



APPLICATION ACCEPTED: October 9, 2007  
PLANNING COMMISSION: February 20, 2008  
BOARD OF SUPERVISORS: March 10, 2008 @ 3:30 pm

# County of Fairfax, Virginia

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February 6, 2008

## STAFF REPORT

### KEENER LOCAL AGRICULTURAL AND FORESTAL DISTRICT

#### APPLICATION AF 2007-SP-002

#### SPRINGFIELD DISTRICT

<b>APPLICANT:</b>	Robert S. and Deborah A. Keener
<b>ZONING:</b>	R-C
<b>PARCEL(S):</b>	66-2 ((1)) 29, 30, 66-2 ((2)) 26
<b>ACREAGE:</b>	22.73 acres
<b>PLAN MAP:</b>	Residential, 0.1-0.2 du/ac
<b>PROPOSAL:</b>	Establishment of a Local Agricultural and Forestal District

#### STAFF RECOMMENDATIONS:

Staff recommends that the request to amend Appendix F of the Fairfax County Code to establish the Keener 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 7.

*O:\jpapp0\Ag & Forest\Districts\2007-3 Keener\Final Materials\FINAL - Keener - Staff Report.doc*

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#### 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/](http://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.

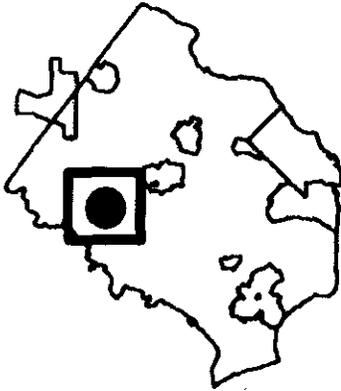
For information, contact the Zoning Evaluation Division, Office of Comprehensive Planning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290 or TTY 711 (Virginia Relay Center).



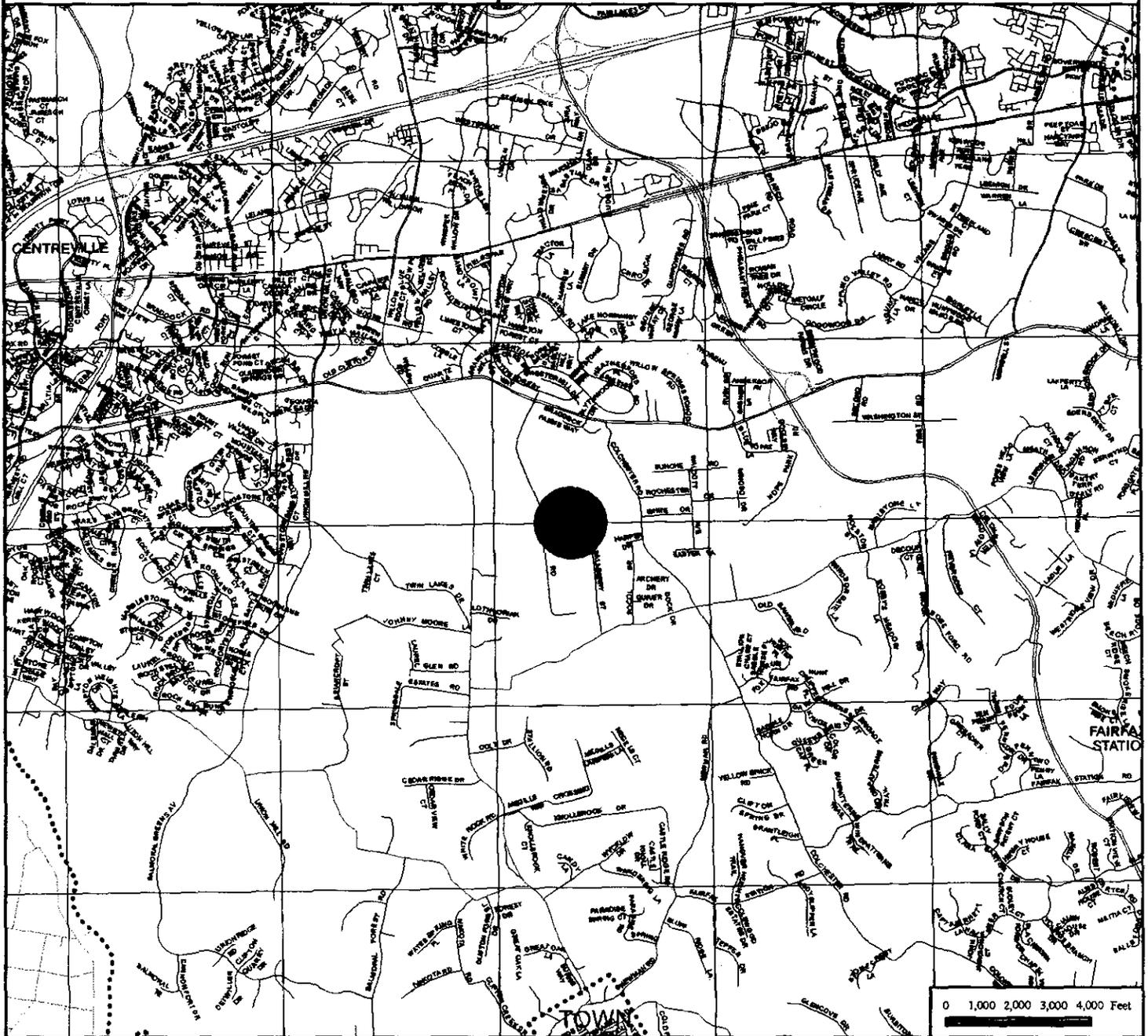
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.  
For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

**A&F District**  
**AF 2007-SP-002**

**Applicant:** ROBERT S. KEENER AND DEBORAH A. KEENER  
**Accepted:** 10/09/2007  
**Proposed:** AGRICULTURAL AND FORESTAL  
**Area:** 22.73 AC OF LAND; DISTRICT - SPRINGFIELD



**Zoning Dist Sect:**  
**Located:** 6510 MEGILLS CROSSING WAY  
**Zoning:** R- C  
**Overlay Dist:**  
**Map Ref Num:** 066-2- /01/ /0029 /01/ /0030  
/02/ /0026

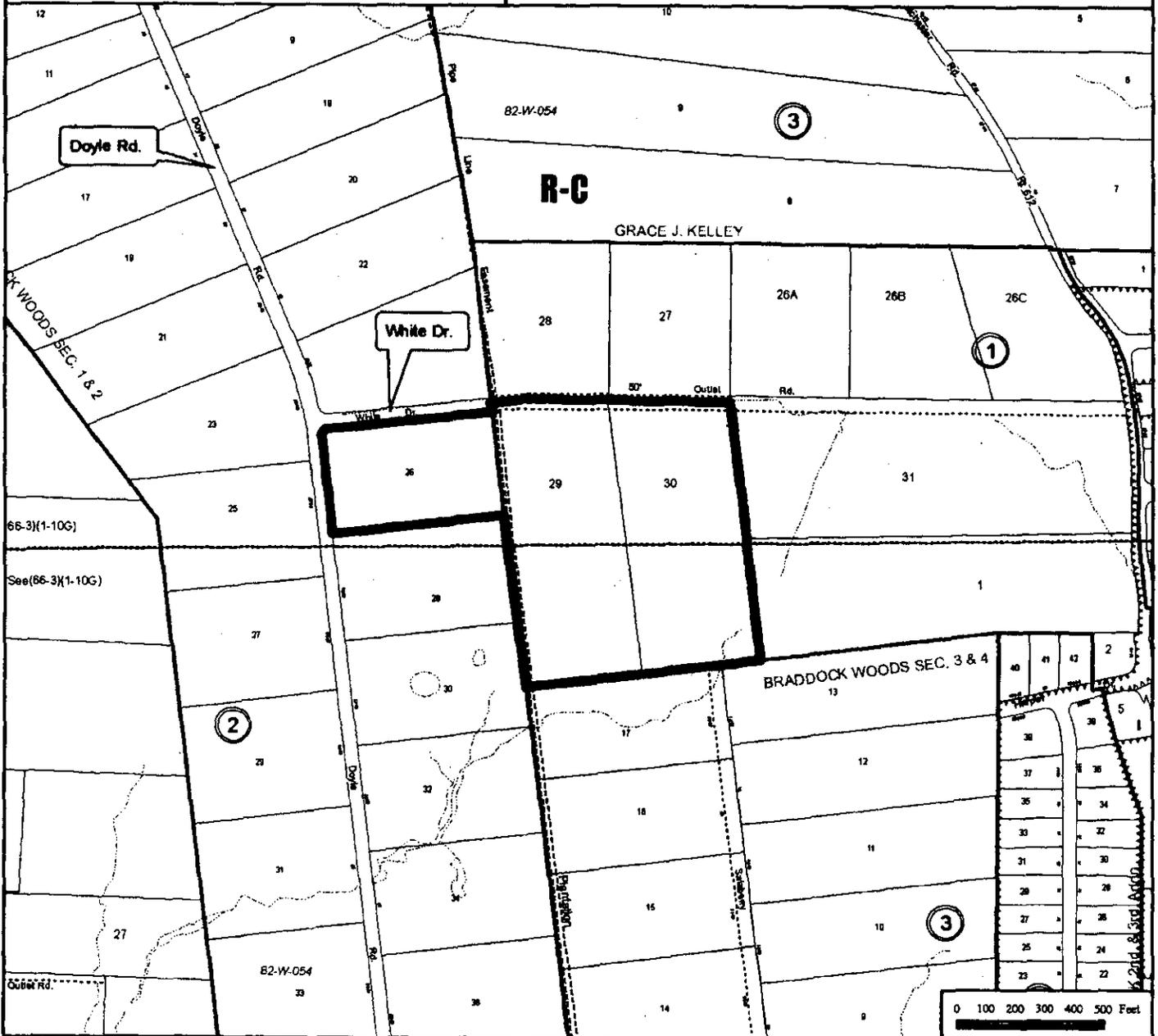


**A&F District**  
**AF 2007-SP-002**

**Applicant:** ROBERT S. KEENER AND DEBORAH A. KEENER  
**Accepted:** 10/09/2007  
**Proposed:** AGRICULTURAL AND FORESTAL  
**Area:** 22.73 AC OF LAND; DISTRICT - SPRINGFIELD



**Zoning Dist Sect:**  
**Located:** 5917 DOYLE ROAD  
**Zoning:** R- C  
**Overlay Dist:**  
**Map Ref Num:** 066-2- /01/ /0029 /01/ /0030  
/02/ /0026



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

**DESCRIPTION OF APPLICATION**

Proposal: AF 2007-SP-002 is a request to establish the Keener Local Agricultural and Forestal (A&F) District under the provisions of Chapter 115 of the Fairfax County Code for an eight year term. The subject property is a 22.73 acre tract located along the east side of Doyle Road at its intersection with White Drive, in the Springfield District.

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: Robert S. and Deborah A. Keener

Acreage: 22.73 acres

**LOCATION AND CHARACTER**

**Surrounding Area Description:**

The subject property and surrounding area are zoned R-C (Residential Conservation) and planned for residential use at 0.1-0.2 dwelling units per acre. The surrounding area consists primarily of +5 acre tracts of land which are also largely undeveloped.

**Location and Character of the District:**

The proposed 22.73 acre district is located in the Pohick Planning District of Area III. The subject property fronts on Doyle Road, south of its intersection with Braddock Road. The entire 22.72 acres of the site are in an undisturbed state. The property is zoned R-C (Residential Conservation).

**BACKGROUND:**

The proposed A&F District contains a total of 22.73 acres. Parcels 66-2 ((1)) 29 & 30 were originally purchased by the applicant in September of 2004. These two parcels make up approximately 17.73 acres of the proposed district. Parcel 66-2 ((2)) 26, consisting of 5.01 acres, was purchased in March of 2007.

**COMPREHENSIVE PLAN PROVISIONS**

**Plan Area:** Area III  
**Planning District:** Pohick Planning District  
**Planning Sector:** Twin Lakes Community Planning Sector (P1)  
**Plan Map:** Residential at a density of 0.1 to 0.2 du/ac

## **ANALYSIS**

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

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

### **Transportation Analysis (Appendix 4)**

This request does not represent any conflict with the Countywide Plan or transportation recommendations, and would not have an adverse traffic impact. It is to be emphasized that future conditions may warrant road improvements along the outlet road frontage of the proposed district, and that appropriate areas should be excluded from this district. However, as there is no right-of-way shown on the adopted plans for this area, it is impossible to determine how much of the proposed district should be excluded. Therefore, Staff has made the applicant aware that a request for right-of-way may be made in the future.

### **Environmental Analysis (Appendix 3)**

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

There are no Environmental issues associated with this application.

The Soil and Water Comments were prepared on November 6, 2007. The comments note that this land contains no active agriculture, so there is no soil and water quality conservation plan required. Only an intermittent natural drainage was observed in a general northeast-southwest direction, cutting across the lower south-eastern corner of Parcel 30. It is to be noted that the soil type on the property is predominantly "Orange Soil." This type of soil is known to contain naturally occurring fibrous asbestos minerals. If excavated, and the asbestos fibers (if present) become airborne, they can be carcinogenic.

The Forest Management Plan was prepared on December 3, 2007. The deer population has been managed, a practice which should be continued by the owner. Due to the large number of neighboring properties that do not control their deer populations, the applicant is encouraged to investigate the Virginia Department of Game and Fisheries Management Assistance Program which allows for a large number of antlerless deer to be taken from a property. The

plan also discusses nutrient management, pest management and record keeping. The recommendations of this Plan should be followed for the life of the agricultural district; this concern has been reflected in the Proposed Ordinance Provisions.

### **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.

The entire site is in a undeveloped state and consists of predominantly oak forest which is in good health with no non-native invasive species; therefore, this criterion is 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-C. 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 0.1 to 0.2 dwelling units per acre (du/ac). The property is undeveloped and proposed to remain so; 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 0.1 to 0.2 units per acre. 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.

There is no active agriculture located on the site. Therefore, this criterion is not applicable.

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.

All 22.73 acres of the property are in a forested state and are in the same ownership; therefore, this criteria has been fulfilled.

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.

There is no active agriculture located on the site. Therefore, this criterion is not applicable.

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.

There is no active agriculture located on the site. Therefore, a Soil and Water Conservation Plan is not required. This criterion is not applicable to this application.

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.

The site is currently in an undisturbed state and should remain in compliance with the Forest Management Comments found at Appendices 6. The applicant has been advised that these recommendations 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 applicant's property has been kept in an undisturbed state. There has been no forest production of any type on the property including the removal of any timber or fire wood. Therefore, this criterion has not been fulfilled.

#### 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 produced on the property over the previous five years; therefore, this criterion has not been 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.

Although no registered historic site has been identified on site, the County Archaeologist is seeking permission to conduct surveys of the property. Staff has prepared an Ordinance Provision to address this issue.

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 is not met.

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

The subject property is zoned R-C. This criterion is satisfied.

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

The subject property is not located within a permanent open space easement; therefore, this criterion is not satisfied.

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 criteria in Group A and at least two criteria in Group B should be satisfied. It is staff's opinion that this application satisfies all but one of the applicable criteria in Group A and three (3) of the criteria in Group B (site provides scenic vistas, possible archeological

significance and has R-C Zoning). (It should be noted that the site has not produced any forest products, but due to the good health of the forest on the property there is has been little need to remove trees.)

## **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 Keener 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 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 AF 2007-SP-002, to amend Appendix F of the Fairfax County Code to establish the Keener 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. Soils and Water Conservation Comments
6. Forest Management Plan
7. Virginia State Tax Code Provisions
8. Glossary

**PROPOSED ORDINANCE PROVISIONS****February 6, 2008****AF 2007-SP-002**

If it is the intent of the Board of Supervisors to establish the Keener Local Agricultural and Forestal District as proposed in Application AF 2007-SP-002 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 66-2 ((1)) 29, 30, 66-2 ((2)) 26, 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 applicant shall implement and abide by the recommendations of the Soil and Water Conservation Comments which were prepared by the Northern Virginia Soil and Water Conservation District on November 6, 2007, (as may be updated from time to time as determined necessary by the Northern Virginia Soil and Water Conservation District) for the life of the Keener Local Agricultural and Forestal District.
6. The applicants shall implement and abide by the recommendations of the Forest Management Plan which was prepared by the Area Forester on December 3, 2007, (as may be updated from time to time as determined necessary by the Area Forester) for the life of the Keener Local Agricultural and Forestal District.

7. 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.
  
8. The Cultural Resource Management and Protection Section (CRMPS) 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 CRMPS shall be conducted only with prior permission of the property owner and in accordance with terms mutually acceptable to both parties and established before each occurrence.

June 14, 2007

Virginia H. Ruffner  
Fairfax County Department of Planning and Zoning  
12055 Government Center Parkway  
Fairfax, VA 22035

Re: Fairfax County Tax Map 66-2-001-26, 29, 30 Land Use Request  
AF 2007-0109

Dear Ms. Ruffner:

I received a your letter requesting additional information on my submittal to place Tax Maps listed above in the County Land Use Program. You assigned case number AF 2007-0109

This request meets the criteria for Districts listed in Section 115-5-1 under Category A:

This parcel known as Tax Map 66-2-001-26, 29, and 30 is currently undeveloped and suitable for Forestal classification.

The land is currently zoned R-C.

The surrounding parcels are currently zoned as R-C.

The total acreage exceeds the twenty acre minimum requirement.

This request meets at least two of the criterias for Districts listed in Section 115-5-1 under Category B:

The land provides scenic vistas, contributes to maintaining the existing rural character of the area.

The land is currently zoned R-C

I appreciate your time and support, if you have any questions please contact me at (703) 289-1386 or (703) 815-0317.

Thank you

  
Bob Keener  
6510 Megills Crossing Way  
Clifton VA. 20124  
(703) 815-0317

RECEIVED  
Department of Planning & Zoning

OCT 09 2007

Zoning Evaluation Division

MAR 27 2007

Zoning Evaluation Division

Application No. AF 2007-SP-002

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
Robert S Keener	0662010029	3/2004	8000	8.903
Deborah A Keener				
Robert S Keener	0662010030	3/2004	8000	8.82
Deborah A Keener				
Deborah A Keener	0662020026	3/2007	8000	5.005
Robert S Keener				

3. Total acreage in the proposed district: 22.728 acres.
4. Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm \_\_\_\_\_ forest

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

Name: Bob Keener  
Address: 6510 Megills Crossing Way  
CLIFTON  
VA. 20124  
Telephone: (703) 815-0317 (H)  
(703) 289-1386 (W)

6. Signature of all property owners:

Robert S. Keener  
Deborah A. Keener  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10/19/07 KCS

TO BE COMPLETED BY THE COUNTY

*Virginia Ruffner*  
\$50<sup>08</sup> paid

Date application accepted: 10/09/07

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
<i>NONE</i>		

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:

<i>NONE</i>

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

<i>NONE</i>

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: \_\_\_\_\_

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
<i>NONE</i>		
_____		
_____		
_____		
_____		
_____		





# County of Fairfax, Virginia

APPENDIX 3

## MEMORANDUM

DATE: January 25, 2008

**TO:** Regina Coyle, Director  
Zoning Evaluation Division, DPZ

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

**SUBJECT:** ENVIRONMENTAL ASSESSMENT for: AF 2007-SP-002  
Keener

The Environment and Development Review Branch has reviewed this application to permit an Agricultural and Forestal district for approximately 22.73 located in a portion of the Sully District. No significant environmental issues were noted.



# County of Fairfax, Virginia

## MEMORANDUM

DATE: November 15, 2007

**TO:** Regina Coyle, Director  
Zoning Evaluation Division  
Department of Planning and Zoning

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

**FILE:** 3-4 (AF 2007-SP-002)

**SUBJECT:** Transportation Impact

**REFERENCE:** AF 2007-SP-002; Robert S. and Deborah A. Keener  
Land Identification Map: 66-2 ((1)) 29, 30  
66-2 ((2)) 26

This application does not represent any conflict with the Countywide Plan transportation recommendations and would have no traffic impact. However, this department is concerned that approval of agricultural and forestal districts may inhibit the ability of the County and/or VDOT to obtain rights-of-way for needed transportation improvements. If this is the case, the land that would reasonably be needed for right-of-way during the 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 right-of-way purposes should not be necessary at this time. It is emphasized that future conditions may warrant road improvements along the outlet road frontage of this property and that appropriate areas should be excluded from this district to accommodate these improvements in the future.

AKR:pcs

**BOARD OF DIRECTORS**  
**Jean R. Packard, Chairman**  
**Sally B. Ormsby, Vice Chairman**  
**Gregory C. Evans, Secretary**  
**John W. Peterson, Treasurer**  
**Adria C. Bordas, Director - Extension**  
**Diane Hoffman, District Administrator**



**Phone:** 703-324-1460  
**Fax:** 703-324-1421  
**E-mail:** [conservationdistrict@fairfaxcounty.gov](mailto:conservationdistrict@fairfaxcounty.gov)  
**Website:** [www.fairfaxcounty.gov/nvswcd](http://www.fairfaxcounty.gov/nvswcd)

**COMMONWEALTH of VIRGINIA**

**Northern Virginia Soil and Water Conservation District**

12055 Government Center Parkway • Suite 905 • Fairfax, VA 22035-5512

November 6, 2007

**TO:** Regina Coyle, Director  
 Zoning Evaluation Division, Department of Planning and Zoning

**FROM:** Willie Woode  
 Senior Conservation Specialist

**RE:** Agricultural and Forestal District Establishment Application No. AF 2007-SP-002

I have reviewed the referenced Agricultural and Forestal District establishment application, and have walked the 22.7-acre property located at the south east corner of Doyle Road and White Drive, in Fairfax. The property consists of three parcels recorded in the Fairfax County tax map system as 066-2 ((1)) -0029, -0030, ((2)) -0026.

All 22.7 acres of the property is kept wooded – a wildlife haven. With no active agriculture on site, there is no soil and water quality conservation plan as requested in Fairfax County's Chesapeake Bay Preservation Program, or in the requirements for Agricultural and Forestal District status establishment.

Being mainly wooded, a forest management plan as provided by staff of the Virginia Department of Forestry will be of great value to maintaining the environmental benefits and scenic vistas that the property offers.

There is no resource protection area delineated within the property boundaries. Only an intermittent natural drainage was observed flowing in a general northeast-southwest direction, cutting across the lower south-eastern corner of parcel 30.

Of note is the fact that the soil type on this property is predominantly "Orange Soil." Even though this property may be kept in perpetuity as wildlife conservation, it is worth noting that this soil usually has clayey subsoil that displays high shrink-swell characteristics. Also, Orange soils are typically formed over greenstone bedrock. This rock type has the potential to contain naturally occurring fibrous asbestos minerals. If excavated, and the asbestos fibers (if present) become air borne, they can be carcinogenic.

In case of any questions, I can be reached at 703-324-1430 or by email at [willie.woode@fairfaxcounty.gov](mailto:willie.woode@fairfaxcounty.gov)

cc: Deborah & Robert Keener



December 3, 2007

AF 2007-SP-002  
DOF# FAX07506

Mr. Robert S Keener  
6510 Megills Crossing Way  
Clifton, VA 20124

Dear Mr. Keener,

It was a pleasure to meet you and walk your property.

Enclosed is a forest management plan for your property, which has been prepared based on your objectives and sound forest management practices. Your property has many natural resource features and outstanding forest resources making it a valuable addition to the Agriculture and Forestal program in Fairfax County.

The aerial photo map accompanying this plan is intended to support the recommendations made and clarify the areas of your property discussed in the plan. They are not intended for determining property boundaries.

I have included information on the Northern Virginia Conservation Trust, the tax benefits of conservation easements and an application for a Stewardship Management Plan. If you have any questions about this plan, please contact me.

Sincerely,

James McGlone  
Urban Forest Conservationist



REPORT ON FORESTLANDS  
OF  
Mr. Robert S and Mrs. Deborah A. Keener  
6510 Megills Crossing Way  
Clifton, VA 20124

**Location:** The property is on the southeast corner of the intersection of Doyle Road and White Drive. This property is A&F number AF 2007-SP-002

**Examined by:** James McGlone, Urban Forest Conservationist

**Landowner's Objectives:** To establish the property as an Agriculture and Forestal District; to enhance wildlife habitat; to maintain healthy trees for a quality forest.

**Introduction:** This is a 22.7 acre undeveloped forested property northeast of Clifton. Unlike most forest parcel in Fairfax County this one is in good health with no non-native invasives and some regeneration. Like most eastern forests it is succeeding from oak to maple/beech

**Soils:** The entire property is underlain by soil series (59) Orange. This plastic clay soil occurs on hilltops and sideslopes over greenstone bedrock. A thin silty surface overlies a plastic clay subsoil. The plastic clay, generally one to two feet thick often extends to bedrock in gently sloping hilltop areas. A perched seasonal water table, resulting from the slow permeability of the subsoil and underlying bedrock, is 0.5 to 1 foot below the surface. Depth to hard bedrock ranges from 4 to 15 feet. Fibrous asbestos minerals may occur in the greenstone bedrock. These fibers may become airborne during excavation and blasting operations. Worker protection and dust control measures are required in such instances. This soil type is suitable for growing oak (*Quercus* spp.), red maple (*Acer rubrum*), red cedar (*Juniperus virginiana*), Virginia pine (*Pinus virginiana*) and shortleaf pine (*Pinus echinata*).

**Forest Type:** Oak forest composed of mostly white oak (*Quercus alba*) and northern red oak (*Quercus rubra*), with a few mature green ash (*Fraxinus pennsylvanica*) and hickory (*Carya* spp.) in the canopy. The sub-canopy consists of red maple (*Acer rubrum*), sweet gum (*Liquidambar styraciflua*), and beech (*Fagus grandifolia*). There are also saplings and seedlings of the canopy and sub-canopy species and redbud (*Cercis canadensis*) in the understory.

**Quality/Size:** The timber quality of this area is good. The trees are mostly saw timber size measuring 22 to 36 inches diameter at breast height.

**Wildlife Habitat:** Deer, turkey and coyote are reported on the property. The forest appears somewhat lacking in soft mast or berry producing plants, which reduces its value to species dependent on that food source, but it has a healthy stand of white and northern red oaks whose

acorns are considered excellent wildlife food. The parcel also adjoins a tract that was clear cut about 7 to 10 years ago and supplies excellent forage for wildlife residing on site.

**Recreation / Aesthetics:** this area is desirable for passive recreation such as walking, photography, bird and wildlife watching, and the general observation of nature.

**Recommendations:** this area is currently meeting the landowners' objectives. The landowner is managing the deer population on this property and should continue to do so. Given that there are large parcels within one mile on which no deer management is practiced, the landowner may wish to investigate the Virginia Department of Game and Inland Fisheries Deer Management Assistance Program, which allows a larger take of antlerless deer.

The presence of red maple and beech in the sub-canopy indicate this forest is succeeding to a climax maple-beech forest. The wildlife value of the forest can be enhanced and this process arrested at the same time by girdling the larger beech and maple trees to create snags or standing dead trees. The smaller trees can be cut and used to create brush piles. Brush piles would be particularly useful if they incorporated some of the downed tree trunks. See enclosed information on building brush piles. The fallen dead wood has good wildlife value and should be left in place except as used for brush piles.

#### **Forest Health:**

Forest diseases prevalent in the Northern Virginia area: Gypsy moth (oak trees), Woolly adelgid (hemlock trees), Anthracnose (dogwood and sycamore trees) and Emerald Ash Borer (ash trees). The best way to combat outbreaks of these diseases is to know your forest. Walk it frequently and note trees that are looking sickly. Different diseases/ infestations manifest themselves in different ways, some of the common characteristics to note are: severe defoliation, curling discolored leaves (look moldy), masses of insects present in larval forms (worms) or insect fecal matter (masses of black or white droppings. Small holes in the trunk of a tree generally indicate borers and require immediate attention. If you suspect your trees are being attacked by disease or pests contact a certified arborist, the Fairfax County Urban Forest Management Branch at 703-324-1770, the county extension agent at 703-324-5369 or this office at 703-324-1489.

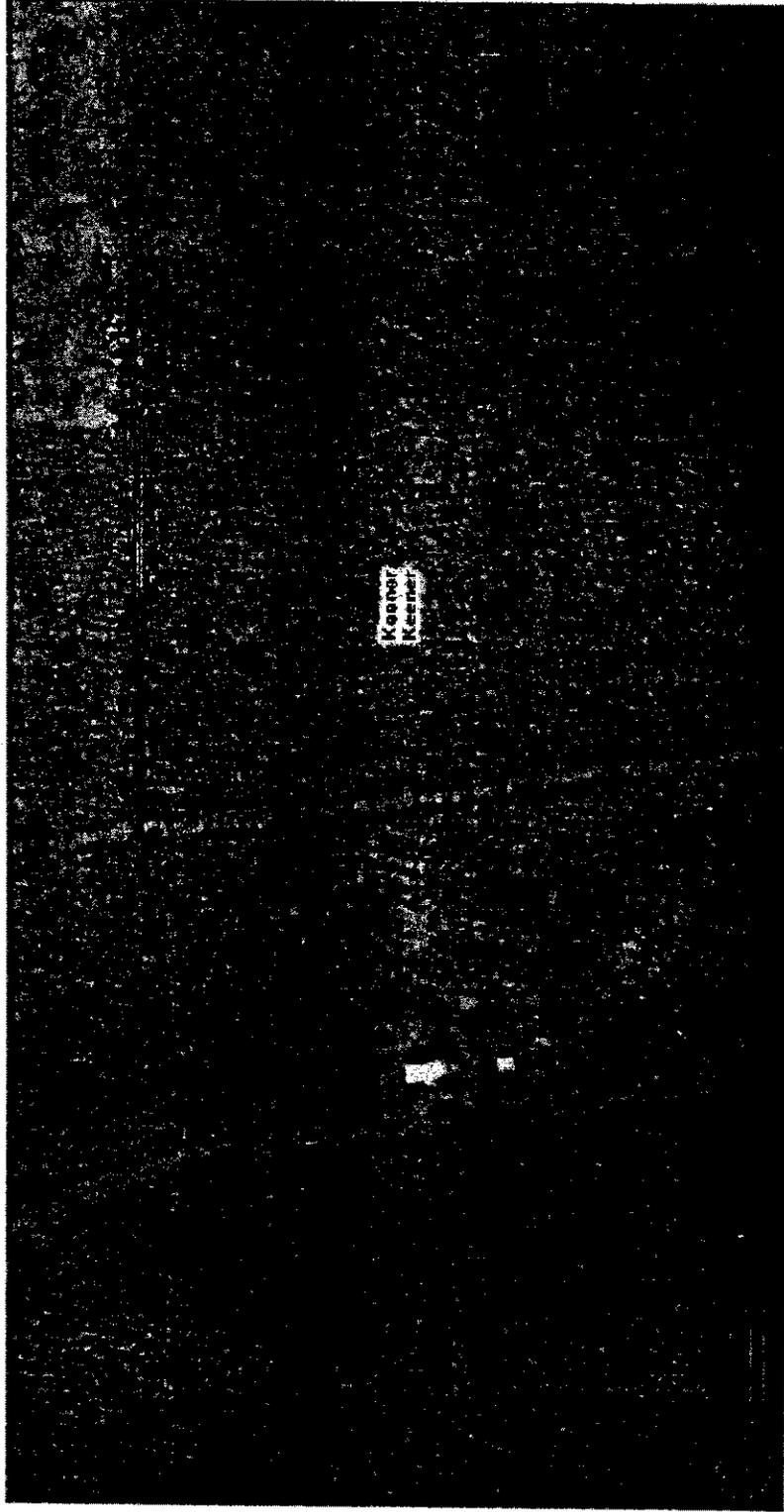
**Wildfire:** Protection of this property from wildfire is essential. Wildfire destroys valuable timber and property. Should wildfire occur on this or adjacent property call 911 immediately to report it to the Fairfax County Fire and Rescue Department.



Virginia Department of Forestry  
Protecting and Developing Healthy, Sustainable Forest Resources

## Keener A&F District

Oak Forest on Orange 500



Map prepared by James McGibone. Keener is the tract and parcel name. The forest resource is homogeneous throughout the tract.

Map By:

Report Date: Tuesday, November 06, 2007

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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#### **§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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## 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.