new plan to be prepared.

Please feel free to contact me with any questions.

Cc: Tabitha Eagle
Mary Ann Welton, DPZ

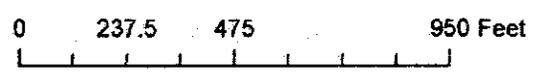
Eagle Family Ag. & Forestal District 8008 Georgetown Pike, McLean



Fairfax County 2004 GIS Layer

Legend

-  Perennial Streams (line)
-  RMA
-  RPA 1993
-  RPA 2003
-  RPA 2004



Conservation Plan

Eagle Family
Womble Carlyle Sandridge & Rice, PLLC
8065 Leesburg Pike, 4th Floor
Tysons Corner, VA 22182

Field Border (386)

Existing vegetated buffer shown as shaded areas in the map plan is the Chesapeake Bay Resource Protection Area (RPA). This area must be maintained in vegetation for water quality purposes. The vegetated buffer width will be at least 100 feet. Any removal or change in vegetation density should be done with prescriptive guidance and validated permission from the Department of Public Works and Environmental Services.

Tract	Field	Planned Amount	Month	Year	Applied Amount	Date
	Forest	2,500.0 FT.	8	2005	2,500.0 FT.	Aug-22-2005
	Total:	2,500.0 FT.			2,500.0 FT.	

Pest Management (595)

Pest management will be carried out to control invasive plants to maintain or improve wildlife habitat according to recommendations from the Virginia Cooperative Extension Service.

Tract	Field	Planned Amount	Month	Year	Applied Amount	Date
	Forest	47.9 AC.	8	2005		
	Residen	3.0 AC.	8	2005		
	Total:	50.9 AC.				

Upland Wildlife Habitat Management (645)

Maintain existing areas to encourage wildlife habitat.

Tract	Field	Planned Amount	Month	Year	Applied Amount	Date
	Forest	47.9 AC.	8	2005	47.9 AC.	Aug-22-2005
	Total:	47.9 AC.			47.9 AC.	

Forest Stand Improvement (666)

(D1) Forest Stand Improvement: Forestland will be managed to improve or sustain timber production for sawtimber, veneer, pulpwood, fiber, poles and pilings according to the plans and specifications from the Virginia Department of Forestry.

Tract	Field	Planned Amount	Month	Year	Applied Amount	Date
	Forest	47.9 AC.	8	2005		
	Total:	47.9 AC.				

RECORD KEEPING (991)

A system of records, indicating the dates and application of tillage practices, nutrients, and pesticides will be developed and maintained. The attached Practice Instructions indicates items to be recorded.

Tract	Field	Planned Amount	Month	Year	Applied Amount	Date
	Forest	47.9 ac.	8	2005		
	Residen	3.0 ac.	8	2005		
	Total:	50.9 ac.				

CERTIFICATION OF PARTICIPANTS

Charlotte Rudette Smith Eagle
 Eagle Family Oct 10, 2005 Date

CERTIFICATION OF:

Senior Conservation Specialist
Wilfred D. Woode 8/25/05
 Wilfred D. Woode Date

CONSERVATION DISTRICT
John Rockard
 No. Va. Soil & Water Conserv. Dst. Date

NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

**DEED OF GIFT OF CONSERVATION EASEMENT
AND EASEMENT TERMINATION AGREEMENT**

Exempted from recordation tax under
the Code of Virginia (1950), as amended,
Section 58.1-811(D).

THIS DEED OF GIFT OF CONSERVATION EASEMENT ("Conservation Easement") is made this 17th day of November, 2006, between the EAGLE FAMILY LIMITED PARTNERSHIP, a Virginia Limited Partnership, having a principal address of 8008 Georgetown Pike, McLean, VA 22102 ("Grantor"), the NORTHERN VIRGINIA CONSERVATION TRUST, a nonprofit organization organized under the laws of the State of Virginia, having its principal office at 4022 Hummer Road, Annandale, VA 22003, and its successors and assigns ("NVCT" or "Grantee"), and the NORTHERN VIRGINIA REGIONAL PARK AUTHORITY, an autonomous body established under the authority provide by Title 15.1 of the Code of Virginia, having its principal office at 5400 Ox Road, Fairfax Station, VA 22039, and its successors and assigns ("NVRPA").

WHEREAS:

A. Grantor is the sole owner in fee simple of approximately 62.7783 acres of certain real property (the "Property") located at 8008 Georgetown Pike (three lot parcels), in the McLean Planning District of Fairfax County, Virginia, more particularly described in Exhibit A attached hereto and incorporated by this reference;

B. Grantee NVCT, whose primary purpose is protecting the natural and historic resources of Northern Virginia, is a non-profit corporation incorporated under the laws of the Commonwealth of Virginia as a tax exempt public charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, qualified under section 170(h) of the Internal Revenue Code of 1986, as amended, and the Virginia Conservation Easement Act, Code of Virginia Sec. § 10.1-1009 et. seq. to receive qualified conservation contributions; and

C. NVRPA desires to terminate those servitudes established by recorded Deeds dated:

June 11, 1973, Book 3917, page 352
December 16, 1977, Book 4792, page 530
November 14, 1978, book 5042, page 342
December 18, 1979, book 5386, page 609

1

Tax Map References 0202-01-0008Z, 0013Z & 0014Z

in the land records of Fairfax County (the "NVRPA Servitude");

D. Preservation of the Property is pursuant to state governmental conservation policies and will yield a significant public benefit, specifically,

(1) in 1966, the General Assembly declared that the preservation of land as open space serves a public purpose by promoting the health and welfare of the citizens of the Commonwealth by encouraging more desirable and economical development of natural resources, and authorized the use of conservation easements to maintain the character of open space land (Open Space Land Act of 1966, Acts 1966, C.451; Va. Code Ann. §§10.1-1700 - 10.1-1705);

(2) the Virginia Conservation Easement Act (Va. Code Ann. §§10.1-1009 - 10.1-1016) authorizes certain tax exempt charitable organizations to be holders of conservation easements for the purposes of retaining or protecting natural or open space values of real property, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property;

(3) the Virginia Land Conservation Incentives Act of 1999 (Va. Code Ann. §§58.1-510 - 58.1-513) provides an income tax credit for donors of interests in land for conservation purposes to encourage the preservation of Virginia's natural resources, wildlife habitats, open spaces, and forested resources; and

(4) Virginia is party to the multi-state Chesapeake 2000 Agreement, committing to the goal of preserving from development 20 percent of the land area in the watershed by 2010 to help protect water quality of the Chesapeake Bay (Chesapeake Bay Preservation Act, Va. Code Ann. §§10.1-2100 - 10.1-2116);

E. Preservation of the Property is pursuant to local governmental conservation policies and will yield a significant public benefit, specifically,

(1) The Fairfax County Policy Plan: The Countywide Policy Element of The Comprehensive Plan for Fairfax County, Virginia - 2003 Edition, as amended, states:

(a) that Fairfax County has established the Open Space/Historic Easements Program, committed to conserving natural and heritage resources as allowed by the Code of Virginia, such as open space, sensitive environmental resources, trees, scenic vistas, historic sites and recreation uses such as trails, and has entered into a public-private partnership with the Northern Virginia Conservation Trust to implement its easement program; and

(b) that it is a goal of the Board of Supervisors to support the conservation of appropriate land areas in a natural state to preserve, protect, and enhance stream valleys, meadows, woodlands, wetlands, farmland, and plant and animal life, and that small areas of open space should be preserved in already congested and developed areas for passive neighborhood use, visual relief, scenic value, and screening and buffering purposes; and

(c) that Fairfax County should use - and the Board of Supervisors as a matter of policy encourages the use of - open space/conservation easements to implement the County's goals and objectives for the preservation of natural and heritage resources within the context of Fairfax County's suburban and urbanizing character, in accord with the County's Comprehensive Plan; and

(d) that Fairfax County should use easements to help preserve small areas of open space in already developed areas to shape the character of the community; to protect trees and other environmental resources; to provide visual relief; to preserve wildlife habitat; to provide buffering and screening; and to otherwise ensure that suburban and urban neighborhoods may retain open space; and

(e) that protection of stream valley corridors through its Environmental Quality Corridor ("EQC") policy is a major objective for the County, and EQC land that remains in private ownership should be protected through appropriate commitments for preservation, including the use of protective easements; and

(f) that an objective of Fairfax County is to promote the use of open space/conservation easements as tools to preserve environmental resources, including open space in already developed areas in order to provide natural areas, protect environmentally sensitive resources and preserve wildlife habitat in an urban or suburban context.

(2) The Comprehensive Plan for Fairfax County, Virginia for the McLean Planning District, Area II - 2003 Edition, as amended, provides:

(a) that a major objective for the Planning District is to preserve existing heritage resources.

(b) more specifically, the McLean Planning District is highlighted as containing many known and potential heritage resources. Designation on the County Inventory of Historic Sites confers public recognition of their importance:

The McLean Planning District contains an extensive array of environmental resources. The predominant features include the Potomac Palisades and the Georgetown Pike. Outside the Tysons Corner area, development is heavily constrained by rugged terrain associated with the Potomac River, extensive EQCs, highly erodible soils, and areas of hardwood forests. Low density development and innovative subdivision designs should be used to maximize the preservation of these features. Policies should be addressed to maintaining these areas for the valuable habitat they support. The following are environmental objectives for the McLean Planning District:

- Ensure a diversity of habitat types through the provision of wetland, forestland and meadowland EQCs;
- Protect the aesthetic character of Georgetown Pike, a Virginia byway. Fairfax County should limit densities on the land abutting the Pike running in a band on both sides for a depth of 100 to 150 feet; and
- Encourage continued efforts to conserve land along the Potomac River shoreline by the Northern Virginia Regional Park Authority and the Federal government.

(3) Fairfax County adopted the Chesapeake Bay Preservation Ordinance in 2000 (Chapter 118, Code County of Fairfax, Virginia), which states:

(a) that "[h]ealthy state and local economies are integrally related to and dependent upon the health of the Chesapeake Bay, therefore the general welfare of the people of Fairfax County and the Commonwealth depends on the health of the Bay," and

(b) that the entirety of Fairfax County drains into the Potomac River and ultimately the Chesapeake Bay, therefore any use or development within the County can impact the water quality of the Bay.

F. The Property possesses natural, ecological, open space, historic and scenic values (collectively, "conservation values") of great importance to the Grantor, the people of Fairfax County, and the people of the Commonwealth of Virginia, including, but not limited to: a sizeable portion of the property is RPA along the banks of perennial streams; a significant portion of the property meets the criteria for Fairfax County designation as EQC (as documented in the letter from the Fairfax County Department of Planning and Zoning dated May 30, 2006, and included in Baseline Documentation, herein after "Baseline Documentation"); the property lies along the scenic byway of Georgetown Pike and within the Potomac Palisades; the property is home to significant biological

and ecological resources; the property protects important scenic viewsheds in the Potomac Gorge which can be viewed from public roads and trails and National Parklands; and, the Property possesses a listed site on the Fairfax County Inventory of Historic Sites - the Bull Neck Gold Mine;

G. The specific conservation values of the Property are further documented in the Baseline Documentation, incorporated herein by this reference, to be prepared by the Grantee and signed and acknowledged by the Grantor concurrently with the execution of this easement and to be maintained on file at the offices of the Grantee NVCT. The Baseline Documentation is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this grant; and

H. The Grantor and Grantee have the common purpose of conserving the above-described conservation values of the Property in perpetuity;

I. The Grantor intends that the conservation values of the Property be preserved and maintained by permitting only those uses on the Property that do not significantly impair or interfere with them;

J. The Grantor further intends, as owner of the Property, to convey to the Grantees the right to preserve and protect the conservation values of the Property in perpetuity by granting this Conservation Easement to the Grantee that will restrict use of the Property by the Grantor (and any future owner of all or any portion of the Property) because of the imposition of the terms, conditions, and restrictions hereinafter expressed, and the Grantee intends to accept such conveyance; and

K. The Grantee agrees by accepting this Conservation Easement to honor the intention of the Grantor stated herein and to preserve and protect in perpetuity the conservation values of the Property.

NOW THEREFORE, in recognition of the above and in consideration of ten dollars (\$10.00) and other valuable consideration but as a gift nonetheless, and in consideration of the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the Commonwealth of Virginia and in particular the Virginia Conservation Easement Act, Grantor and the Grantee agree as follows:

1. Purpose. It is the purpose of this Conservation Easement to preserve and protect the conservation values of the Property, and to prevent any use of the Property that will significantly impair or interfere with the conservation values of the Property.

2. Definitions. Whenever used herein, the term "Grantor" shall include the Grantor and all personal representatives, heirs, successors and assigns, and the term "Grantee" shall include the Grantee, its successors and assigns. In the event that there is more than one Grantor or more than one Grantee, the terms "Grantor" and "Grantee" shall be interpreted to mean multiple Grantors or Grantees, as the case may be.

3. Grant. Grantor hereby voluntarily grants and conveys to the Grantee a Conservation Easement in gross over the Property, forever and in perpetuity, of the nature and character and to the extent hereinafter set forth.

4. Prohibited Uses. The following restrictions and conditions shall apply to the Property:

4.1 Subdivision. The Property shall not be subdivided, in law or in fact, in any manner, except as specifically permitted in paragraph 5.4 below. Partition or division of the Property into separate or individual parcels shall not be considered a prohibited subdivision of the Property provided that not more than one (1) homesite shall be created on the Property. Further, boundary line adjustments with adjoining parcels of land or within the Property are permitted and shall not be considered a prohibited division of the Property provided that the Grantee is notified in writing prior to the completion of any such boundary line adjustment and at least one of the following conditions is met: (1) the entire adjacent parcel is subject to an existing, recorded conservation easement; or (2) the proposed boundary line adjustment is reviewed and approved in advance by the Grantee.

4.2 Uses. Industrial or commercial activities other than the following are prohibited: (1) horticulture and silviculture; (2) temporary or seasonal activities which do not permanently alter the physical appearance of the Property; and (3) activities which can be and in fact are conducted within permitted buildings under applicable law.

4.3 Structures and Improvements. "Structures and improvements" as used in this Conservation Easement include buildings, recreational courts, walls, driveways, parking areas, and areas of impermeable surface, but do not include a reasonable number of small structures with minimal footprints, such as lawn sculptures, swingsets, and mailboxes, structures or improvements designed for the purposes of combating erosion or flooding or to enhance habitat values, or structures placed on the Property for limited, short periods of time, such as a tent for a party.

There are no existing structures and improvements on the Property. No structures or improvements shall hereafter be placed, constructed, or maintained on the Property, except as specifically provided for in the one reserved building right more particularly described in section 5.4 below. These restrictions apply in addition to those delineated in 5.4 below.

(a) any new fences, gates or walls shall be constructed, insofar as practicable, to blend with the natural landscape, and to avoid infringing materially on views of the Property from public viewsheds;

(b) all permitted construction activities must be conducted so as to minimize their potential negative impacts on the Property's conservation values, including soil erosion and damage to living trees. No construction activities are permitted on or adjacent to the Bull Neck Gold Mine site area that will impact the integrity of that historic site.

(c) no new structures or improvements may be placed, constructed, or maintained within the area designated as RPA under the Fairfax County Chesapeake Bay Preservation Ordinance as of the date of the grant of this Conservation Easement. They must be located where practicable outside the EQC as delineated in the attached aerial photograph provided by Fairfax County;

4.4 Trees and Forest Management Plan.

Removal, destruction and cutting of trees, shrubs, and other vegetation is prohibited except for the following: to the extent necessary for (a) application of sound disease or insect control practices; (b) removal or pruning of trees, shrubs, and other vegetation that by virtue of their location would prevent construction and maintenance of structures permitted under this Agreement if not removed; (c) removal or pruning of trees in order to prevent endangerment of life; (d) removal of non-native invasive species; (e) sustainable management of the forest resources provided that such management is conducted in accordance with a Forest Management Plan that has been reviewed and approved by Grantee, and such Forest Management Plan incorporates the following goals: i. to maintain, enhance, or improve water quality; ii. to encourage the long-term health of the forest; and iii. to maintain, improve or enhance the scenic integrity of the forest and public viewsheds from the Potomac Gorge and adjacent Parks.

4.5 Trees, Shrubs, and Other Vegetation in the RPA. In addition to the requirements for management of trees set forth in section 4.4 above, within the area designated by Fairfax County as RPA, the Grantor shall not remove trees,

shrubs, or vegetation except that, to the extent allowed under any applicable laws or regulations:

(a) the Grantor may remove invasive species, dead or diseased vegetation, or any tree or other vegetation which presents a safety concern with the requisite notice to Grantee as defined in Section 23;

(b) the Grantor may replace one species of vegetation with another, provided that the function of the RPA and EQC to protect water quality is maintained and that no invasive species are planted; and

(c) vegetation may be removed to provide for reasonable sight lines, access paths, and habitat management as permitted by Fairfax County law and regulation, and if consistent with the Section 4.4 above.

4.6 Excavation/Fill/Changes to Topography. There shall be no mining, excavating, dredging, or removing from the Property of soil, loam, peat, gravel, sand, hydrocarbons, rock, or other mineral resource or natural deposit and no changing of the topography through the placement of soil or other substance or material such as land fill or dredging spoils, except for: (1) disturbance of soil to conduct activities on the Property otherwise permitted by this Conservation Easement, including construction of permitted structures, gardening, and agriculture; (2) movement or placement of soil, rock, or other earth materials, vegetative matter, and compost reasonably necessary for the purpose of combating erosion or flooding or to enhance habitat values; and (3) disturbance of soil by or under the supervision of a professionally qualified archaeologist for the purpose of excavating archaeologically significant deposits, sites, or features, provided that plans for such archaeological activity have been submitted to and approved by the Grantee according to section 23 below.

4.7 Dumping. There shall be no dumping, burying, or storing of waste, sewage, garbage, vehicles, or appliances, or any toxic, hazardous or offensive materials on the Property, except for: (1) appropriate routine storage of garbage and wastes from permitted uses of the Property pending transport for proper disposal; (2) garbage and wastes which flow into proper septic or other appropriate waste disposal systems; (3) materials, such as gasoline, diesel fuel, and cleaning materials which are customarily used on rural and residential properties and are properly stored pending such use; (4) vehicles and equipment as necessary for permitted uses on the Property; and (5) biodegradable materials generated, utilized, and/or processed on the Property to further the permitted uses of the Property while maintaining the conservation purposes described herein.

4.8 Use of Chemicals. The use of chemical fertilizers, herbicides, pesticides, fungicides, and natural controls will be permitted when use is in compliance with all applicable federal, state, and local statutes and regulations.

4.9 Activities Affecting Hydrology/Water Quality. There shall be no activities conducted on the Property which could reasonably be expected to cause pollution, alteration, or depletion of natural water courses, lakes, ponds, or wetlands, unless the activity is conducted to restore or enhance wildlife habitat or water quality.

4.10 Public Utility Prohibition. For the purpose of protecting the scenic integrity of the Property, no major public or private utility installation, such as cellular telephone towers or exchanges, electric generating plants, electric power substations, high tension electric power transmission lines, gas generating plants, gas storage tanks, water storage tanks or reservoirs, sewage treatment plants, or microwave relay stations shall be constructed or placed on the Property. This provision is intended to provide the Grantee such an interest in and to this Property as is sufficient to prohibit the exercise of eminent domain by public utility companies without prior written notice and approval by the Grantee.

5. Grantor's Reserved Rights. The Grantor hereby reserves the following rights, which are permitted only if such uses and activities do not materially impair the purpose of this Conservation Easement:

5.1 The right to undertake any activity or use of the Property not prohibited by this Conservation Easement.

5.2 The right to sell, give, mortgage, lease, or otherwise convey the Property, or portions thereof in accordance with the notice requirements set forth in sections 13 and 23.

5.3 The right of exclusive use, possession, and enjoyment of the Property. Nothing contained in this Conservation Easement shall be construed as a grant to the general public of any right to enter upon any part of the Property.

5.4 The right to construct, subject to notice and approval of Grantee under section 23 below, one (1) additional home site provided that such construction is in accordance with all local, state, and federal requirements, and provided that the total impervious surfaces created by such home site, including the house, roads, driveways, parking area, walkways, decks, porches, patios, tennis courts, swimming pools and pool decks, do not exceed Fifteen thousand (15,000) square feet of impervious surface, including any out buildings or other

accessory structures normally associated with residential use (swimming pool, tennis court and the like). However, while it is the intent of Grantor to use permeable surfaces for access roads and drives (the current condition for the access road to this and the adjoining property lot 0048Z), to the extent erosion or other engineering or environmental factors require hard surface or other impermeable surface construction to assure portions of such roads or drives safety and durability, such essential impermeable surface or structures, subject to notice to and approval of Grantee, shall not be included in the 15,000 square feet restriction above. Grantee shall not unreasonably withhold approval and will be limited to assuring that any such requests for approval comply with the restrictions set out below and in paragraph 4 above;

The actual residence shall not exceed Seventy-five hundred (7,500) square feet in usable living space as defined by generally accepted standards in the housing industry and shall not exceed in height 35 feet as determined by the policy of Fairfax County for determining and enforcing residence height restrictions. The building area will not be elevated by construction methods to raise the foundation level above that naturally existing prior to construction for purposes of this elevation measurement. The areas for such construction are to be determined with specificity at a later date and with approval of the Grantee, but will not take place on steep slopes and avoid to the extent feasible impacting EQC areas designated in the EQC attachment prepared by Fairfax County. As of the date of the execution of this Conservation Easement, Grantor intends that the one reserved home site will be on parcel 5 of the "Concept Sketch" attached to the Baseline Documentation on the northeast portion of lot 0013Z. Any cutting of trees will comply with the criteria in 4.4 and 4.5 above and only with approval of Grantee and be the minimum necessary to permit the home site and accessory structure construction.

5.5 Should Grantor exercise the right to build the additional residence noted in 5.4 above, Grantor may remove such trees and vegetation necessary and appropriate to provide a line-of-sight view to the Potomac River, with approval of Grantee, and only if it can be done in such a manner as to not significantly encumber the public viewshed of the Property from the River and other public viewing vantage points.

5.6 Grantor retains the right to take any action regarding the Property that is not expressly prohibited by the terms of this Conservation Easement, provided such action will not materially impair or interfere with the value of the Conservation Easement granted herein.

6. **Grantor's Retained Duties.** The Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property.

7. **Monitoring.** The Grantee shall have the right with reasonable notice to enter upon the Property at reasonable times to monitor Grantor's compliance with and otherwise enforce the terms of this Conservation Easement. Monitoring may be expected to occur at least annually and as determined necessary by the Grantee when an activity is undertaken on the Property that may impact the conservation values protected by this Conservation Easement.

8. **Enforcement.** Upon any breach or threatened potential breach of this Conservation Easement by Grantor, the Grantee may, after reasonable notice of at least 30 days to Grantor, take such action as the Grantee determines to be necessary or appropriate to enforce the covenants and restrictions set forth in this Conservation Easement.

8.1 The Grantee shall be entitled to pursue any cause of action which may be available to the Grantee at law or in equity to prevent or correct any breach of such covenants and restrictions, including obtaining injunctive relief to prevent or rectify any breach of this Conservation Easement.

8.2 The Grantee shall be entitled to recover damages for violation of the terms of this Conservation Easement, including actual damages for the loss of those conservation values that are protected by this Conservation Easement.

8.3 If the Grantor is found to have breached any of the terms under this Conservation Easement, the Grantor shall reimburse the Grantee for any costs or expenses incurred by the Grantee, including costs of restoration necessitated by Grantor's violation of the terms of this Conservation Easement, court costs and reasonable attorney's fees. If Grantor prevails in such action, each party shall bear its own costs.

9. **Effect of Failure to Enforce.** Any forbearance by the Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement or any of the Grantee's rights under this Conservation Easement.

10. **Acts Beyond Grantor's Control.** Nothing contained in this Conservation Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any injury to or change in the Property resulting from causes beyond

Grantor's control, including without limitation, fire, flood, storm, earth movement, vandalism and trespass, or from any prudent action taken by the Grantor to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

11. Control. Nothing in this Conservation Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in the Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended and any similar statute of the Commonwealth of Virginia.

12. Density Determinations. The Property shall not be included as part of the gross area of other property not subject to this Conservation Easement for the purposes of determining density, lot coverage, or open space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights which have been encumbered or extinguished by this Conservation Easement shall be transferred to any other land pursuant to a transferable development rights scheme or cluster development arrangement or otherwise.

13. Sale or Transfer. Grantor agrees to incorporate in whole or by reference the terms of this Conservation Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Moreover, in any deed conveying all or any part of the Property, this Conservation Easement shall be referenced by Deed Book and Page Number in the deed of conveyance. Grantor further agrees to give written notice to the Grantee of the transfer of any interest at least thirty (30) days prior to the date of such transfer. The failure of the Grantor to perform any act required by this paragraph shall not impair the validity of any conveyance of all or any portion of the Property except that such conveyance shall be subject to this Conservation Easement and no such conveyance shall impair the validity of this Conservation Easement or limit its enforceability in any way.

14. Assignment. Grantee may assign, upon prior written notice to and with written approval by Grantor which shall not be unreasonably withheld, its rights under this Conservation Easement to any entity that is a "qualified organization" within the meaning of section 170(h)(3) of the Internal Revenue Code (or any successor provision then applicable) and a "holder" or "public body" within the meaning of the provisions of sections 10.1-1009 and 10.1-1700 of the Code of Virginia (or any successor provisions then applicable), and Grantee covenants

and agrees that the terms of any assignment will be such that the assignee will be required to continue to carry out in perpetuity the conservation purposes which the contribution was originally intended to advance. Should Grantee decide to assign its rights under this easement, it will provide Fairfax County the right of first refusal to accept the Grantee responsibilities and duties under this Conservation Easement.

15. Successors and Assigns. This Conservation Easement shall be binding upon the Grantor, including all successors and assigns, future owners of all or any portion of the Property, and their personal representatives and heirs, and shall constitute a servitude upon and touching the Property and shall continue as a servitude running in perpetuity with the Property.

16. Termination of the Grantee. Whenever the Grantee shall cease to exist, this Conservation Easement and any right of enforcement shall vest in the Virginia Outdoors Foundation. If the Virginia Outdoors Foundation, or the successors or assigns thereof, should cease to exist, or should not qualify as a "qualified organization" under Section 170(h) of the Internal Revenue Code (or any successor provision then applicable) or should otherwise cease to be eligible to receive this Conservation Easement directly under the Virginia Conservation Easement Act (or its successor provisions then applicable), then this Conservation Easement and any right of enforcement shall vest in the Commonwealth of Virginia. Grantee shall provide notice to the Grantor in the event of Grantee's termination.

17. Modification. Grantor and Grantee may jointly amend this Conservation Easement provided that no amendment shall be allowed that will affect the status of the Grantee under §501(c)(3) and §170(h) of the Internal Revenue Code (or any successor provisions then applicable) or Chapter 10.1 §1009 et seq. and Chapter 10.1 §1700 et seq. of the Code of Virginia (or any successor provision then applicable). Any amendment of this Conservation Easement must be consistent with the purpose of this Conservation Easement, and shall not affect its perpetual duration. Any such amendment shall not be effective unless and until recorded in the land records of Fairfax County, Virginia.

18. Property Right Vests in Grantee; Extinguishment. Grantor and Grantee agree, pursuant to Treas. Reg. § 1.170A-14(g)(6), that donation of this Conservation Easement gives rise to a property right, immediately vested in Grantee, with a fair market value equal to the proportionate value that the Conservation Easement bears to the value of the Property as a whole, and if the restrictions of this Conservation Easement are extinguished by judicial proceeding, the Grantee's proceeds from a subsequent sale or exchange of the

Property will be used by the Grantee in a manner consistent with the conservation purposes of the original contribution.

19. Mortgages and Deeds of Trust: The Grantor certifies that a copy of this Agreement has been provided to all mortgagees, and trustees and beneficiaries of deeds of trust affecting the Property, if any, as of the date of this Agreement, and each such mortgagee, trustee and beneficiary has subordinated the mortgage or deed of trust to this Agreement, by signing a subordination agreement which shall be recorded in the land records at the time of recording of this Agreement.

20. CERCLA Liability: Grantee shall not be considered an owner or owner/operator of the Property for the purposes of liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. Chapter 103) or similar state law.

21. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to effect the purpose of this Conservation Easement and the policy and purpose of the Virginia Conservation Easement Act. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of the Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

22. Severability. If any provision of this Conservation Easement is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby.

23. Notice and Requests for Approval. In any case where the terms of this Conservation Easement require notice to or approval of the Grantee or the Grantor, such notice or request for approval shall be in writing.

Notice of an activity and requests for approval must describe the activity in question in sufficient detail to permit the requested party to make an informed judgment as to its consistency with the purpose of this Conservation Easement. Any denial of any consent requested under this Conservation Easement shall be in writing and shall set forth in detail the specific grounds for such denial, including, without limitation, citation to the specific provision or provisions of this Conservation Easement upon which such reliance is based.

The requested party shall have forty-five (45) days from the receipt of requests for approval (or such longer period as the parties may agree to in writing) within which to review such request and grant or deny approval. If the

requested party fails to respond within forty-five (45) days, the proposed activity shall be deemed approved.

If Grantor applies to Fairfax County for permission to construct the new homesites referenced above, all copies of such requests will be concurrently sent to Grantee.

Written requests and notices by the Grantor and the Grantee and any subsequent response or approval shall be deemed given three (3) days after mailing by registered or certified mail, or by FedEx or a similar public or private courier service which provides receipt of delivery, properly addressed as follows: (a) if to the Grantee, at The Northern Virginia Conservation Trust, Packard Center, 4022 Hummer Road, Annandale, VA 22003; (b) if to the Grantor, at 8008 Georgetown Pike, McLean, VA 22102 and 2250 Court Avenue, Memphis, TN 38104. Any party can change the address to which notices are to be sent to him or her by giving notice pursuant to this section.

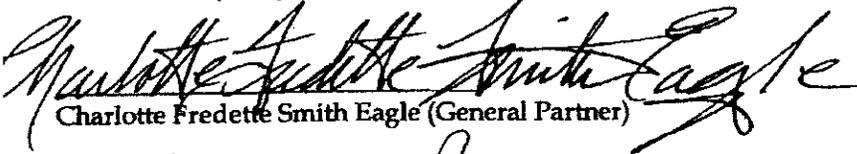
24. Termination of NVRPA Servitude:

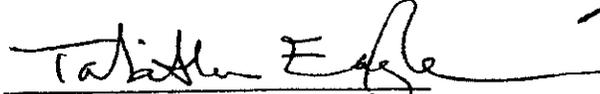
NVRPA hereby vacates and terminates all of its right, title and interest in and to the NVRPA Servitude and by such vacation and termination intends for the NVRPA Servitude to be of no further force and effect and to the extent that any such right, title and interest shall not hereby be vacated and terminated, NVRPA hereby quitclaims unto Grantor all of NVRPA's right, title and interest in and to the Property.

Grantor hereby consents to NVRPA's vacation and termination of the NVRPA Servitude and accepts NVRPA's quitclaim to Grantor of all of NVRPA's right, title and interest in and to the Property. Further, Grantor hereby releases NVRPA and its successors and assigns from each and every obligation of NVRPA under the NVRPA Servitude.

IN WITNESS WHEREOF Grantor and the Grantee have executed this Conservation Easement as of the date and year first above written.

GRANTORS (a majority of the Eagle Family Limited Partners):

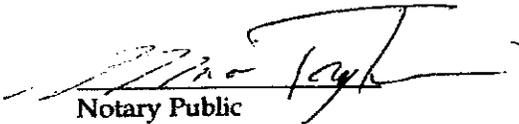

Charlotte Fredette Smith Eagle (General Partner)


Tabitha Eagle (formerly, Tabitha Eagle Chung)

COMMONWEALTH OF VIRGINIA,
COUNTY OF FAIRFAX, TO WIT:

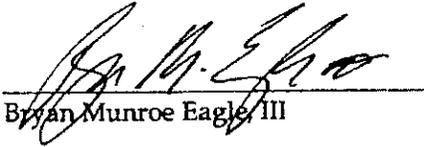
I, Mina Tajjuna a Notary Public for the Commonwealth aforesaid,
hereby certify that Charlotte Fredette Smith Eagle and Tabitha Eagle personally
appeared before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 17 day of Nov., 2006.


Notary Public

My commission expires: 7-31-07 (SEAL)

FINAL EFLP EASEMENT 11-16-06


Bryan Munroe Eagle, III

STATE OF TENNESSEE
COUNTY OF SHELBY, TO WIT:

I, Betty G. Phillips, a Notary Public for the State aforesaid, hereby certify that Bryan Munroe Eagle, III personally appeared before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 16th day of November 2006.


Notary Public

My Commission Expires
August 30, 2008

My commission expires: _____



GRANTEE:

NORTHERN VIRGINIA CONSERVATION TRUST

Michael Nardolilli

By: Michael Nardolilli, President

COMMONWEALTH OF VIRGINIA,
COUNTY OF FAIRFAX, TO WIT:

I, Carlos Rios, a Notary Public for the Commonwealth aforesaid,
hereby certify that Michael Nardolilli, President of the Northern Virginia
Conservation Trust, personally appeared before me this day and acknowledged
the foregoing instrument.

WITNESS my hand and official seal this 6th day of November, 2006.

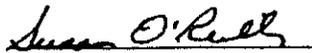
Carlos Rios
Notary Public

My commission expires: 8/31/04 (SEAL)

FINAL EFLP EASEMENT 11-16-06

NORTHERN VIRGINIA REGIONAL PARK AUTHORITY,
an autonomous body established under the authority provide by Title 15.1 of the
Code of Virginia

BY: 
William C. Dickinson, Chairman


Notary Public

My commission expires: October 31, 2007 (SEAL)

I, SUSAN O'REILLY, a Notary Public for the Commonwealth aforesaid,
hereby certify William C. Dickinson, Chairman, personally appeared before me
this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 17th day of NOVEMBER 2006.

Notary Public

My commission expires: _____ (SEAL)

EXHIBIT A

DESCRIPTION OF PROPERTY SUBJECT TO THE CONSERVATION
EASEMENT FROM THE EAGLE FAMILY LIMITED PARTNERSHIP
TO THE NORTHERN VIRGINIA CONSERVATION TRUST

TAX MAP NOS. 0202-01-0008Z, 0013Z & 0014Z

BEGINNING at a point, known as Houts corner pipe, formerly a forked chestnut tree, Northernmost corner of Parcel A, formerly Wood, also previously described as Eagle Parcel 1, common most Northwestern corner of Parcel B-2, formerly the U.S. Government, now Eagle; thence departing said common corner and continuing with the North line of Parcel B-2, S 75 degrees 17' 36" E, 1540.46 ft. to the remains of an old tree on the bank of Bulls Neck Run; thence continuing with the meanders of Bulls Neck Run and with the East line of Parcel B-2 the following courses and distances, S 12 degrees 12' 03" E, 77.69 ft., N 69 degrees 21' 35" E, 18.33 ft., S 6 degrees 28' 59" E, 56.25 ft., S 42 degrees 57' 59" E, 140.07 ft., S 19 degrees 19' 05" W, 276.57 ft. and N 51 degrees 48' 59" W, 24.47 ft. to a point marking the Northeast corner of Parcel D; thence departing said Parcel B-2 and continuing with the East line of Parcel D, S 17 degrees 12' 01" W, 199.35 ft. to the Northeast corner of Parcel E; thence continuing with the East line of Parcel E, S 12 degrees 56' 03" W, 308.45 ft. and S 53 degrees 39' 54" W, 36.00 ft. to the Northwest corner of Parcel C, corner to Bragdon lying in the East line of Parcel E; thence departing said Parcel E and continuing with the North, East and South lines of Parcel C, common lines with Bragdon, S 52 degrees 18' 29" E, 150.00 ft., S 37 degrees 41' 31" W, 839.84 ft. and S 89 degrees 54' 31" W, 189.80 ft. to a point, corner of Bragdon in the South line of Parcel C; thence continuing with the line of Bragdon and deGanahl N 63 degrees 03' 07" W, 407.57 ft. to the common Southwesternmost corner of Parcel C, Southernmost corner of aforesaid Parcel E; thence continuing with the common South line of Parcel C, and the line of deGanahl N 32 degrees 25' 30" W, 837.23 ft. to a point marking the Westernmost corner of Parcel E, Lying in the East line of aforesaid Parcel A, another corner of deGanahl; thence continuing with the East, South and West lines of Parcel A the following courses and distances, S 29 degrees 58' 30" W, 516.85 ft., N 62 degrees 19' 30" W, 521.60 ft. to a point, thence at 90 degrees to this course, N 27 degrees 40' 30" E, 1634.87 ft. to the BEGINNING, and containing 3,073,832 Sq. Ft. or 70.55 acres, more or less.

LESS AND EXCEPT that certain parcel of land described as follows:
BEGINNING at a point, said point marks the common Southwest corner of the

formerly U.S. Government Parcel B-2, now Eagle, and the Northwest corner of a 7.7717 Ac. Parcel B-1; Pt. of Parcel 2, lying in the East line of Eagle Parcel 1 (DB3571/Pg.663), said point of beginning lies S 5 degrees 02' 00" E, 540.00 ft. from Houts corner pipe, formerly a forked chestnut tree, Northwest corner of aforesaid Parcel B-2; thence continuing with south line of Parcel B-2, S 84 degrees 14' 09" E, 677.89 ft. to the Northwest corner of Parcel D lying in the South line of Parcel B-2; thence departing said South line of Parcel B-2 and continuing with the West line of Parcel D, S 3 degrees 02' 56" E, 194.43 ft. to the common Southeast corner of Parcel B-1, Southwest corner of Parcel D, and the Northwest corner of Parcel E; thence continuing with the Northwest line of Parcel E the following courses and distances, S 16 degrees 08' 50" W, 103.12 ft., S 38 degrees 40' 50" W, 135.75 ft., S 69 degrees 49' 50" W, 128.45 ft., N 86 degrees 15' 10" W, 165.00 ft. and N 70 degrees 11' 07" W, 224.52 ft. to a point marking the Northwest corner of Parcel E, Southwest corner of Parcel B-1, and lying in the East line of Parcel A (DB 3571/PG 663); thence continuing with the East line of Parcel A, the following two courses and distances, N 29 degrees 58' 30" E, 180.00 ft. and North 5 degrees 02' 00" W, 482.83 ft. to the BEGINNING, and containing 338,544 Sq. Ft. or 7.7717 acres, more or less.

Tax Map References 0202-01-0008Z, 0013Z & 0014Z

11/20/2006

RECORDED FAN FAX CO VA
 TESTED
 J. Frey
 CLERK

A COPY TESTE:
 JOHN T. FREY, CLERK

BY: *J. Frey*
 Deputy Clerk

DEED OF GIFT OF CONSERVATION EASEMENT

Exempted from recordation tax under the Code of Virginia (1950), as amended, Section 58.1-811(D).

THIS DEED OF GIFT OF CONSERVATION EASEMENT ("Conservation Easement") is made this 17th day of November, 2006, between CHARLOTTE FREDETTE SMITH EAGLE ("Grantor"), the NORTHERN VIRGINIA CONSERVATION TRUST, a nonprofit organization organized under the laws of the State of Virginia, having its principal office at 4022 Hummer Road, Annandale, VA 22003, and its successors and assigns ("NVCT" or "Grantee"), and the NORTHERN VIRGINIA REGIONAL PARK AUTHORITY, an autonomous body established under the authority provide by Title 15.1 of the Code of Virginia, having its principal office at 5400 Ox Road, Fairfax Station, VA 22039, and its successors and assigns ("NVRPA").

WHEREAS:

A. Grantor is the sole owner in fee simple of approximately 7.7717 acres of certain real property (the "Property") located at 8008 Georgetown Pike, in the McLean Planning District of Fairfax County, Virginia, more particularly described in Exhibit A attached hereto and incorporated by this reference;

B. Grantee NVCT, whose primary purpose is protecting the natural and historic resources of Northern Virginia, is a non-profit corporation incorporated under the laws of the Commonwealth of Virginia as a tax exempt public charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, qualified under section 170(h) of the Internal Revenue Code of 1986, as amended, and the Virginia Conservation Easement Act, Code of Virginia Sec. § 10.1-1009 et. seq. to receive qualified conservation contributions;

C. NVRPA desires to terminate that servitude established by recorded Deed dated November 22, 1977, Book 4772, Page 634 in the land Records of Fairfax County (the "NVRPA Servitude")

D. Preservation of the Property is pursuant to state governmental conservation policies and will yield a significant public benefit, specifically,

(1) in 1966, the General Assembly declared that the preservation of land as open space serves a public purpose by promoting the health and welfare of the citizens of the Commonwealth by encouraging more desirable and economical development of natural resources, and authorized the use of conservation

4022 Hummer Road
Annandale, VA 22003
www.nvct.org

easements to maintain the character of open space land (Open Space Land Act of 1966, Acts 1966, C.451; Va. Code Ann. §§10.1-1700 - 10.1-1705);

(2) the Virginia Conservation Easement Act (Va. Code Ann. §§10.1-1009 - 10.1-1016) authorizes certain tax exempt charitable organizations to be holders of conservation easements for the purposes of retaining or protecting natural or open space values of real property, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property;

(3) the Virginia Land Conservation Incentives Act of 1999 (Va. Code Ann. §§58.1-510 - 58.1-513) provides an income tax credit for donors of interests in land for conservation purposes to encourage the preservation of Virginia's natural resources, wildlife habitats, open spaces, and forested resources; and

(4) Virginia is party to the multi-state Chesapeake 2000 Agreement, committing to the goal of preserving from development 20 percent of the land area in the watershed by 2010 to help protect water quality of the Chesapeake Bay (Chesapeake Bay Preservation Act, Va. Code Ann. §§10.1-2100 - 10.1-2116);

E. Preservation of the Property is pursuant to local governmental conservation policies and will yield a significant public benefit, specifically,

(1) The Fairfax County Policy Plan: The Countywide Policy Element of The Comprehensive Plan for Fairfax County, Virginia - 2003 Edition, as amended, states:

(a) that Fairfax County has established the Open Space/Historic Easements Program, committed to conserving natural and heritage resources as allowed by the Code of Virginia, such as open space, sensitive environmental resources, trees, scenic vistas, historic sites and recreation uses such as trails, and has entered into a public-private partnership with the Northern Virginia Conservation Trust to implement its easement program; and

(b) that it is a goal of the Board of Supervisors to support the conservation of appropriate land areas in a natural state to preserve, protect, and enhance stream valleys, meadows, woodlands, wetlands, farmland, and plant and animal life, and that small areas of open space should be preserved in already congested and developed areas for passive neighborhood use, visual relief, scenic value, and screening and buffering purposes; and

(c) that Fairfax County should use - and the Board of Supervisors as a matter of policy encourages the use of - open space/conservation easements to implement the County's goals and objectives for the preservation of natural and

heritage resources within the context of Fairfax County's suburban and urbanizing character, in accord with the County's Comprehensive Plan; and

(d) that Fairfax County should use easements to help preserve small areas of open space in already developed areas to shape the character of the community; to protect trees and other environmental resources; to provide visual relief; to preserve wildlife habitat; to provide buffering and screening; and to otherwise ensure that suburban and urban neighborhoods may retain open space; and

(e) that protection of stream valley corridors through its Environmental Quality Corridor ("EQC") policy is a major objective for the County, and EQC land that remains in private ownership should be protected through appropriate commitments for preservation, including the use of protective easements; and

(f) that an objective of Fairfax County is to promote the use of open space/conservation easements as tools to preserve environmental resources, including open space in already developed areas in order to provide natural areas, protect environmentally sensitive resources and preserve wildlife habitat in an urban or suburban context.

(2) The Comprehensive Plan for Fairfax County, Virginia for the McLean Planning District, Area II - 2003 Edition, as amended, provides:

(a) that a major objective for the Planning District is to preserve exiting heritage resources.

(b) more specifically, the McLean Planning District is highlighted as containing many known and potential heritage resources. Designation on the County Inventory of Historic Sites confers public recognition of their importance:

The McLean Planning District contains an extensive array of environmental resources. The predominant features include the Potomac Palisades and the Georgetown Pike. Outside the Tysons Corner area, development is heavily constrained by rugged terrain associated with the Potomac River, extensive EQCs, highly erodible soils, and areas of hardwood forests. Low density development and innovative subdivision designs should be used to maximize the preservation of these features. Policies should be addressed to maintaining these areas for the valuable habitat they support. The following are environmental objectives for the McLean Planning District:

- Ensure a diversity of habitat types through the provision of wetland, forestland and meadowland EQCs;
- Protect the aesthetic character of Georgetown Pike, a Virginia byway. Fairfax County should limit densities on the land abutting the Pike running in a band on both sides for a depth of 100 to 150 feet; and
- Encourage continued efforts to conserve land along the Potomac River shoreline by the Northern Virginia Regional Park Authority and the Federal government.

(3) Fairfax County adopted the Chesapeake Bay Preservation Ordinance in 2000 (Chapter 118, Code County of Fairfax, Virginia), which states:

(a) that "[h]ealthy state and local economies are integrally related to and dependent upon the health of the Chesapeake Bay, therefore the general welfare of the people of Fairfax County and the Commonwealth depends on the health of the Bay," and

(b) that the entirety of Fairfax County drains into the Potomac River and ultimately the Chesapeake Bay, therefore any use or development within the County can impact the water quality of the Bay.

F. The Property possesses natural, ecological, open space, historic and scenic values (collectively, "conservation values") of great importance to the Grantor, the people of Fairfax County, and the people of the Commonwealth of Virginia, including, but not limited to: a significant portion of the property meets the criteria for Fairfax County designation as EQC (as documented in the letter from the Fairfax County Department of Planning and Zoning dated May 30, 2006, and included in Baseline Documentation, herein after "Baseline Documentation"); the property lies along the scenic byway of Georgetown Pike and within the Potomac Palisades; the property is home to significant biological and ecological resources; and the property protects important scenic viewsheds in the Potomac Gorge which can be viewed from public roads and trails and National Parklands.

G. The specific conservation values of the Property are further documented in the Baseline Documentation, incorporated herein by this reference, to be prepared by the Grantee and signed and acknowledged by the Grantor concurrently with the execution of this easement and to be maintained on file at the offices of the Grantee NVCT. The Baseline Documentation is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this grant; and

H. The Grantor and Grantee have the common purpose of conserving the above-described conservation values of the Property in perpetuity;¹

I. The Grantor intends that the conservation values of the Property be preserved and maintained by permitting only those uses on the Property that do not significantly impair or interfere with them;

J. The Grantor further intends, as owner of the Property, to convey to the Grantees the right to preserve and protect the conservation values of the Property in perpetuity by granting this Conservation Easement to the Grantee that will restrict use of the Property by the Grantor (and any future owner of all or any portion of the Property) because of the imposition of the terms, conditions, and restrictions hereinafter expressed, and the Grantee intends to accept such conveyance; and

K. The Grantee agrees by accepting this Conservation Easement to honor the intention of the Grantor stated herein and to preserve and protect in perpetuity the conservation values of the Property.

NOW THEREFORE, in recognition of the above and in consideration of ten dollars (\$10.00) and other valuable consideration but as a gift nonetheless, and in consideration of the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the Commonwealth of Virginia and in particular the Virginia Conservation Easement Act, Grantor and the Grantee agree as follows:

1. Purpose. It is the purpose of this Conservation Easement to preserve and protect the conservation values of the Property, and to prevent any use of the Property that will significantly impair or interfere with the conservation values of the Property as set forth in this Conservation Easement.

2. Definitions. Whenever used herein, the term "Grantor" shall include the Grantor and all personal representatives, heirs, successors and assigns, and the term "Grantee" shall include the Grantee, its successors and assigns. In the event that there is more than one Grantor or more than one Grantee, the terms "Grantor" and "Grantee" shall be interpreted to mean multiple Grantors or Grantees, as the case may be.

¹ Concurrent with the execution of this easement, Grantor and Grantee are executing a second Conservation Easement covering the adjacent three lots (Tax Map References 0202-01-0008Z, 0013Z & 0014Z). It is Grantor's intent and wish to prevent, as much as possible, new construction and impacts on this second, undeveloped area by keeping such construction for family use within the current developed area of this tract.

3. Grant. Grantor hereby voluntarily grants and conveys to the Grantee a Conservation Easement in gross over the Property, forever and in perpetuity, of the nature and character and to the extent hereinafter set forth.

4. Prohibited Uses. The following restrictions and conditions shall apply to the Property:

4.1 Subdivision. The Property shall not be subdivided, in law or in fact, in any manner. Boundary line adjustments with adjoining parcels of land are permitted and shall not be considered a prohibited division of the Property, provided that the Grantee is notified in writing prior to the completion of any such boundary line adjustment and at least one of the following conditions is met: (1) the entire adjacent parcel is subject to an existing, recorded conservation easement; or (2) the proposed boundary line adjustment is reviewed and approved in advance by the Grantee.

4.2 Uses. Industrial or commercial activities other than the following are prohibited: (1) horticulture and silviculture; (2) temporary or seasonal activities which do not permanently alter the physical appearance of the Property; and (3) activities which can be and in fact are conducted within permitted buildings under applicable law.

4.3 Structures and Improvements. "Structures and improvements" as used in this Conservation Easement include buildings, recreational courts, walls, driveways, parking areas, and areas of impermeable surface, but do not include a reasonable number of small structures with minimal footprints, such as lawn sculptures, swingsets, and mailboxes, structures or improvements designed for the purposes of combating erosion or flooding or to enhance habitat values, or structures placed on the Property for limited, short periods of time, such as a tent for a party.

No structures or improvements shall hereafter be placed, constructed, or maintained on the Property, except as specifically provided for in this section.

The existing structures and improvements on the Property, including, without limitation, the existing single-family residence, driveway, garage, pool, tennis court, guest cottage, studio, brown shed and other structures identified in the Baseline Documentation and aerial photographs attached thereto, may be maintained, repaired, removed, rebuilt, enlarged, or replaced, and new normal and customary accessory structures may be built to serve the primary residence, subject to the following limitations and rights:

(a) notice to and written approval of the Grantee in accordance with section 23 is required prior to removal, rebuilding, replacement, or enlargement of existing structures or improvements and prior to the building of any new structures or improvements, which approval shall not be unreasonably withheld and will be limited to assuring that any such requests for approval comply with the restrictions set out below;

(b) Grantor shall have the right, but not the obligation, to the replacement or maintenance of the existing single-family residence only if (i) the replacement structure or addition is not placed or constructed outside of the designated "Development Area" identified in Exhibit B and further documented in the Baseline Documentation, and (ii) the replacement structure does not exceed the height of the existing structure or no more than thirty-five (35) feet above the natural grade, whichever is greater; and (iii) plans for construction receive all necessary Fairfax County approvals;

(c) Grantor shall have the right, but not the obligation, to replace or construct new accessory structures or expansion of existing accessory structures for the purpose of serving the existing or permitted residence provided that all new or expanded accessory structures are in compliance with all applicable Fairfax County regulations and no new or expanded accessory structures are placed outside of the "Development Area" identified more particularly in Exhibit B and the Baseline Documentation, and that the height of such structures do not exceed the height permitted for the main single-family residence in relation to that structure (i.e., such accessory structures shall not exceed the height of the residence) as described in (b) immediately above;

(d) Grantor shall have the right, but not the obligation, to expand the "brown shed" in the Southeast corner of the Property, construction of a pool equipment and changing structure immediately adjacent to the existing pool as an accessories structure, and construction of a garden pavilion or gazebo within the currently fenced grassy area behind the single-family residence, all more particularly identified in the Baseline Documentation and outside the Development Area, to a combined footprint area of no more than 3500 square feet;

(e) Grantor shall have the right, but not the obligation, to install, maintain, or repair utilities including but not limited to sewer, water, phone, or computer lines, provided that disturbance to the vegetation and woodlands is minimized;

(f) any new fences, gates or walls shall be constructed, insofar as practicable, to blend with the natural landscape, and to avoid infringing materially on views of the Property from public viewsheds; and

(g) all permitted construction activities must be conducted so as to minimize their potential negative impacts so far as practicable on the Property's conservation values, including soil erosion and damage to living trees.

4.4 Trees and Forest Management Plan

Removal, destruction and cutting of trees, shrubs, and other vegetation is prohibited except for the following: to the extent necessary for (a) application of sound disease or insect control practices; (b) removal or pruning of trees, shrubs, and other vegetation that by virtue of their location would prevent construction and maintenance of structures permitted under this Agreement if not removed; (c) removal or pruning of trees in order to prevent endangerment of life; (c) removal of non-native invasive species; (d) sustainable management of the forest resources provided that such management is conducted in accordance with a Forest Management Plan that has been reviewed and approved by Grantee, and such Forest Management Plan incorporates the following goals: i. to maintain, enhance, or improve water quality; ii. to encourage the long-term health of the forest; iii. to maintain, improve or enhance the scenic integrity of the forest and public viewsheds from the Potomac Gorge and adjacent Parks; and iv. to permit Grantor to maintain the historical river view from the House without unnecessarily impacting the preservation of the forest and public viewsheds, such historical river view being more particularly identified in the Baseline Documentation.

4.5 Excavation/Fill/Changes to Topography. There shall be no mining, excavating, dredging, or removing from the Property of soil, loam, peat, gravel, sand, hydrocarbons, rock, or other mineral resource or natural deposit and no changing of the topography through the placement of soil or other substance or material such as land fill or dredging spoils, except for: (1) disturbance of soil to conduct activities on the Property otherwise permitted by this Conservation Easement, including construction of permitted structures, gardening, and agriculture; (2) movement or placement of soil, rock, or other earth materials, vegetative matter, and compost reasonably necessary for the purpose of combating erosion or flooding or to enhance habitat values; and (3) disturbance of soil by or under the supervision of a professionally qualified archaeologist for the purpose of excavating archaeologically significant deposits, sites, or features, provided that plans for such archaeological activity have been submitted to and approved by the Grantee according to section 23 below.

4.6 Dumping. There shall be no dumping, burying, or storing of waste, sewage, garbage, vehicles, or appliances, or any toxic, hazardous or offensive

materials on the Property, except for: (1) appropriate routine storage of garbage and wastes from permitted uses of the Property pending transport for proper disposal; (2) garbage and wastes which flow into proper septic or other appropriate waste disposal systems; (3) materials, such as gasoline, diesel fuel and cleaning materials, which are customarily used on rural and residential properties and are properly stored pending such use; (4) vehicles and equipment as necessary for permitted uses on the Property; and (5) biodegradable materials generated, utilized, and/or processed on the Property to further the permitted uses of the Property while maintaining the conservation purposes described herein.

4.7 Use of Chemicals. The use of chemical fertilizers, herbicides, pesticides, fungicides, and natural controls are permitted when use is in compliance with all applicable federal, state, and local statutes and regulations.

4.8 Activities Affecting Hydrology/Water Quality. There shall be no activities conducted on the Property which could reasonably be expected to cause pollution, alteration, or depletion of natural water courses, lakes, ponds, or wetlands, unless the activity is conducted to restore or enhance wildlife habitat or water quality.

4.9 Public Utility Prohibition. For the purpose of protecting the scenic integrity of the Property, no major public or private utility installation, such as cellular telephone towers or exchanges, electric generating plants, electric power substations, high tension electric power transmission lines, gas generating plants, gas storage tanks, water storage tanks or reservoirs, sewage treatment plants, or microwave relay stations shall be constructed or placed on the Property. This provision is intended to provide the Grantee such an interest in and to this Property as is sufficient to prohibit the exercise of eminent domain by public utility companies without prior written notice and approval by the Grantee.

5. Grantor's Reserved Rights. The Grantor hereby reserves the following rights, which are permitted only if such uses and activities do not materially impair the purpose of this Conservation Easement:

5.1 The right to undertake any activity or use of the Property not prohibited by this Conservation Easement

5.2 The right to sell, give, mortgage, lease, or otherwise convey the Property, in accordance with the notice requirements set forth in sections 13 and 23.

5.3 The right of exclusive use, possession, and enjoyment of the Property. Nothing contained in this Conservation Easement shall be construed as a grant to the general public of any right to enter upon any part of the Property.

5.4 Grantor reserves the right to maintain the historical Potomac River site view which currently exists on the north side of the House toward the Potomac River, and as documented in the Baseline Documentation.

5.5 Grantor retains the right to take any action regarding the Property that is not expressly prohibited by the terms of this Conservation Easement, provided such action will not materially impair or interfere with the value of the Conservation Easement granted herein.

6. Grantor's Retained Duties. The Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property.

7. Monitoring. The Grantee shall have the right with reasonable notice to enter upon the Property at reasonable times to monitor Grantor's compliance with and otherwise enforce the terms of this Conservation Easement. Monitoring may be expected to occur at least annually and as determined necessary by the Grantee when an activity is undertaken on the Property that may impact the conservation values protected by this Conservation Easement.

8. Enforcement. Upon any breach or threatened potential breach of this Conservation Easement by Grantor, the Grantee may, after reasonable notice of at least 30 days to Grantor setting forth specifically the alleged breaches and giving Grantor the opportunity to cure the alleged breach, take such action as the Grantee determines to be necessary or appropriate to enforce the covenants and restrictions set forth in this Conservation Easement.

8.1 The Grantee shall be entitled to pursue any cause of action which may be available to the Grantee at law or in equity to prevent or correct any breach of such covenants and restrictions, including obtaining injunctive relief to prevent or rectify any breach of this Conservation Easement.

8.2 The Grantee shall be entitled to recover damages for violation of the terms of this Conservation Easement, including actual damages for the loss of those conservation values that are protected by this Conservation Easement.

8.3 If the Grantor is found to have breached any of the terms under this Conservation Easement, the Grantor shall reimburse the Grantee for any costs or

expenses incurred by the Grantee, including costs of restoration necessitated by Grantor's violation of the terms of this Conservation Easement, court costs and reasonable attorney's fees. If Grantor prevails in such action, each party shall bear its own costs.

9. Effect of Failure to Enforce. Any forbearance by the Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement or any of the Grantee's rights under this Conservation Easement.

10. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including without limitation, fire, flood, storm, earth movement, vandalism and trespass, or from any prudent action taken by the Grantor to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

11. Control. Nothing in this Conservation Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in the Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended and any similar statute of the Commonwealth of Virginia.

12. Density Determinations. The Property shall not be included as part of the gross area of other property not subject to this Conservation Easement for the purposes of determining density, lot coverage, or open space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights which have been encumbered or extinguished by this Conservation Easement shall be transferred to any other land pursuant to a transferable development rights scheme or cluster development arrangement or otherwise.

13. Sale or Transfer. Grantor agrees to incorporate in whole or by reference the terms of this Conservation Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Moreover, in any deed conveying all or any part of the Property, this Conservation Easement shall be referenced by Deed

Book and Page Number in the deed of conveyance. Grantor further agrees to give written notice to the Grantee of the transfer of any interest at least thirty (30) days prior to the date of such transfer. The failure of the Grantor to perform any act required by this paragraph shall not impair the validity of any conveyance of all or any portion of the Property except that such conveyance shall be subject to this Conservation Easement and no such conveyance shall impair the validity of this Conservation Easement or limit its enforceability in any way.

14. Assignment. Grantee may assign, upon prior written notice to and with written approval by Grantor which shall not be unreasonably withheld, its rights under this Conservation Easement to any entity that is a "qualified organization" within the meaning of section 170(h)(3) of the Internal Revenue Code (or any successor provision then applicable) and a "holder" or "public body" within the meaning of the provisions of sections 10.1-1009 and 10.1-1700 of the Code of Virginia (or any successor provisions then applicable), and Grantee covenants and agrees that the terms of any assignment will be such that the assignee will be required to continue to carry out in perpetuity the conservation purposes which the contribution was originally intended to advance. Should Grantee decide to assign its rights under this easement, it will provide Fairfax County the right of first refusal to accept the Grantee responsibilities and duties under this Conservation Easement.

15. Successors and Assigns. This Conservation Easement shall be binding upon the Grantor, including all successors and assigns, future owners of all or any portion of the Property, and their personal representatives and heirs, and shall constitute a servitude upon and touching the Property and shall continue as a servitude running in perpetuity with the Property.

16. Termination of the Grantee. Whenever the Grantee shall cease to exist, this Conservation Easement and any right of enforcement shall vest in the Virginia Outdoors Foundation. If the Virginia Outdoors Foundation, or the successors or assigns thereof, should cease to exist, or should not qualify as a "qualified organization" under Section 170(h) of the Internal Revenue Code (or any successor provision then applicable) or should otherwise cease to be eligible to receive this Conservation Easement directly under the Virginia Conservation Easement Act (or its successor provisions then applicable), then this Conservation Easement and any right of enforcement shall vest in the Commonwealth of Virginia. Grantee shall provide notice to the Grantor in the event of Grantee's termination.

17. Modification. Grantor and Grantee may jointly amend this Conservation Easement provided that no amendment shall be allowed that will affect the status of the Grantee under §501(c)(3) and §170(h) of the Internal Revenue Code

(or any successor provisions then applicable) or Chapter 10.1 §1009 et seq. and Chapter 10.1 §1700 et seq. of the Code of Virginia (or any successor provision then applicable). Any amendment of this Conservation Easement must be consistent with the purpose of this Conservation Easement, and shall not affect its perpetual duration. Any such amendment shall not be effective unless and until recorded in the land records of Fairfax County, Virginia.

18. Property Right Vests in Grantee; Extinguishment. Grantor and Grantee agree, pursuant to Treas. Reg. § 1.170A-14(g)(6), that donation of this Conservation Easement gives rise to a property right, immediately vested in Grantee, with a fair market value equal to the proportionate value that the Conservation Easement bears to the value of the Property as a whole, and if the restrictions of this Conservation Easement are extinguished by judicial proceeding, the Grantee's proceeds from a subsequent sale or exchange of the Property will be used by the Grantee in a manner consistent with the conservation purposes of the original contribution.

19. Mortgages and Deeds of Trust: The Grantor certifies that a copy of this Agreement has been provided to all mortgagees, and trustees and beneficiaries of deeds of trust affecting the Property, if any, as of the date of this Agreement, and each such mortgagee, trustee and beneficiary has subordinated the mortgage or deed of trust to this Agreement, by signing a subordination agreement which shall be recorded in the land records at the time of recording of this Agreement.

20. CERCLA Liability: Grantee shall not be considered an owner or owner/operator of the Property for the purposes of liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. Chapter 103) or similar state law.

21. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to effect the purpose of this Conservation Easement and the policy and purpose of the Virginia Conservation Easement Act. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of the Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

22. Severability. If any provision of this Conservation Easement is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby.

23. Notice and Requests for Approval. In any case where the terms of this Conservation Easement require notice to or approval of the Grantee or the Grantor, such notice or request for approval shall be in writing.

Notice of an activity and requests for approval must describe the activity in question in sufficient detail to permit the requested party to make an informed judgment as to its consistency with the purpose of this Conservation Easement. Any denial of any consent requested under this Conservation Easement shall be in writing and shall set forth in detail the specific grounds for such denial, including without limitation, citation to the specific provision or provisions of this Conservation Easement upon which such denial is based.

Unless otherwise expressly provided herein, the requested party shall have forty-five (45) days from the receipt of any Notice or requests for approval (or such longer period as the parties may agree to in writing) within which to review such request and grant or deny approval. If the requested party fails to respond within forty-five (45) days, or such other time as may be expressly provided herein, the proposed activity shall be deemed approved.

If Grantor applies to Fairfax County for permission to construct, improve or renovate the structures and improvements as described in paragraph 4.3, all copies of such requests will be concurrently sent to Grantee.

Written requests and notices by the Grantor and the Grantee and any subsequent response or approval shall be deemed given three (3) days after mailing by registered or certified mail, or by FedEx or a similar public or private courier service which provides receipt of delivery, properly addressed as follows: (a) if to the Grantee, at The Northern Virginia Conservation Trust, Packard Center, 4022 Hummer Road, Annandale, VA 22003; (b) if to the Grantor, at 8008 Georgetown Pike, McLean, VA 22102 and 2250 Court Avenue, Memphis, TN 38104 . Any party can change the address to which notices are to be sent to him or her by giving notice pursuant to this section.

24. Termination of NVRPA Servitude:

NVRPA hereby vacates and terminates all of its right, title and interest in and to the NVRPA Servitude and by such vacation and termination intends for the NVRPA Servitude to be of no further force and effect and to the extent that any such right, title and interest shall not hereby be vacated and terminated, NVRPA hereby quitclaims unto Grantor all of NVRPA's right, title and interest in and to the Property.

Grantor hereby consents to NVRPA's vacation and termination of the NVRPA Servitude and accepts NVRPA's quitclaim to Grantor of all of NVRPA's right, title and interest in and to the Property. Further, Grantor hereby releases NVRPA and its successors and assigns from each and every obligation of NVRPA under the NVRPA Servitude.

IN WITNESS WHEREOF Grantor and the Grantee have executed this Conservation Easement as of the date and year first above written.

GRANTOR:

Charlotte Fredette Smith Eagle
CHARLOTTE FREDETTE SMITH EAGLE

COMMONWEALTH OF VIRGINIA,
COUNTY OF FAIRFAX, TO WIT:

I, Mina Taparia, a Notary Public for the Commonwealth aforesaid,
hereby certify that Charlotte Fredette Smith Eagle personally appeared before
me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 17 day of Nov., 2006.

Mina Taparia
Notary Public

My commission expires: 7-31-07 (SEAL)

GRANTEE:

NORTHERN VIRGINIA CONSERVATION TRUST

Michael Nardolilli

By: Michael Nardolilli, President

COMMONWEALTH OF VIRGINIA,
COUNTY OF FAIRFAX, TO WIT:

I, Cooks Rom, a Notary Public for the Commonwealth aforesaid,
hereby certify that Michael Nardolilli, President of the Northern Virginia
Conservation Trust, personally appeared before me this day and acknowledged
the foregoing instrument.

WITNESS my hand and official seal this 16th day of November 2006.

Cooks Rom
Notary Public

My commission expires: 8/31/08 (SEAL)

FINAL EASEMENT HOUSE 11-16-08

NORTHERN VIRGINIA REGIONAL PARK AUTHORITY,
an autonomous body established under the authority provide by Title 15.1 of the
Code of Virginia.

BY: 
William C. Dickinson, Chairman


Notary Public

My commission expires: OCTOBER 31, 2007 (SEAL)

I, SUSAN O'REILLY, a Notary Public for the Commonwealth aforesaid,
hereby certify William C. Dickinson, Chairman, personally appeared before me
this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 17th day of NOVEMBER 2006.

Notary Public

My commission expires: _____ (SEAL)

EXHIBIT A

DESCRIPTION OF PROPERTY SUBJECT TO THE CONSERVATION
EASEMENT
FROM
TO THE NORTHERN VIRGINIA CONSERVATION TRUST

TAX MAP NO. 0202-01-0048Z

BEGINNING at a point, said point marks the common Southwest corner of the formerly U.S. Government Parcel B-2 now Eagle and the Northwest corner of a 7.7717 Ac. Parcel B-1; Pt. of Parcel 2, lying in the East line of Eagle Parcel 1, (DB3571/540.00ft. from Houts corner pipe, formerly a forked chestnut with south line of Parcel B-2, S 84°14' 09" E, 677.89ft. to the Northeast corner of Parcel D lying in the South line of Parcel B-1; Thence departing said South line of Parcel B-2 and continuing with the West line of Parcel D, S 3° 02' 56" E, corner of Parcel D, and the Northwest corner of Parcel E; Thence continuing with the Northwest line of Parcel E the following courses and distances, S 16° 08' 50" W, 103.12ft., S 38° 40' 50" W, 135.75ft., S 69° 49' 50" W, 128.45ft., N 86° 15' 10" W, 165.00ft. and N 70° 11' 07" W, 224.52ft. to a point marking the Northwest corner of Parcel E, Southwest corner of Parcel B-1, and lying in the East line of Parcel A, (DB 3571 Pg 663); Thence continuing with the East line of Parcel A, the following two courses and distances; N 29° 58' 30" E, 180.00 ft. and North 5° 02' 00" W, 482.83ft. to the BEGINNING and containing 338,544 Sq. Ft. or 7.7717 Acres of land. This description was prepared from existing Land records and checked mathematically for accuracy it does not represent a field run survey by this surveyor.

EXHIBIT B

**AERIAL PHOTOGRAPH DEPICTING APPROXIMATE MARKED DEVELOP
AREA - MORE DETAILED DEPICTIONS IN BASELINE DOCUMENTATION**



Area demarked on aerial photograph above is approximately 177 ft. on north side toward Potomac River, 267 ft. on the east side in front of the house and guest cottage, and 334 ft. on the west side behind the house and along the garden fencing. The box is trapezoidal, with approximate 90 degree angles on the north side corners. The north line abuts and runs parallel to the foundation of the existing river terrace; the east line runs parallel to and 20 ft. east of the guest cottage; the west line abuts and runs parallel to the garden fence; and the southern, angled line runs generally parallel with the side of the jeep garage. The corners are staked on the ground. Grantor is having the Development Area and existing structures surveyed. When the survey is complete, that plat will be substituted for this approximation.

§ 58.1-3230. Special classifications of real estate established and defined.

For the purposes of this article the following special classifications of real estate are established and defined:
 "Real estate devoted to agricultural use" shall mean real estate devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.), or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for a profit or otherwise, shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner.

"Real estate devoted to horticultural use" shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.); or real estate devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for profit or otherwise, shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner.

"Real estate devoted to forest use" shall mean land including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240 and in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.). Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § 58.1-3240.

"Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or recreational purposes, (ii) conservation of land or other natural resources, (iii) floodways, (iv) wetlands as defined in § 58.1-3666, (v) riparian buffers as defined in § 58.1-3666, (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § 58.1-3240, and in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) and the local ordinance.

§ 58.1-3231. Authority of counties, cities and towns to adopt ordinances; general reassessment following adoption of ordinance.

Any county, city or town which has adopted a land-use plan may adopt an ordinance to provide for the use value assessment and taxation, in accord with the provisions of this article, of real estate classified in § 58.1-3230. The local governing body pursuant to § 58.1-3237.1 may provide in the ordinance that property located in specified zoning districts shall not be eligible for special assessment as provided in this article. The provisions of this article shall not be applicable in any county, city or town for any year unless such an ordinance is adopted by the governing body thereof not later than June 30 of the year previous to the year when such taxes are first assessed and levied under this article, or December 31 of such year for localities which have adopted a fiscal year assessment date of July 1, under Chapter 30 (§ 58.1-3000 et seq.) of this subtitle. The provisions of this article also shall not apply to the assessment of any real estate assessable pursuant to law by a central state agency.

Land used in agricultural and forestal production within an agricultural district, a forestal district or an agricultural and forestal district that has been established under Chapter 43 (§ 15.2-4300 et seq.) of Title 15.2, shall be eligible for the use value assessment and taxation whether or not a local land-use plan or local ordinance pursuant to this section has been adopted.

Such ordinance shall provide for the assessment and taxation in accordance with the provisions of this article of any or all of the four classes of real estate set forth in § 58.1-3230.

In addition to but not to replace any other requirements of a land-use plan such ordinance may provide that the special assessment and taxation be established on a sliding scale which establishes a lower assessment for property held for longer periods of time within the classes of real estate set forth in § 58.1-3230. Any such sliding scale shall be set forth in the ordinance.

Notwithstanding any other provision of law, the governing body of any county, city or town shall be authorized to direct a general reassessment of real estate in the year following adoption of an ordinance pursuant to this article.

§ 58.1-3232. Authority of city to provide for assessment and taxation of real estate in newly annexed area.

The council of any city may adopt an ordinance to provide for the assessment and taxation of only the real estate in an area newly annexed to such city in accord with the provisions of this article. All of the provisions of this article shall be applicable to such ordinance, except that if the county from which such area was annexed has in operation an ordinance hereunder, the ordinance of such city may be adopted at any time prior to April 1 of the year for which such ordinance will be effective, and applications from landowners may be received at any time within thirty days of the adoption of the ordinance in such year. If such ordinance is adopted after the date specified in § 58.1-3231, the ranges of suggested values made by the State Land Evaluation Advisory Council for the county from which such area was annexed are to be considered the value recommendations for such city. An ordinance adopted under the authority of this section shall be effective only for the tax year immediately following annexation.

§ 58.1-3233. Determinations to be made by local officers before assessment of real estate under ordinance.

Prior to the assessment of any parcel of real estate under any ordinance adopted pursuant to this article, the local assessing officer shall:

1. Determine that the real estate meets the criteria set forth in § 58.1-3230 and the standards prescribed thereunder to qualify for one of the classifications set forth therein, and he may request an opinion from the Director of the Department of Conservation and Recreation, the State Forester or the Commissioner of Agriculture and Consumer Services;
2. Determine further that real estate devoted solely to (i) agricultural or horticultural use consists of a minimum of five acres, (ii) forest use consists of a minimum of twenty acres and (iii) open-space use consists of a minimum of five acres or such greater minimum acreage as may be prescribed by local ordinance; except that for real estate adjacent to a scenic river, a scenic highway, a Virginia Byway or public property in the Virginia Outdoors Plan or for any real estate in any city, county or town having a density of population greater than 5,000 per square mile, for any real estate in any county operating under the urban county executive form of government, or the unincorporated Town of Yorktown chartered in 1691, the governing body may by ordinance prescribe that land devoted to open-space uses consist of a minimum of two acres.

The minimum acreage requirements for special classifications of real estate shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots recorded after July 1, 1983, titled in the same ownership. For purposes of this section, properties separated only by a public right-of-way are considered contiguous; and

3. Determine further that real estate devoted to open-space use is (i) within an agricultural, a forestal, or an agricultural and forestal district entered into pursuant to Chapter 43 (§ 15.2-4300 et seq.) of Title 15.2, or (ii) subject to a recorded perpetual easement that is held by a public body, and promotes the open-space use classification, as defined in § 58.1-3230, or (iii) subject to a recorded commitment entered into by the landowners with the local governing body, or its authorized designee, not to change the use to a nonqualifying use for a time period stated in the commitment of not less than four years nor more than ten years. Such commitment shall be subject to uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § 58.1-3240. Such commitment shall run with the land for the applicable period, and may be terminated in the manner provided in § 15.1-1513 for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.

§ 58.1-3234. Application by property owners for assessment, etc., under ordinance; continuation of assessment, etc.

Property owners must submit an application for taxation on the basis of a use assessment to the local assessing officer:

1. At least sixty days preceding the tax year for which such taxation is sought; or
2. In any year in which a general reassessment is being made, the property owner may submit such application until thirty days have elapsed after his notice of increase in assessment is mailed in accordance with § 58.1-3330, or sixty days preceding the tax year, whichever is later; or
3. In any locality which has adopted a fiscal tax year under Chapter 30 (§ 58.1-3000 et seq.) of this Subtitle III, but continues to assess as of January 1, such application must be submitted for any year at least sixty days preceding the effective date of the assessment for such year.

The governing body, by ordinance, may permit applications to be filed within no more than sixty days after the filing deadline specified herein, upon the payment of a late filing fee to be established by the governing body. An individual who is owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes; however, no application fee may be required when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment. The governing body of any county, city or town may, however, require any such property owner to revalidate annually with such locality, on or before the date on which the last installment of property tax prior to the effective date of the assessment is due, on forms prepared by the locality, any applications previously approved. Each locality which has adopted an ordinance hereunder may provide for the imposition of a revalidation fee every sixth year. Such revalidation fee shall not, however, exceed the application fee currently charged by the locality. The governing body may also provide for late filing of revalidation forms on or before the effective date of the assessment, on payment of a late filing fee. Forms shall be prepared by the State Tax Commissioner and supplied to the locality for use of the applicants and applications shall be submitted on such forms. An application fee may be required to accompany all such applications.

In the event of a material misstatement of facts in the application or a material change in such facts prior to the date of assessment, such application for taxation based on use assessment granted thereunder shall be void and the tax for such year extended on the basis of value determined under § 58.1-3236 D. Except as provided by local ordinance, no application for assessment based on use shall be accepted or approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon the payment of all delinquent taxes, including penalties and interest, the application shall be treated in accordance with the provisions of this section.

Continuation of valuation, assessment and taxation under an ordinance adopted pursuant to this article shall depend on continuance of the real estate in a qualifying use, continued payment of taxes as referred to in § 58.1-3235, and compliance with the other requirements of this article and the ordinance and not upon continuance in the same owner of title to the land.

In the event that the locality provides for a sliding scale under an ordinance, the property owner and the locality shall execute a written agreement which sets forth the period of time that the property shall remain within the classes of real estate set forth in § 58.1-3230. The term of the written agreement shall be for a period not exceeding twenty years, and the instrument shall be recorded in the office of the clerk of the circuit court for the locality in which the subject property is located.

§ 58.1-3235. Removal of parcels from program if taxes delinquent.

If on April 1 of any year the taxes for any prior year on any parcel of real property which has a special assessment as provided for in this article are delinquent, the appropriate county, city or town treasurer shall forthwith send notice of that fact and the general provisions of this section to the property owner by first-class mail. If, after the notice has been sent, such delinquent taxes remain unpaid on June 1, the treasurer shall notify the appropriate commissioner of the revenue who shall remove such parcel from the land use program. Such removal shall become effective for the current tax year.

§ 58.1-3236. Valuation of real estate under ordinance.

A. In valuing real estate for purposes of taxation by any county, city or town which has adopted an ordinance pursuant to this article, the commissioner of the revenue or duly appointed assessor shall consider only those indicia of value which such real estate has for agricultural, horticultural, forest or open space use, and real estate taxes for such jurisdiction shall be extended upon the value so determined. In addition to use of his personal knowledge, judgment and experience as to the value of real estate in agricultural, horticultural, forest or open space use, he shall, in arriving at the value of such land, consider available evidence of agricultural, horticultural, forest or open space capability, and the recommendations of value of such real estate as made by the State Land Evaluation Advisory Council.

B. In determining the total area of real estate actively devoted to agricultural, horticultural, forest or open space use there shall be included the area of all real estate under barns, sheds, silos, cribs, greenhouses, public recreation facilities and like structures, lakes, dams, ponds, streams, irrigation ditches and like facilities; but real estate under, and such additional real estate as may be actually used in connection with, the farmhouse or home or any other structure not related to such special use, shall be excluded in determining such total area.

C. All structures which are located on real estate in agricultural, horticultural, forest or open space use and the farmhouse or home or any other structure not related to such special use and the real estate on which the farmhouse or home or such other structure is located, together with the additional real estate used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other real estate in the locality.

D. In addition, such real estate in agricultural, horticultural, forest or open space use shall be evaluated on the basis of fair market value as applied to other real estate in the taxing jurisdiction, and land book records shall be maintained to show both the use value and the fair market value of such real estate.

§ 58.1-3237. Change in use or zoning of real estate assessed under ordinance; roll-back taxes.

A. When real estate qualifies for assessment and taxation on the basis of use under an ordinance adopted pursuant to this article, and the use by which it qualified changes to a nonqualifying use, or the zoning of the real estate is changed to a more intensive use at the request of the owner or his agent, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes. Such additional taxes shall only be assessed against that portion of such real estate which no longer qualifies for assessment and taxation on the basis of use or zoning. Liability for roll-back taxes shall attach and be paid to the treasurer only if the amount of tax due exceeds ten dollars.

B. In localities which have not adopted a sliding scale ordinance, the roll-back tax shall be equal to the sum of the deferred tax for each of the five most recent complete tax years including simple interest on such roll-back taxes at a rate set by the governing body, no greater than the rate applicable to delinquent taxes in such locality pursuant to § 58.1-3916 for each of the tax years. The deferred tax for each year shall be equal to the difference between the tax levied and the tax that would have been levied based on the fair market value assessment of the real estate for that year. In addition the taxes for the current year shall be extended on the basis of fair market value which may be accomplished by means of a supplemental assessment based upon the difference between the use value and the fair market value.

C. In localities which have adopted a sliding scale ordinance, the roll-back tax shall be equal to the sum of the deferred tax from the effective date of the written agreement including simple interest on such roll-back taxes at a rate set by the governing body, which shall not be greater than the rate applicable to delinquent taxes in such locality pursuant to § 58.1-3916, for each of the tax years. The deferred tax for each year shall be equal to the difference between the tax levied and the tax that would have been levied based on the fair market value assessment of the real estate for that year and based on the highest tax rate applicable to the real estate for that year, had it not been subject to special assessment. In addition the taxes for the current year shall be extended on the basis of fair market value which may be accomplished by means of a supplemental assessment based upon the difference between the use value and the fair market value and based on the highest tax rate applicable to the real estate for that year.

D. Liability to the roll-back taxes shall attach when a change in use occurs, or a change in zoning of the real estate to a more intensive use at the request of the owner or his agent occurs. Liability to the roll-back taxes shall not attach when a change in ownership of the title takes place if the new owner does not rezone the real estate to a more intensive use and continues the real estate in the use for which it is classified under the conditions prescribed in this article and in the

ordinance. The owner of any real estate which has been zoned to more intensive use at the request of the owner or his agent as provided in subsection E, or otherwise subject to or liable for roll-back taxes, shall, within sixty days following such change in use or zoning, report such change to the commissioner of the revenue or other assessing officer on such forms as may be prescribed. The commissioner shall forthwith determine and assess the roll-back tax, which shall be assessed against and paid by the owner of the property at the time the change in use which no longer qualifies occurs, or at the time of the zoning of the real estate to a more intensive use at the request of the owner or his agent occurs, and shall be paid to the treasurer within thirty days of the assessment. If the amount due is not paid by the due date, the treasurer shall impose a penalty and interest on the amount of the roll-back tax, including interest for prior years. Such penalty and interest shall be imposed in accordance with §§ 58.1-3915 and 58.1-3916.

E. Real property zoned to a more intensive use, at the request of the owner or his agent, shall be subject to and liable for the roll-back tax at the time such zoning is changed. The roll-back tax shall be levied and collected from the owner of the real estate in accordance with subsection D. Real property zoned to a more intensive use before July 1, 1988, at the request of the owner or his agent, shall be subject to and liable for the roll-back tax at the time the qualifying use is changed to a nonqualifying use. Real property zoned to a more intensive use at the request of the owner or his agent after July 1, 1988, shall be subject to and liable for the roll-back tax at the time of such zoning. Said roll-back tax, plus interest calculated in accordance with subsection B, shall be levied and collected at the time such property was rezoned. For property rezoned after July 1, 1988, but before July 1, 1992, no penalties or interest, except as provided in subsection B, shall be assessed, provided the said roll-back tax is paid on or before October 1, 1992. No real property rezoned to a more intensive use at the request of the owner or his agent shall be eligible for taxation and assessment under this article, provided that these provisions shall not be applicable to any rezoning which is required for the establishment, continuation, or expansion of a qualifying use. If the property is subsequently rezoned to agricultural, horticultural, or open space, it shall be eligible for consideration for assessment and taxation under this article only after three years have passed since the rezoning was effective.

However, the owner of any real property that qualified for assessment and taxation on the basis of use, and whose real property was rezoned to a more intensive use at the owner's request prior to 1980, may be eligible for taxation and assessment under this article provided the owner applies for rezoning to agricultural, horticultural, open-space or forest use. The real property shall be eligible for assessment and taxation on the basis of the qualifying use for the tax year following the effective date of the rezoning. If any such real property is subsequently rezoned to a more intensive use at the owner's request, within five years from the date the property was initially rezoned to a qualifying use under this section, the owner shall be liable for roll-back taxes when the property is rezoned to a more intensive use. Additionally, the owner shall be subject to a penalty equal to fifty percent of the roll-back taxes due as determined under subsection B of this section.

F. If real estate annexed by a city and granted use value assessment and taxation becomes subject to roll-back taxes, and such real estate likewise has been granted use value assessment and taxation by the county prior to annexation, the city shall collect roll-back taxes and interest for the maximum period allowed under this section and shall return to the county a share of such taxes and interest proportionate to the amount of such period, if any, for which the real estate was situated in the county.

§ 58.1-3237.1. Authority of counties to enact additional provisions concerning zoning classifications.

Any county not organized under the provisions of Chapter 5 (§ 15.2-500 et seq.), 6 (§ 15.2-600 et seq.), or 8 (§ 15.2-800 et seq.) of Title 15.2, which is contiguous to a county with the urban executive form of government and any county with a population of no less than 65,000 and no greater than 72,000 may include the following additional provisions in any ordinance enacted under the authority of this article:

1. The governing body may exclude land lying in planned development, industrial or commercial zoning districts from assessment under the provisions of this article. This provision applies only to zoning districts established prior to January 1, 1981.

2. The governing body may provide that when the zoning of the property taxed under the provisions of this article is changed to allow a more intensive nonagricultural use at the request of the owner or his agent, such property shall not be eligible for assessment and taxation under this article. This shall not apply, however, to property which is zoned agricultural and is subsequently rezoned to a more intensive use which is complementary to agricultural use, provided such property continues to be owned by the same owner who owned the property prior to rezoning and continues to operate the agricultural activity on the property. Notwithstanding any other provision of law, such property shall be subject to and liable for roll-back taxes at the time the zoning is changed to allow any use more intensive than the use for which it

qualifies for special assessment. The roll-back tax, plus interest, shall be calculated, levied and collected from the owner of the real estate in accordance with § 58.1-3237 at the time the property is rezoned.

§ 58.1-3238. Failure to report change in use; misstatements in applications.

Any person failing to report properly any change in use of property for which an application for use value taxation had been filed shall be liable for all such taxes, in such amounts and at such times as if he had complied herewith and assessments had been properly made, and he shall be liable for such penalties and interest thereon as may be provided by ordinance. Any person making a material misstatement of fact in any such application shall be liable for all such taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud the locality, he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

For purposes of this section and § 58.1-3234, incorrect information on the following subjects will be considered material misstatements of fact:

1. The number and identities of the known owners of the property at the time of application;
2. The actual use of the property.

The intentional misrepresentation of the number of acres in the parcel or the number of acres to be taxed according to use shall also be considered a material misstatement of fact for the purposes of this section and § 58.1-3234.

§ 58.1-3239. State Land Evaluation Advisory Committee continued as State Land Evaluation Advisory Council; membership; duties; ordinances to be filed with Council.

The State Land Evaluation Advisory Committee is continued and shall hereafter be known as the State Land Evaluation Advisory Council. The Advisory Council shall be composed of the Tax Commissioner, the dean of the College of Agriculture of Virginia Polytechnic Institute and State University, the State Forester, the Commissioner of Agriculture and Consumer Services and the Director of the Department of Conservation and Recreation.

The Advisory Council shall determine and publish a range of suggested values for each of the several soil conservation service land capability classifications for agricultural, horticultural, forest and open space uses in the various areas of the Commonwealth as needed to carry out the provisions of this article.

On or before October 1 of each year the Advisory Council shall submit recommended ranges of suggested values to be effective the following January 1 or July 1 in the case of localities with fiscal year assessment under the authority of Chapter 30 of this subtitle, within each locality which has adopted an ordinance pursuant to the provisions of this article based on the productive earning power of real estate devoted to agricultural, horticultural, forest and open space uses and make such recommended ranges available to the commissioner of the revenue or duly appointed assessor in each such locality.

The Advisory Council, in determining such ranges of values, shall base the determination on productive earning power to be determined by capitalization of warranted cash rents or by the capitalization of incomes of like real estate in the locality or a reasonable area of the locality.

Any locality adopting an ordinance pursuant to this article shall forthwith file a copy thereof with the Advisory Council.

§ 58.1-3240. Duties of Director of the Department of Conservation and Recreation, the State Forester and the Commissioner of Agriculture and Consumer Services; remedy of person aggrieved by action or nonaction of Director, State Forester or Commissioner.

The Director of the Department of Conservation and Recreation, the State Forester, and the Commissioner of Agriculture and Consumer Services shall provide, after holding public hearings, to the commissioner of the revenue or duly appointed assessor of each locality adopting an ordinance pursuant to this article, a statement of the standards referred to in § 58.1-

3230 and subdivision 1 of § 58.1-3233, which shall be applied uniformly throughout the Commonwealth in determining whether real estate is devoted to agricultural use, horticultural use, forest use or open-space use for the purposes of this article and the procedure to be followed by such official to obtain the opinion referenced in subdivision 1 of § 58.1-3233. Upon the refusal of the Commissioner of Agriculture and Consumer Services, the State Forester or the Director of the Department of Conservation and Recreation to issue an opinion or in the event of an unfavorable opinion which does not comport with standards set forth in the statements filed pursuant to this section, the party aggrieved may seek relief in the circuit court of the county or city wherein the real estate in question is located, and in the event that the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this article.

§ 58.1-3241. Separation of part of real estate assessed under ordinance; contiguous real estate located in more than one taxing locality.

A. Separation or split-off of lots, pieces or parcels of land from the real estate which is being valued, assessed and taxed under an ordinance adopted pursuant to this article, either by conveyance or other action of the owner of such real estate, shall subject the real estate so separated to liability for the roll-back taxes applicable thereto, but shall not impair the right of each subdivided parcel of such real estate to qualify for such valuation, assessment and taxation in any and all future years, provided it meets the minimum acreage requirements and such other conditions of this article as may be applicable. Such separation or split-off of lots shall not impair the right of the remaining real estate to continuance of such valuation, assessment and taxation without liability for roll-back taxes, provided it meets the minimum acreage requirements and other applicable conditions of this article.

No subdivision of property which results in parcels which meet the minimum acreage requirements of this article, and which the owner attests is for one or more of the purposes set forth in § 58.1-3230, shall be subject to the provisions of this subsection.

B. Where contiguous real estate in agricultural, horticultural, forest or open-space use in one ownership is located in more than one taxing locality, compliance with the minimum acreage shall be determined on the basis of the total area of such real estate and not the area which is located in the particular taxing locality.

§ 58.1-3242. Taking of real estate assessed under ordinance by right of eminent domain.

The taking of real estate which is being valued, assessed and taxed under an ordinance adopted pursuant to this article by right of eminent domain shall not subject the real estate so taken to the roll-back taxes herein imposed.

§ 58.1-3243. Application of other provisions of Title 58.1.

The provisions of this title applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutatis mutandis including, without limitation, provisions relating to tax liens, boards of equalization and the correction of erroneous assessments and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.

§ 58.1-3244. Article not in conflict with requirements for preparation and use of true values.

Nothing in this article shall be construed to be in conflict with the requirements for preparation and use of true values where prescribed by the General Assembly for use in any fund distribution formula.

GLOSSARY

This Glossary is presented to assist the public in understanding the staff evaluation and analysis. It should not be construed as representing legal definitions.

AGRICULTURAL AND FORESTAL DISTRICT - A land use classification created under Chapter 114 or 115 of the Fairfax County Code for the purpose of qualifying landowners who wish to retain their property for agricultural or forestal use for use/value taxation pursuant to Chapter 58 of the Fairfax County Code.

AGRICULTURAL AND FORESTAL DISTRICT ADVISORY COMMITTEE (AFDAC) - A committee composed of four farmers, four freeholder residents of Fairfax County, the Supervisor of Assessments and one member of the Board of Supervisors. AFDAC is formed to advise the Planning Commission and the Board of Supervisors regarding the proposed establishment, modification, renewal and/or the termination of an Agricultural and Forestal District and to provide expert advice on the nature of farming and forestry in the proposed district and the relation of such activities to the County.

AGRICULTURAL PRODUCTS - Crops, livestock, and livestock products which shall include but not be limited to the following:

- 1) Field crops, including corn, wheat, oats, rye, barley, hay, tobacco, peanuts and dry beans.
- 2) Fruits, including apples, peaches, grapes, cherries, and berries.
- 3) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- 4) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers.
- 5) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs and furs.

AGRICULTURALLY SIGNIFICANT LAND - Land that has historically produced agricultural products, or land that AFDAC considers good agricultural land based on factors such as soil quality, topography, climate, agricultural product markets, farm improvements, agricultural economics and technology and other relevant factors.

AGRICULTURAL USE - Use for the production for sale of plants and animals; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery and floral products useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services of the State of Virginia, or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Land or portions thereof used for processing of retail merchandise of crops, livestock products is not considered to be in agricultural use.

BEST MANAGEMENT PRACTICE (BMP) - Stormwater management techniques or land use practices that are determined to be the most effective, practicable means of preventing and/or reducing the amount of pollution generated by non-point sources in order to improve water quality.

CHESAPEAKE BAY PRESERVATION ORDINANCE - Regulations which the State has mandated to protect the Chesapeake Bay and its tributaries. See Fairfax County Code, Chapter 118, Chesapeake Bay Preservation Ordinance.

CLEARING - Any intentional or negligent act to cut down, remove all or a substantial part of or

damage a tree or other vegetation which will cause the tree or other vegetation to decline and/or die.

COMMERCIAL FOREST - Land which is producing or is capable of producing forest products.

DEFERRED TAX - The difference between market tax value and use value tax is known as deferred tax. The deferred tax is still owed but is not due until the use of any part or the whole of the land in an A&F District is changed. The deferred tax plus the interest due on the deferred tax is known as rollback tax. Sixty days after the use of the land is changed, notice of the change must be filed with the County Department of Taxation.

DEVELOPED LAND - The total of all parcels containing permanent structures valued at \$2,500 or more, plus all parcels not generally available for development (e.g. tax exempt land, private rights-of-way, parcels owned in common by homeowner's associations, etc.).

EASEMENT - A right to or interest in property owned by another for a specific and limited purpose. Examples: access easement, scenic easement, utility easement, open space easement, etc. Easements may be for public or private purposes.

ENVIRONMENTAL QUALITY CORRIDOR (EQC) - An open space system designed to link and preserve natural resource areas, provide passive recreation and wildlife habitat. The system includes stream valleys, steep slopes and wetlands. For a complete definition of EQCs, refer to the Environmental section of the Policy Plan for Fairfax County contained in Volume 1 of the Comprehensive Plan.

ERODIBLE SOILS - Soils that wash away easily, especially under conditions where stormwater runoff is inadequately controlled. Silt and sediment are washed into nearby streams, thereby degrading water quality.

FLOODPLAIN - Those land areas in and adjacent to streams and watercourses subject to periodic flooding; usually associated with EQCs. The 100 year floodplain drains 70 acres or more of land and has a 1% chance of flood occurrence in any given year.

FORESTAL PRODUCTS - Products for sale or for farm use, including but not limited to lumber, pulpwood, posts, firewood, Christmas trees and other wood products.

FORESTALLY SIGNIFICANT LAND - Land that has historically produced forestal products, or land that AFDAC considers good forest land based upon factors such as soil quality, topography, environmental quality and other relevant factors.

FORESTAL USE - Use for tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the Director of the Department of Conservation and Economic Development of the Commonwealth of Virginia pursuant to Section 58-769.12 of the Code of Virginia, including the standing timber and trees thereon.

OPEN SPACE EASEMENT - An easement usually granted to the Board of Supervisors which preserves a tract of land in open space for some public benefit in perpetuity or for a specified period of time. Open space easements may be accepted by the Board of Supervisors, upon request by the land owner, after evaluation under criteria established by the Board. See Open Space Land Act, Code of Virginia, Sections 10.1-1700.

QUALIFYING USE - A land use which is eligible for use value taxation under Section 4-19 of the Fairfax County Code.

RESOURCE MANAGEMENT AREA (RMA) -The component of the Chesapeake Bay Preservation Area comprised of lands that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area. See Fairfax County Code, Chapter 118, Chesapeake Bay Preservation Ordinance.

RESOURCE PROTECTION AREA (RPA) - That component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline or water's edge that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation of the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments from runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. New development is generally discouraged in an RPA. See Fairfax County Code, Chapter 118, Chesapeake Bay Preservation Ordinance.

ROLLBACK TAX - Whenever an owner changes the acreage of an eligible tract by splitting off a parcel, or by changing the use of the land to a non-qualifying use, each applicable deferred tax plus annual simple interest at the rate annually applied to delinquent taxes becomes due and payable as a lump sum, known as the rollback tax. The rollback tax is applied to the year in which the use is changed and the previous five years the land was qualified for and assessed at use value rates.

TIDAL WETLANDS - Vegetated and nonvegetated wetlands as defined in Chapter 116 Wetlands Ordinance of the Fairfax County Code: includes tidal shores and tidally influenced embayments, creeks and tributaries to the Occoquan and Potomac Rivers. Development activity in tidal wetlands may require approval from the Fairfax County Wetlands Board.

UNDEVELOPED LAND - Unimproved or under utilized land. Land containing no structures valued at \$2,500 or more.

WETLANDS - Land characterized by wetness for a portion of the growing season. Wetlands are generally delineated on the basis of physical characteristics such as soil properties indicative of wetness, the presence of vegetation with an affinity for water, and the presence or evidence of surface wetness or soil saturation. Wetland environments provide water quality improvement benefits and are ecologically valuable. Development activity in wetlands is subject to permitting processes administered by the U.S. Army Corp of Engineers.

WILDLIFE HABITAT - Areas which contain the proper food, water, and vegetative cover to support a diverse community of animals, birds and fish; some examples include floodplains, upland hardwoods, pinewoods, meadows and marshes.