



APPLICATION ACCEPTED: November 20, 2008  
PLANNING COMMISSION: May 14, 2009  
BOARD OF SUPERVISORS: May 18, 2009 @ 3:30 pm

# County of Fairfax, Virginia

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April 28, 2009

## STAFF REPORT

### WALNUT RIDGE LOCAL AGRICULTURAL AND FORESTAL DISTRICT

#### APPLICATION AR 83-S-011-03

#### SPRINGFIELD DISTRICT

**APPLICANT:** Ober Trust and Sarah Ober

**PRESENT ZONING:** R-C, WS

**PARCELS:** 96-4 ((1)) 7Z, 8Z, 10Z, and 11Z

**ACREAGE:** 21.32 acres

**PLAN MAP:** Residential use at 01.-0.2 dwelling units per acre

**PROPOSAL:** Renewal of a local Agricultural and Forestal District

#### STAFF RECOMMENDATIONS:

Staff recommends that the request to amend Appendix F of the Fairfax County Code to renew the Walnut Ridge 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 9.

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Suzie Zottl

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 staff to recommend that the Board, in amending Appendix F of the County Code to include the Ordinance Provisions listed in Appendix 1, relieve the applicant/owner from compliance with the provisions of any other applicable ordinances, regulations, or adopted standards.

It should be further 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, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703)324-1290, or TTY 711 (Virginia Relay Center).

*N:\Ag & Forest\Districts\2009-4 Ober\Ober\_Cover.doc*



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 Renewal

AR 83-S-011-03

Applicant: OBER TRUST, SARAH OBER  
Accepted: 11/20/2008  
Proposed: AGRICULTURAL AND FORESTAL DISTRICT RENEWAL

Area: 21.317 AC OF LAND; DISTRICT - SPRINGFIELD

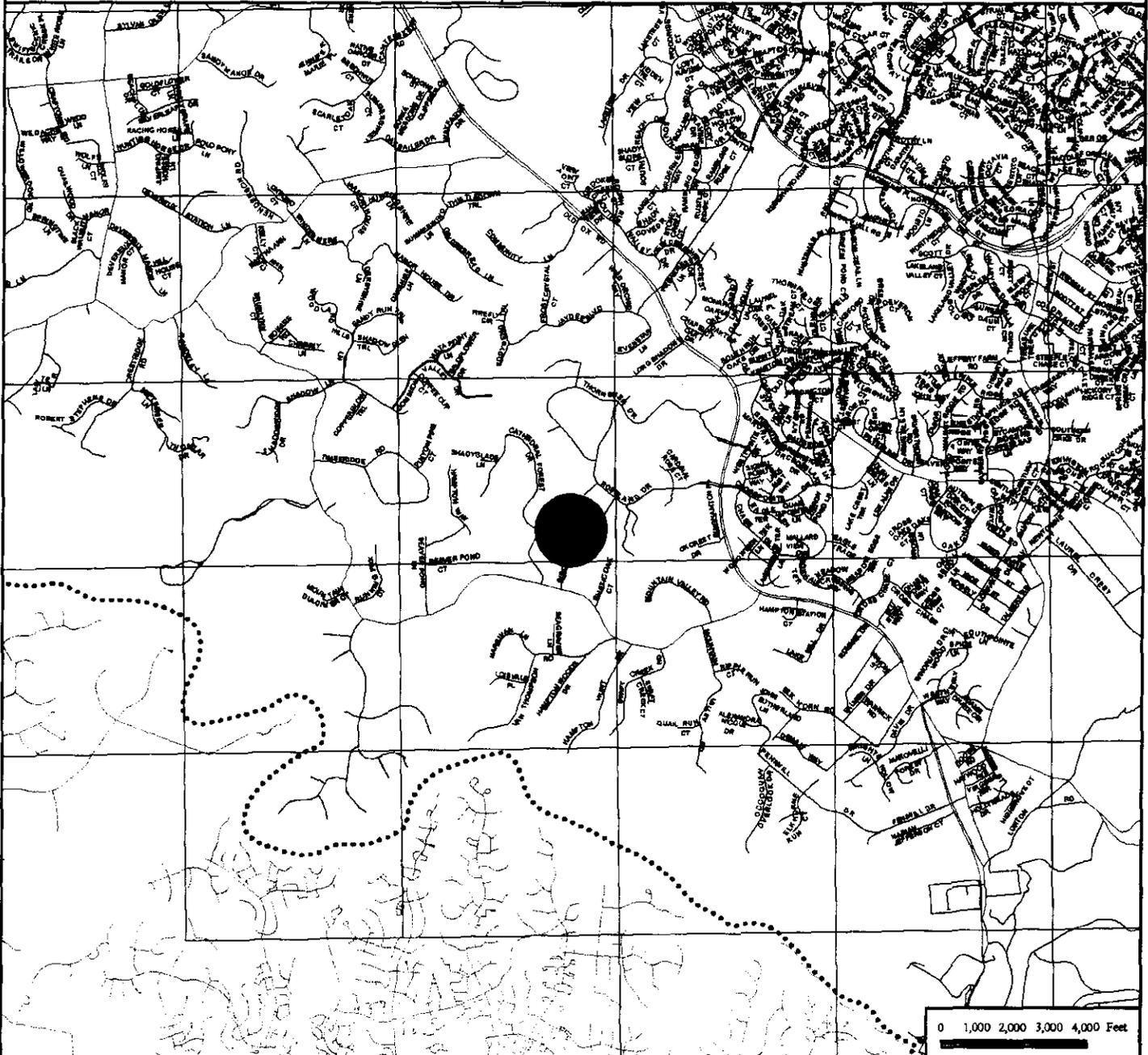
Zoning Dist Sect:

Located: 8226 AND 8228 ROSELAND DRIVE

Zoning: R- C

Overlay Dist: WS

Map Ref Num: 096-4 /01/ /0007Z /01/ /0008Z  
/01/ /0010Z /01/ /0011Z



# A&F District Renewal

AR 83-S-011-03

Applicant:  
Accepted:  
Proposed:

OBER TRUST, SARAH OBER  
11/20/2008  
AGRICULTURAL AND FORESTAL DISTRICT RENEWAL

Area: 21.317 AC OF LAND; DISTRICT - SPRINGFIELD

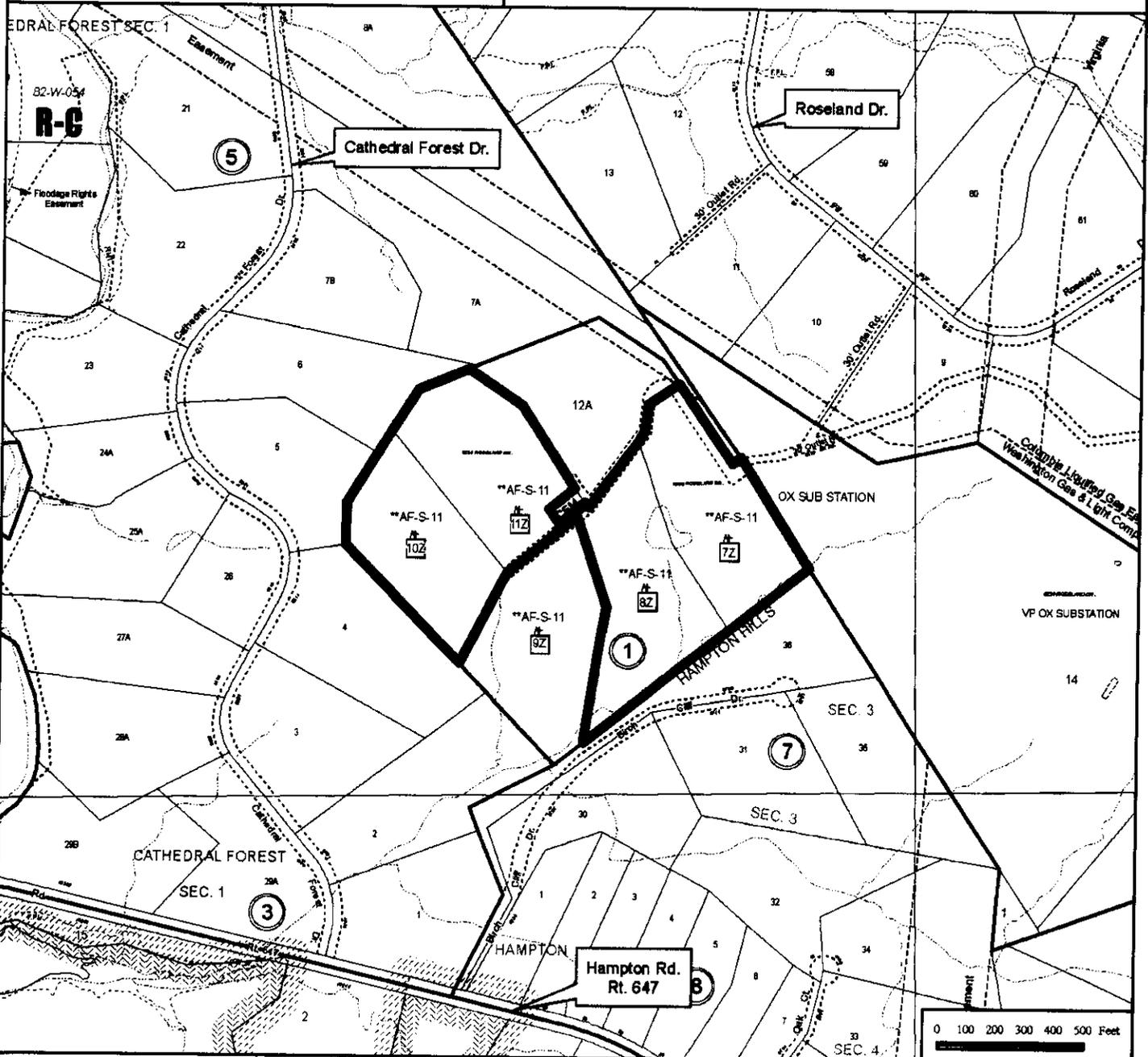
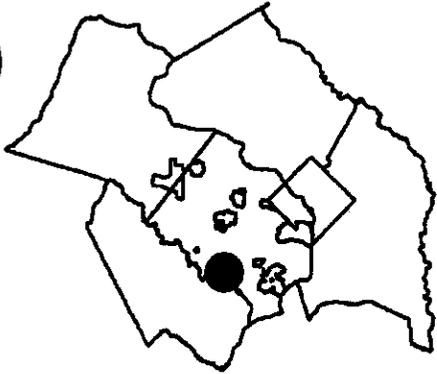
Zoning Dist Sect:

Located: 8226 AND 8228 ROSELAND DRIVE

Zoning: R- C

Overlay Dist: WS

Map Ref Num: 096-4 /01/ /0007Z /01/ /0008Z  
/01/ /0010Z /01/ /0011Z



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

**DESCRIPTION OF APPLICATION**

<b>Proposal:</b>	AR 83-S-011-03 is a request to renew the Walnut Ridge Local Agricultural and Forestal District under the provisions of Chapter 115 of the Fairfax County Code. The subject property is a 21.32 acre tract located west of Roseland Drive and east of Cathedral Forest 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.
<b>Applicant:</b>	Ober Trust and Sarah Ober
<b>Acreage:</b>	21.32 acres
<b>Use:</b>	Open Space/Forested – 19.32 acres Residential - 2 acres

**BACKGROUND**

The subject property has been owned by the applicant since 1954 and has been in use as residential, agricultural, and forestal property since that time. The Walnut Ridge Local Agricultural and Forestal District was originally established for an eight year period on March 26, 1984. The district was renewed for an eight year period on March 23, 1992, and again on April 24, 2000 (See Appendix 3). During the twenty-four year life of this district, although the boundary lines have changed, the land use of the property has not been substantially altered. When the district was renewed in 2000, it included a residual parcel belonging to Richard and Mary Ober and a five acre parcel belonging to Sarah Ober. In 2006, the residual parcel was subdivided into five 5-acre parcels for the eventual benefit of the Ober children; at the same time the boundary line between one of the parcels and the parcel owned by Sarah Ober was adjusted. This subdivision and boundary adjustment resulted in a change in the tax map numbers for all six parcels of the Ober property.

In 2007, the Ober family sold one of the parcels to a non-family member. In addition, an Ober son who owns one of the parcels does not wish to continue to include it in the Walnut Ridge A&F District. Therefore, this renewal is for 21.32 acres of the original 31.85 acres.

## LOCATION AND CHARACTER

### Surrounding Area Description:

The subject property and surrounding area are zoned R-C and WS, and are planned for residential uses at 0.1 to 0.2 dwelling units per acre and private open space. The subject property is surrounded on all sides by single family detached residences on lots generally 5 acres and larger. The exception is a parcel to the southeast developed with the Ox Sub Station and planned for public facility/utility uses.

### Location and Character of the District:

The 21.32 acre site is located in the Dominion Community Planning Sector (P5) of the Pohick Planning District of Area III. The property is zoned R-C and WS and developed with the following structures:

Structure	Year Built	Use
Main dwelling	1933	Residence
Main dwelling	1999	Residence
Barn	1964	Machine storage
Garage	1930s	Machine storage
Shed	1930s	Storage
Tenant dwelling	1930s	Living space
Shed	1964	Storage
Pump house	1930s	Well

The subject property is located at the end of a 4,000 foot long outlet road to Ox Road. The wooded areas of the site are comprised primarily of a mixture of Virginia pine and Tulip poplar.

## COMPREHENSIVE PLAN PROVISIONS

**Plan Area:** Area III

**Planning District:** Pohick

**Planning Sector:** Dominion Sector (P5)

**Plan Map:** Residential use at a density of 0.1 to 0.2 dwelling units per acre

## **ANALYSIS**

### **Land Use Analysis (Appendix 4)**

The proposed renewal of this Agricultural and Forestal District is consistent with the goal of the Comprehensive Plan, which seeks to maintain the low density residential character of this portion of the County.

### **Transportation Analysis (Appendix 5)**

This request does not represent any conflict with the Countywide Plan transportation recommendations and would have no traffic impact. The Fairfax County Department of Transportation emphasizes that future conditions may warrant road improvements along the road frontage of the proposed district, and that appropriate areas should be excluded from this district. However, in the subject case no projects that would affect the site area are included in the Adopted Plan or in current construction programs; exclusion of land for right-of-way purposes should not be necessary at this time.

### **Environmental Analysis (Appendix 4)**

The Forest Management Plan and Soil and Water Comments are contained in Appendices 6 and 7, respectively.

The subject property is located in the Sandy Run watershed tributary of the Occoquan River. A pond less than ¼ acre in size is the source of one of two unnamed first order streams that feed into Sandy Run. These two reaches converge with another first order stream within the property to form a second order stream that is delineated as a Chesapeake Bay Resource Protection Area (RPA). Approximately 800 linear feet of RPA exist within the limits of this property. No activity based on existing land use practices was observed that may adversely impact water quality or the pollution filtering integrity of the buffer. The onsite portion of the buffer is dense and is mostly mature vegetation.

Unlike many forest parcels in Fairfax County, this one is in good health with few non-native invasive plants. It is a mix of early successional forest types with failing Virginia pine and Tulip poplar as the dominant tree species. The native shrub layer is non-existent. Deer were observed on the property, and while the deer do not threaten the existing trees, they make regeneration of the forest impossible. See Appendix 6 for deer management techniques suggested by the VA Department of Forestry.

### **Agricultural and Forestal District Criteria Analysis**

Article 5 of Chapter 115 of the Fairfax County Code contains two sets of criteria that are designed to serve as a guide in the evaluation of proposed Local Agricultural and Forestal Districts. All of the applicable 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 subject property is 21.32 acres in size, and is entirely in forest use with the exception of 2 acres used for residential purposes. 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-C and WS. 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: .1-.2 dwelling unit per acre; .2-.5 dwelling unit per acre; .5-1 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). 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 all of the surrounding land within one-quarter mile of the district for low density residential use at 0.1 to 0.2 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.

Although the County Code allows non-contiguous parcels to be included in the land area, these parcels are not eligible to receive the special tax assessment granted to parcels in the A&F Program. Parcels in the A&F Program are taxed under the State Code, which mandates that 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 of the State Code, properties separated only by a public right-of-way are considered contiguous.

This property qualifies as open space and forestal uses. 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.

The proposed district consists of 21.23 acres; the four parcels comprising the District are owned by members of the Ober family. Therefore this criterion is 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-III 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 the majority of the site is in forestal, not agricultural, use.

8. Agricultural land in the district should be used in a planned program of soil management, soil conservation, and pollution control practices which is 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.

The Northern Virginia Soil and Water Conservation District has prepared a Conservation Plan for this property, dated January 5, 2009. An ordinance provision requires the applicant to approve, sign, and abide by the recommendations of this Plan. Therefore, staff believes this criterion is satisfied.

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 majority of the subject property is forested and maintained as an undisturbed, wooded conservation area. The applicant has a Forest Management Plan, dated February 18, 2009; therefore, this criterion is satisfied.

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 owned this property since 1954. Since that time, the applicants have harvested timber, cleared brush, removed dead and undesirable trees, improved the open areas, improved the soil by using organic means, and created fields for the cultivation of vegetables and herbs. In the past ten years, the applicants have continued with normal maintenance of the fields and forested areas. The applicant is committed to maintaining the forestal and open space uses on this property for the life of the district, and to following the suggestions of the State Forester and the Soil and Water Conservation District. Staff believes that this criterion has been satisfied.

Criteria Group B:

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

In the past, the applicants sold vegetables and herbs in the Washington area. The applicants have not indicated if they intend to continue this practice. 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 wooded and open lands of the subject property help maintain the rural character of the area. The land provides scenic vistas, and consists of one of the last large parcels in the immediate vicinity that has not become a large lot subdivision. Therefore, staff believes 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.

There are no known historical sites on the property. Therefore, this criterion is not applicable.

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-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 applicable 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 of the applicable criteria in Group A and two of the criteria in Group B.

#### **AFDAC RECOMMENDATION (Appendix 8)**

On April 21, 2009, the Agricultural and Forestal Districts Advisory Committee voted to recommend that the Walnut Ridge Local Agricultural and Forestal District be renewed for an eight year term, subject to Ordinance Provisions consistent with those contained in Appendix 1 of this report.

## CONCLUSIONS AND RECOMMENDATIONS

### Staff Conclusions

Staff believes the application for the renewal of the Walnut Ridge Local Agricultural and Forestal District satisfies all of the applicable criteria in Group A and two of the criteria in Group B, thus meeting the guidelines outlined in Sect. 115 of the County Code. With the exception of the acreage reduction and property boundary modifications, the only change that has occurred on the property since the district was originally established is the construction of an additional house for a family member. Staff feels that this District continues to meet the intent of the applicable criteria contained in Sect. 115-5-1 of the County Code. The property meets the minimum acreage requirement and is in conformance with the Comprehensive Plan.

### Staff Recommendations

Staff recommends application AR 83-S-011-03, to amend Appendix F of the Fairfax County Code to renew the Walnut Ridge 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. Application Materials and Statement of Justification
3. Approval of AR 83-S-011-02
4. Land Use and Environmental Analysis
5. Transportation Analysis
6. Forest Management Plan dated February 18, 2009
7. Soil and Water Quality Conservation Plan dated January 5, 2009
8. Agricultural and Forestal District Advisory Committee Recommendation
9. Title 58.1 Article 4 *Special Assessment for Land Preservation*
10. Glossary of Terms

**PROPOSED ORDINANCE PROVISIONS****April 28, 2009****AR 83-S-011-03**

If it is the intent of the Board of Supervisors to renew the Walnut Ridge Local Agricultural and Forestal District as proposed in Application AR 83-S-011-03 pursuant to Chapter 44 of Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code on Tax Map 96-4 ((1)) 7z, 8z, 10z, and 11z, 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 years from the date of adoption of such ordinance. This provision shall not be construed to restrict expansion of or improvements to the agricultural or forestal use of the land, or to prevent the construction of one (1) additional house within the district, where otherwise permitted by applicable law, for either an owner, a member of an owner's family, or for a tenant who farms 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 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 automatically qualify for an agricultural and forestal value assessment on such land pursuant to Chapter 4, Article 19 of the Fairfax County Code and to Section 58.1-3230 et seq. of the Code of Virginia, if the requirements 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 that 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.

**Additional Provisions**

- (5) The applicant shall sign, implement and abide by the recommendations of the Soil and Water Conservation Plan dated January 5, 2009, for the life of the Walnut Ridge 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 applicant shall implement and abide by the recommendations of the Forest Management Plan dated February 18, 2009, for the life of the Walnut Ridge 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 Walnut Ridge Local Agricultural and Forestal District (see Attachment A).
- (8) 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.



SEP 30 2008

Zoning Evaluation Division

Application No. AR 835-011-03

APPLICATION FOR THE ESTABLISHMENT OF A  
AGRICULTURAL AND FORESTAL DISTRICT

FAIRFAX COUNTY

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

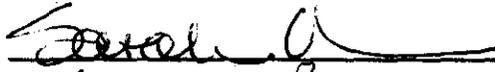
Owner's Name & Address	Tax Map Number	Year Acquired	Zoning District	Acres
Ober Trust, 8226 Roseland Dr. Fairfax Station VA 22039	09640100082	2006	R-C, WS	5.6246
	09640100102	2006	R-C, WS	5.0227
	09640100112	2006	R-C, WS	5.3392
Sarah Ober 8228 Roseland Dr. Fairfax Station VA 22039	09640100072	2006	R-C, WS	5.3311

- Total acreage in the proposed district: 21.3176 acres.
- Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm \_\_\_\_\_ forest 4.

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

Name: Mary W. Ober  
Address: 7418 Spring Village Dr.  
Apt. 315  
Springfield, VA 22150  
Telephone: 703/644-1917

6. Signature of all property owners:

  
Mary W. Ober  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TO BE COMPLETED BY THE COUNTY

Date application accepted: 11/20/08  
Date of action by Board of Supervisors: \_\_\_\_\_

*\$50.00 paid*  
*Virginia Ruffner*

- 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
main dwelling	1999	living space
main dwelling	1933	living space
stable	1964	Storage
garage	1930s	Storage
shed	1930s	Storage
tenant dwelling	1930s	Storage
shed	1964	Storage

use additional page(s) if necessary (con't on separate sheet)

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

~~Although not located on the Ober property, there is a cemetery (the Ashford/Davis family Cemetery - Fairfax County Public Library Cemetery Survey Number: Fx313) that is surrounded by the Ober property and which is accessed using a road built by the Obers located on Ober property. The cemetery was recently included on a tour conducted by the Fairfax County Historical Society.~~

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

house - 1999

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shed - 2001

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shed - 2002

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fence - 2007

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normal maintenance of fields and woods for wildlife

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1. (Continued)

<u>Structure</u>	<u>Year built</u>	<u>Use</u>
Pump house	1930s	well
Shed	2001	storage
Shed	2002	storage

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: 6/1984

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
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____



RENEWAL APPLICATION FOR THE WALNUT RIDGE LOCAL AGRICULTURAL  
AND FORESTAL DISTRICT (AR 83-S-011-02)

Statement of Justification per the criteria presented in Article 5 of Chapter 115 of the Fairfax County Code.

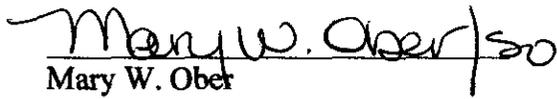
Criteria Group A

- (1) All acreage, except that immediately surrounding family residences is devoted to open space or forestal use.
- (2) All land in the District is zoned R-C, WS.
- (3) The District is consistent with the Comprehensive Plan. It is located in the Occoquan Watershed and a significant amount of the land is located within a designated Environmental Quality Corridor (EQC), which, of course, will always remain undisturbed.
- (4) The surrounding land within one-quarter mile of the District is appropriately planned and zoned according to the Comprehensive Plan.
- (5) The property is classified as forest property rather than farm property and consists of 21.3 contiguous acres. The majority of the land is forested.
- (6) The property consists of four contiguous parcels that total 21.3 acres in size; three of the parcels are owned by a family trust and one parcel is owned by an immediate family member. Two immediate members of the Ober family occupy the two residences on the property.
- (7) All soils in the District as described in the Timberland Report prepared by the State Forester are characterized as very productive soils for timber growth.
- (8) The land has been managed with good soil improvement and conservation practices since acquired in 1954 and the Northern Virginia Soil and Water Conservation District has prepared a conservation plan.
- (9) Forest land and undeveloped land in the District has been kept in an undisturbed state.
- (10) Since 1954 when Richard and Mary Ober purchased the subject property, they and other family members have been committed to the agricultural and forestal use of the property. We have harvested timber, cleared brush, removed dead and diseased trees, improved pasture, erected fences, established wildlife habitat and raised sheep, chickens, horses, bees, nursery stock, fruits, vegetables and herbs. Although the State Forester report provides a plan for marketing timber, the bulk of the timber lies within the EQC and may not be disturbed. Therefore, the forest land on this property is and will be maintained for purposes of conservation, tree cover, wildlife habitat and to preserve the rural character of an area surrounded by developments.

Criteria Group B

(2) Continuing use of this land for forest use preserves one of the few remaining examples of the once rural character of this part of Fairfax County. The previously remaining 474 acres of forest land adjacent to this property has now been developed.

(5) The land is zoned R-C, WS.

  
Mary W. Ober

  
Sarah Ober



# FAIRFAX COUNTY

APPENDIX 3  
OFF  
BOARD OF SUPERVISORS  
12000 Government Center Parkway, Suite 533  
Fairfax, Virginia 22035-0072

V I R G I N I A

Telephone: 703-324-3151

FAX: 703-324-3926

TTY: 703-324-3903

May 23, 2000

Mr. Richard Ober  
8226 Roseland Drive  
Fairfax Station, Virginia 22039

RE: Agricultural and Forestal District  
Application Number **AR 83-S-011-2**

Dear Mr. Ober:

Agricultural and Forestal District Application **AR 83-S-011-2** in the name of Richard, Mary W., and Sarah Ober meeting all of the criteria and provisions pursuant to Chapter 115 of the Fairfax County Code effective June 30, 1983, (Agricultural and Forestal Districts of Local Significance) Appendix F-10 and additional environmental provisions, was renewed by ordinance by the Board of Supervisors at a regular meeting held on April 24, 2000, as the Walnut Ridge Local Agricultural and Forestal District, subject to the attached ordinance provisions dated.

Sincerely,

Nancy Vehrs  
Clerk to the Board of Supervisors

NV/ns  
Attachment

Mr. Richard Ober

May 23, 2000

Page 2

cc: Chairman Katherine K. Hanley  
Supervisor- Springfield District  
Jane Coldsmith, Director, Real Estate Div., Dept. of Tax Administration  
Michael Congleton, Deputy Zoning Administrator  
Barbara A. Byron, Director, Zoning Evaluation Div., OCP  
Thomas Conry, Dept. Mgr. – GIS - Property Mapping/Overlay  
Robert Moore, Trnsprt'n. Planning Div., Office of Transportation  
Ellen Gallagher, Project Planning Section, Office of Transportation  
Michelle Brickner, Deputy Director, Plan Review – DPW&ES  
DPW&ES – Bonds and Agreements  
Frank Edwards -Resident Engineer, VDOT  
Land Acq. & Planning Div., Park Authority  
Diane Hoffman, District Administrator  
No. VA Soil & Water Conservation District  
Barbara White , Forester  
VA Department of Forestry  
James W. Cochran, Supervising Appraiser, Real Estate Div., DTA

ADOPTION OF AN AMENDMENT TO CHAPTER 115, APPENDIX F  
(LOCAL AGRICULTURAL AND FORESTAL DISTRICT) OF THE 1976  
CODE OF THE COUNTY OF FAIRFAX, VIRGINIA

*At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Monday, April 24, 2000, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment regarding Chapter 115, Appendix F (Local Agricultural and Forestal District) of the 1976 Code of the County of Fairfax, Virginia. said amendment so adopted being in the words and figures following, to-wit:*

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX  
COUNTY, VIRGINIA:

*Amend Chapter 115, Appendix F (Local Agricultural and Forestal District), as follows:*

F-10. Walnut Ridge Local Agricultural and Forestal District  
(AR 83-S-011-2)

(a) The following parcel of land situated in the Springfield District, and more particularly described herein, is hereby included in the Walnut Ridge Local Agricultural and Forestal District:

Owners	Fairfax County Tax Map Parcel Number	Acreage
Richard and Mary W. Ober	96-4 ((1)) 6	26.85
Sarah Ober	96-4 ((1)) 5	5.0
		<hr/>
		Total: 31.85

(b) The Walnut Ridge Local Agricultural and Forestal District is established effective April 24, 2000, pursuant to Chapter 44, Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code and is therefore subject to the provisions of those Chapters and the following provisions:

(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, or to prevent the construction of one (1) additional house within the district, where otherwise permitted by applicable law, for either an owner, a member of the owner's family, or for a tenant who farms 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 58.1-3230 et seq. of the Code of Virginia, if 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 sign, implement and abide by the recommendations of the Soil and Water Conservation Plan dated March 24, 2000, for the life of the Walnut Ridge Local Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to time as determined necessary by the Northern Virginia Soil and Water Conservation District:

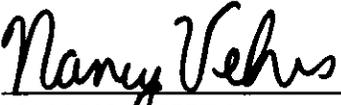
(6) The applicants shall implement and abide by the recommendations of the Forest Management Plan dated February 9, 2000, for the life of the Walnut Ridge Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the State Forester. If the applicants choose to harvest 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 Walnut Ridge Local Agricultural and Forestal District (limits of EQC on file with the Fairfax County Department of Planning and Zoning);

(8) The establishment and continuation of this district depends on 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.

This amendment shall become effective upon adoption.

GIVEN under my hand this 24th day of April, 2000.

  
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NANCY VEHRs

Clerk to the Board of Supervisors



# County of Fairfax, Virginia

## MEMORANDUM

DATE: January 29, 2009

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

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

**SUBJECT:** Comprehensive Plan Land Use and Environmental Assessment for:  
AR 83-S-011-3  
Ober Trust/Sarah Ober

This memorandum, prepared by Dawn Dhavale, includes citations from the Comprehensive Plan that provide guidance for the evaluation of the above referenced application and lists and explains land use guidance and environmental policies for this property. The application requests renewal of an Agricultural and Forestal District for approximately twenty-one (21.32) acres. The extent to which the proposed use, intensity, and development plan are consistent with the land use and environmental guidance contained in the Comprehensive Plan is noted.

### DESCRIPTION OF THE APPLICATION

The 22.32 acre Ober Trust/Sarah Ober Agricultural and Forestal District within the Springfield Magisterial District is currently up for renewal. The district is located in the Sandy Run watershed in south central Fairfax County in the Dominion Community Planning Sector (P5) of the Pohick Planning District.

The original 1983 application, approved in 1984, describes this as both a farm and forest property. The forest portion of the property was used for timber, fire wood, and conservation. The property also had herb and vegetable cultivation. The 1991 reapplication shows a reduction in the agricultural uses of the property, as well as having only a timber use for the forestal region. In 1997, the applicants requested information on where to build an additional house on the property to avoid building in the Environmental Quality Corridor (EQC). This structure was built in 1999. The most recent reapplication in 1999, approved in 2000, shows that 28 acres of the district had moved into a conservation use, with two acres used for residential purposes and under two acres used for horticultural purposes.

The current reapplication is comprised of four separate parcels, with two sets of two parcels contiguous and the two pairs joined at the corner. Three of the parcels are owned by the Ober Trust and the remaining parcel is owned by Sarah Ober. Since the district was last renewed in 2000, two parcels have been sold, one in 2006 and one in 2007, and the total size of the district has been reduced from 31.85 acres to 21.32 acres.

The property has a soil and water conservation plan, prepared by the Northern Virginia Soil and Water Conservation District in June 1984. Because there are no agricultural uses on the property currently there is no need for an updated soil and water conservation plan.

The property currently has two residences (one built in 1933 and the other in 1999), a stable, one garage, a tenant dwelling used for storage, four sheds, and a pump house. There is no longer any agricultural or forestal production activity. Two acres of the property are used for residential purposes and the remaining 19.32 acres are used for conservation.

## **LOCATION AND CHARACTER**

The subject property is located in the south central portion of the County in the Sandy Run watershed and zoned R-C (Residential-Conservation). The subject property is surrounded by land to the north and west which is zoned R-C residential use at 0.1-0.2 dwelling unit per acre (du/ac). Land to the east is planned for public facilities. Land south of the subject property is planned for private open space.

## **COMPREHENSIVE PLAN CITATIONS**

**Plan Map:** Residential use at 0.1 to 0.2 du/ac (5 to 10-acre lots)

**Plan Text:** In the Fairfax County Comprehensive Plan, Area III Volume, 2007 Edition, Pohick Planning District Overview, as amended through September 8, 2008 under the heading, "District-wide Recommendations, Environment," beginning on page 9, the Plan states:

"The Pohick Planning District contains much of the wildlife habitat and rural landscape that remains in Fairfax County. Past actions taken by the governing body to protect water quality in the Occoquan Reservoir by restricting development to very low densities will help to perpetuate this character. . . .

Preservation policies are most suitable for the Occoquan Reservoir watershed. Both preservation and mitigation policies should be followed in the remainder of the district.

Land use controls have been used effectively throughout this district to maintain high water quality standards. Low densities, limited expansion of public facilities, and development designs that encourage preservation of water features and other sensitive lands will contribute to water quality protection. A land use approach to maintaining water quality should be continued and broadened throughout the district. The following guidelines are suggested to achieve this objective:

- Maintain very low density development in the portions of the district that drain into the Occoquan Reservoir and in the area above Burke Lake;

- Provide for the regional stormwater management ponds according to the Regional Stormwater Management Plan. Discourage the use of on-site stormwater management techniques in lieu of regional alternatives. In headwaters areas with suitable soils, infiltration techniques may be appropriate; and
- Encourage cluster development at planned densities in the stream valley headwaters and in the Occoquan Reservoir watershed.

The Pohick Planning District remains one of the largest areas of wildlife habitat in the County. Unlike other areas, the possibility exists for this district to support an ecosystem that would include carnivores at the top of the food chain that need a large range in order to survive. Low density development goes far in maintaining this habitat; however, more controls may become necessary as the rest of the County continues to accommodate more people. Environmental Quality Corridor (EQC) boundaries should be defined and preserved not only to protect water quality, but for the preservation of valuable habitat.”

**Plan Text:** In the Fairfax County Comprehensive Plan, Area III Volume, 2007 Edition, Pohick Planning District, P5-Dominion Community Planning Sector, as amended through September 8, 2006 under the heading, “Land Use,” beginning on page 55, the Plan states:

- “1. Protection of the Occoquan Reservoir water quality is the primary objective for this area. Land in the watershed of the Occoquan Reservoir should be planned for residential use within a density range of .1-.2 dwelling unit per acre. This conforms with findings in the Occoquan Basin Study and is commensurate with predominant densities and the well-established character of existing development in this sector. . . .
3. Agricultural and forestal uses are alternatives to residential uses in Low Density Residential Areas. Such uses, depending upon the techniques used, can have positive impacts on water quality. Careful attention should be paid to insure that agricultural and forestal techniques are supportive of water quality goals for the Occoquan Reservoir watershed. . . .”

In the Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through February 25, 2008, beginning on page 7, the Plan states:

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

Policy c. Minimize the application of fertilizers, pesticides, and herbicides to lawns and landscaped areas through, among other tools, the development, implementation and monitoring of integrated pest, vegetation and nutrient management plans.

Policy 1. In order to augment the EQC system, encourage protection of stream channels and associated vegetated riparian buffer areas along stream

channels upstream of Resource Protection Areas (as designated pursuant to the Chesapeake Bay Preservation Ordinance) and Environmental Quality Corridors. To the extent feasible in consideration of overall site design, stormwater management needs and opportunities, and other Comprehensive Plan guidance, establish boundaries of these buffer areas consistent with the guidelines for designation of the stream valley component of the EQC system as set forth in Objective 9 of this section of the Policy Plan. Where applicable, pursue commitments to restoration of degraded stream channels and riparian buffer areas.

**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. . . .

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. . . .

**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. . . .”

## **LAND USE ANALYSIS**

The proposed renewal of this Agricultural and Forestal District is consistent with the goal of the Comprehensive Plan which seeks to maintain the low density residential character of this portion of the County.

## **ENVIRONMENTAL ANALYSIS**

### **Water Quality Protection and Tree Preservation**

There are 1.31 acres of Resource Protection Areas (RPA) on this property, and there are substantial amounts of Environmental Quality Corridors (EQC) on the property as well. Staff encourages the maintenance vegetated buffers surrounding the streams and the creation of an unmowed buffer area around the pond on the property to protect water quality.

Silvicultural activities comply with Chesapeake Bay Preservation Ordinance through the development of a Forestry Management Plan as prescribed by the Virginia Department of Forestry’s Best Management Practices Handbook for Forestry Operations and prepared in conjunction with the Virginia Department of Forestry (DOF). The applicant does not currently have a plan. Staff recommends working with the DOF to create a plan to assist in the applicants’ conservation efforts.

The proposed renewal of this Agricultural and Forestal District is consistent with the environmental goals and objectives of the Comprehensive Plan.

## **COUNTYWIDE TRAILS PLAN**

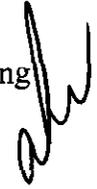
The Countywide Trails map does not depict any trails immediately adjacent to the subject property.

PGN: DMD

## FAIRFAX COUNTY, VIRGINIA

## MEMORANDUM

**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 83-S-011)

**SUBJECT:** Transportation Impact

**REFERENCE:** AR 83-S-011-3; Ober Trust and Sarah Ober  
Land Identification Map: 96-4 ((1)) 7Z, 8Z, 10Z and 11Z

**DATE:** December 12, 2008

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 road frontage of this property and that appropriate areas should be excluded from this district to accommodate these improvements in the future.

AKR:crt



EVERETTE L. KLINE, JR.  
Regional Forester

## COMMONWEALTH of VIRGINIA

### DEPARTMENT OF FORESTRY

470 George Dean Drive  
Charlottesville, Virginia 22903  
(434) 977-5193  
FAX (434) 296-3290

February 18, 2009

AR 83-S-011-03  
DOF# FAX00001

Ms. Sara Ober  
8228 Roseland Dr.  
Fairfax Station VA 22039

Dear Ms. Ober,

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 invasive species we noted on the property. If you have any questions about this plan, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "James McGlone".

James McGlone  
Urban Forest Conservationist



REPORT ON FORESTLANDS  
OF  
The Ober Trust and Sara Ober  
Between Roseland Dr. and Cathedral Forest Rd.  
In Fairfax Station, VA 22039

**Location:** The property is between Roseland Drive and Cathedral Forest Road northwest of Virginia Power's Ox Road substation. This property is A&F number AR-83-S-011-03

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

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

**Introduction:** This is a 21.3 acre developed forested property northwest of Laurel Hill. Unlike many forest parcels in Fairfax County this one is in good health with few non-native invasives. It is a mix of early successional forest types with failing Virginia pine (*Juniperus virginiana*) and tulip poplar (*Liriodendron tulipifera*) as the dominant tree species. The property consists of two roughly diamond shaped parcels joined in the middle in a sort of Argyle pattern. Along the stream in the southern point of the eastern parcel is a Resource Protection Area.

**Soils:** The upland soil is Nathlie gravelly loam and the slopes are Rhodhiss sandy loam. These soil are good and excellent soils for the production of tulip or yellow poplar, but ar marginal to poor for oaks. The bottom land stream valley soils are Cordorus and Hatboro soils, which will support tree growth, but generally not marketable species at economic rates. Site index is rating that indicates the expected height of a given tree species at fifty years. The site index for tulip poplar on Rhodhiss soils is 98. (See Attached Soil and Site Index maps).

**Forest Type:** This an approximately 60 year old forest composed mostly of Virginia pine and tulip poplar. Since both species require disturbed soils for successful colonization, the previous land use was probably row crops or poor quality pasture. There are a few white oak (*Quercus aba*) in the 8 to 15 inch diameter range. Wetter areas near the pond support sycamore (*Platanus occidentalis*). American holly (*Ilex opaca*) and American beech (*Fagus grandifolia*) are being recruited in the understory and form the future of the forest on this site. The native shrub layer is non-existent.

There are scattered large red maple (*Acer rubrum*), black walnut (*Juglans nigra*) and black locust (*Robinia pseudoacacia*) associated with the fields in the developed area.

**Quality/Size:** The timber quality of poplar is good with the trees being of saw timber size or better. The Virginia pine that is still standing is still of good quality, but is fading fast and is no longer of sufficient quantity to be marketable.

**Reforestation:** The areas currently maintained as turf could be reforested. One method of reforestation would be to plant short leaf pine (*Pinus echinata*). If not specifically managed for pine production, this planting will, over the next 50 to 75 years, generally succeed to a hardwood stand. However soil types and lack of oak seed in the area suggest that the planted pine will be replaced by holly and beech as is already happening on the site. An alternative would be to simply plow those areas turf to be reforested in late September or early October. This will create an appropriate seed bed for poplar which will seed in naturally.

**Wildlife Habitat:** Deer were observed on the property. Although the forest on this property is adequate to support many generalist species, the near monoculture of tulip poplar and lack of understory restricts biodiversity to the few species, like tiger swallowtail butterflies, that specialize on poplar. The dead and dying Virginia pine will provide habitat to wood peckers and other insect eaters and cavity nesting species like chickadees. The fallen logs will also provide habitat to salamanders, toads, shrews and a variety of invertebrates.

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

**Forest Health:** The Virginia pine on the property are failing due to old age and an inability to compete with tulip poplar, other wise most of the trees on the property look healthy. There are no pests or diseases endemic to the area that are attacking tulip poplar. However, the best way to combat outbreaks of these of pests and 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.

**Invasive Species:** Invasive species on the property are concentrated in two areas, one near the north end of the dam and the other on the northwest side of the field in the western parcel (see map). These areas were dominated by multi-flora rose (*Rosa multiflora*), Japanese and Japanese honeysuckle (*Lonicera japonica*), with the possible inclusion of oriental bittersweet (*Celastrus orbiculatus*) (Marked invasive 1 and invasive 2 on the accompanying map). Wine Berry (*Rubus phoenicolasius*) was observed below the dam and on the hillside to the north of the dam. A small patch of Japanese stiltgrass (*Microstigium vimineum*) is growing near the western end of the drive way (red dot on map). The plants can all be controlled by hand pulling or the application of a glyphosate or triclopyr herbicide. The infestations are currently light or concentrated to relatively small areas. They should be controlled now before they spread to the rest of the forest.

**Deer Management.** The most pressing problem of sound forest management in Fairfax County is managing deer herds. Due to deer browsing we are missing an entire age class of trees throughout the County and the youngest canopy trees in most forest parcels are about 30 years old. That equates to more damage than gypsy moths (and probably all other mortality sources combined) have been able to inflict. While the deer do not threaten our existing trees, they do make regeneration of the forest impossible and lead to the prospect that forests will disappear from Fairfax County over the next hundred years.

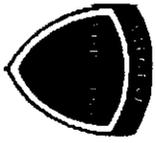
There are two solutions. First the property can be fenced and the deer removed. The second is to reduce the number of deer on the property through hunting. Relocation is not possible since all white tail deer habitat is full, so there is nowhere to send them. Managing fertility has proven effective only in captive deer herds. I am enclosing a brochure on deer management in Fairfax County.

Any property owner can bowhunt on their property or allow bowhunting on their property anywhere in Fairfax County. There is no minimum acreage required. Fairfax County has a longer bow season than any other county in Virginia. Ours begins the third Saturday in September and continues through the last Saturday in March. As far as safety goes, the only people who get hurt in bowhunting are the hunters themselves. The Fairfax County Animal Control office reports they have not been able to find an example of a non-participant being injured. Not just here, but anywhere. The Virginia Department of Game and Inland Fisheries ([www.dgif.virginia.gov](http://www.dgif.virginia.gov)) can provide citizens with details on seasons and other requirements. Property owners do not need a hunting license to hunt on their own property. In cases of extreme damage, the VDGIF can issue a kill permit, which allows taking of deer outside normal hunting seasons

There are organizations which cater to urban deer control on private property. You can contact the local sport hunting groups through the Virginia Bowhunters Association on the web <http://www.geocities.com/~vbarchers/>. Another local organization, Northern Virginia Suburban Whitetail Management ([www.deerdamage.org](http://www.deerdamage.org)), focuses on deer management rather than sport hunting and can help you work with the Department of Game and Inland Fisheries to control deer populations on your property.

**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.

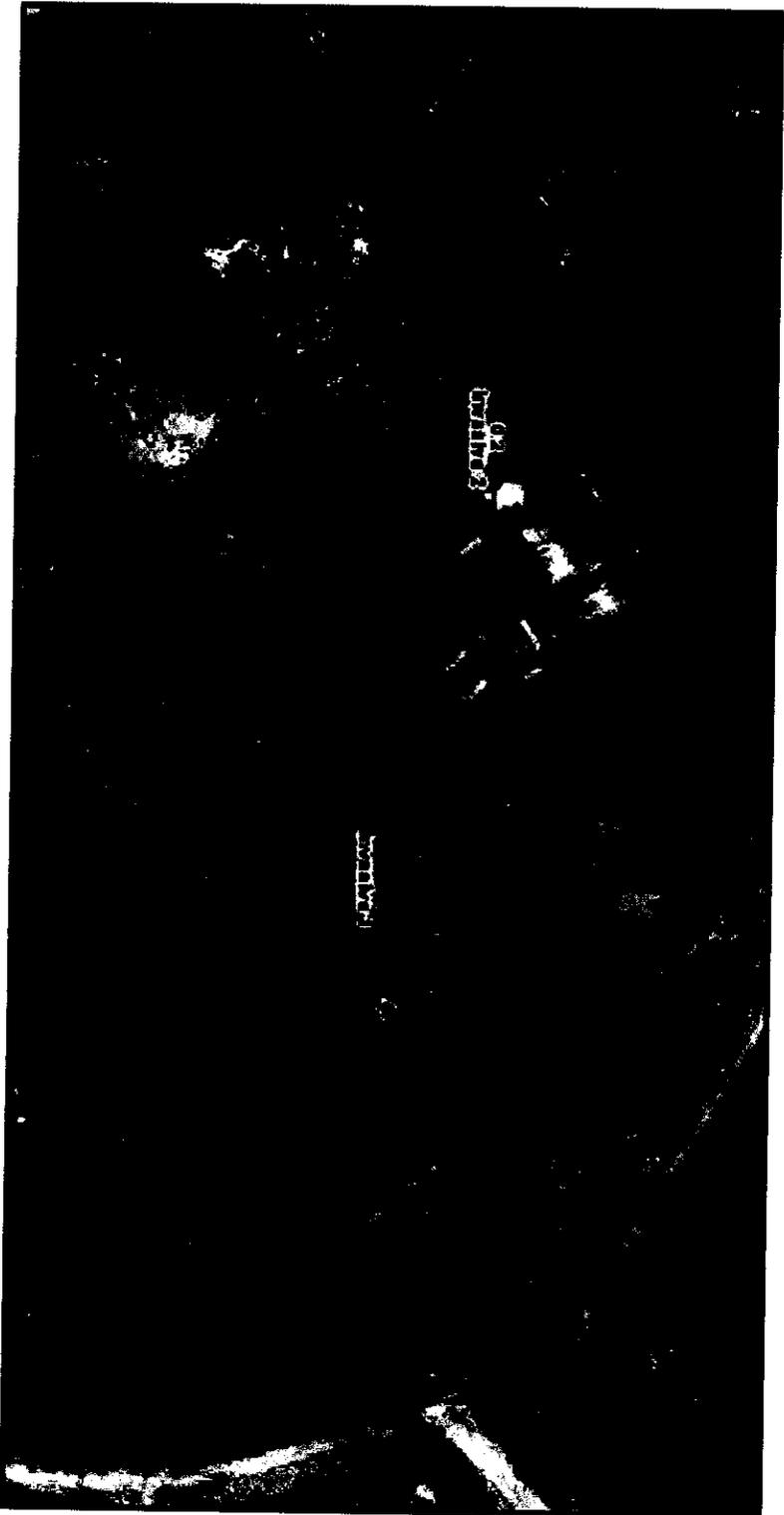
**Recommendations:** this area is currently meeting the landowners' objectives. I would advise eliminating the invasive species while they are still at a manageable level, reducing the deer herd and periodic monitoring of the forest for changes in health. If you wish to pursue reforestation of the turf areas contact this office at 703-324-1489.



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

**Ober A&F District**

AR-83-S-011-03 FAX00001



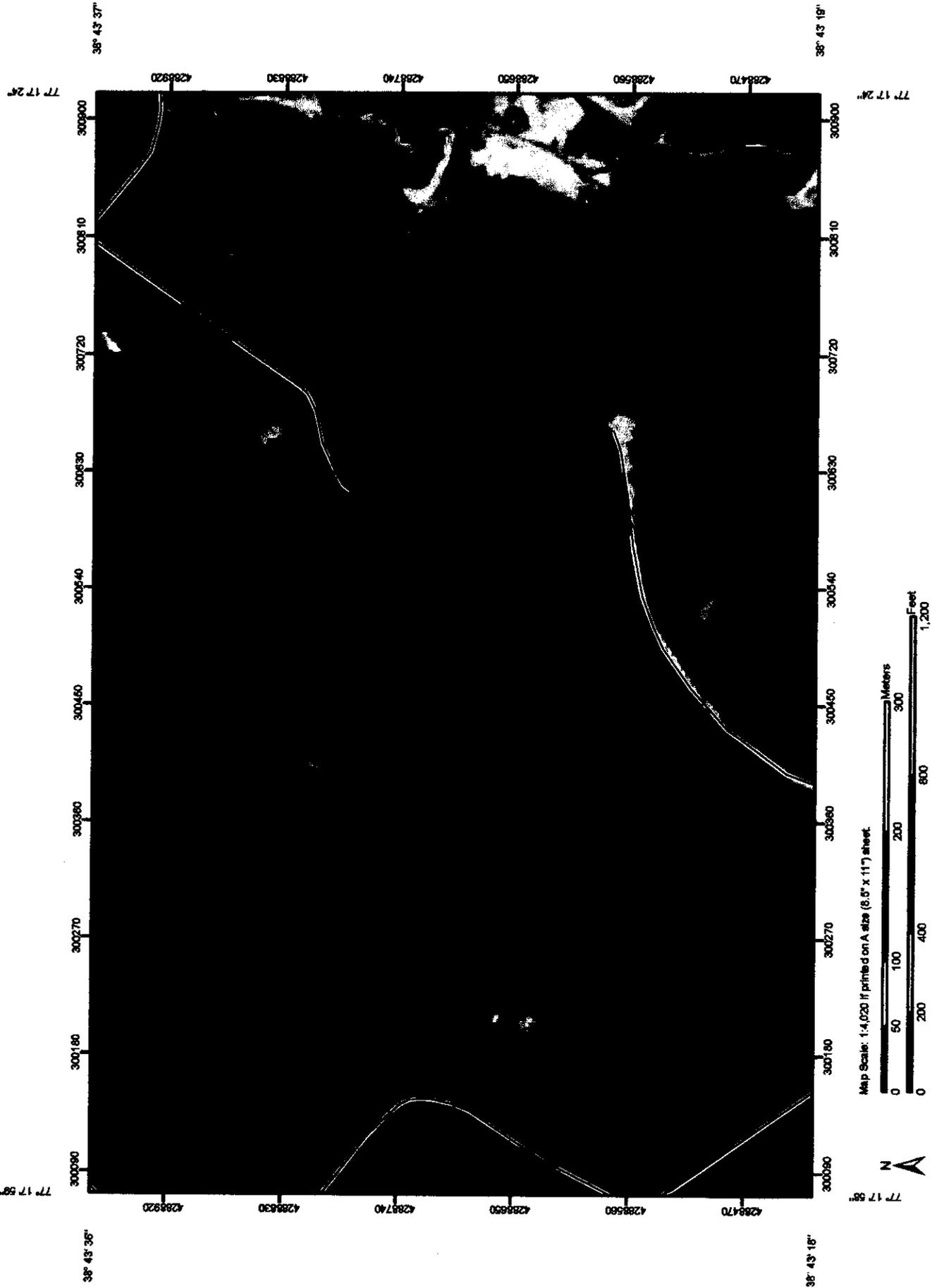
Boundaries are approximate.

Map by: James M. McGone

Generated by the Integrated Forest Resource Information System - Copyright 2005 Virginia Department of Forestry

Report Date: Wednesday, February 18, 2009

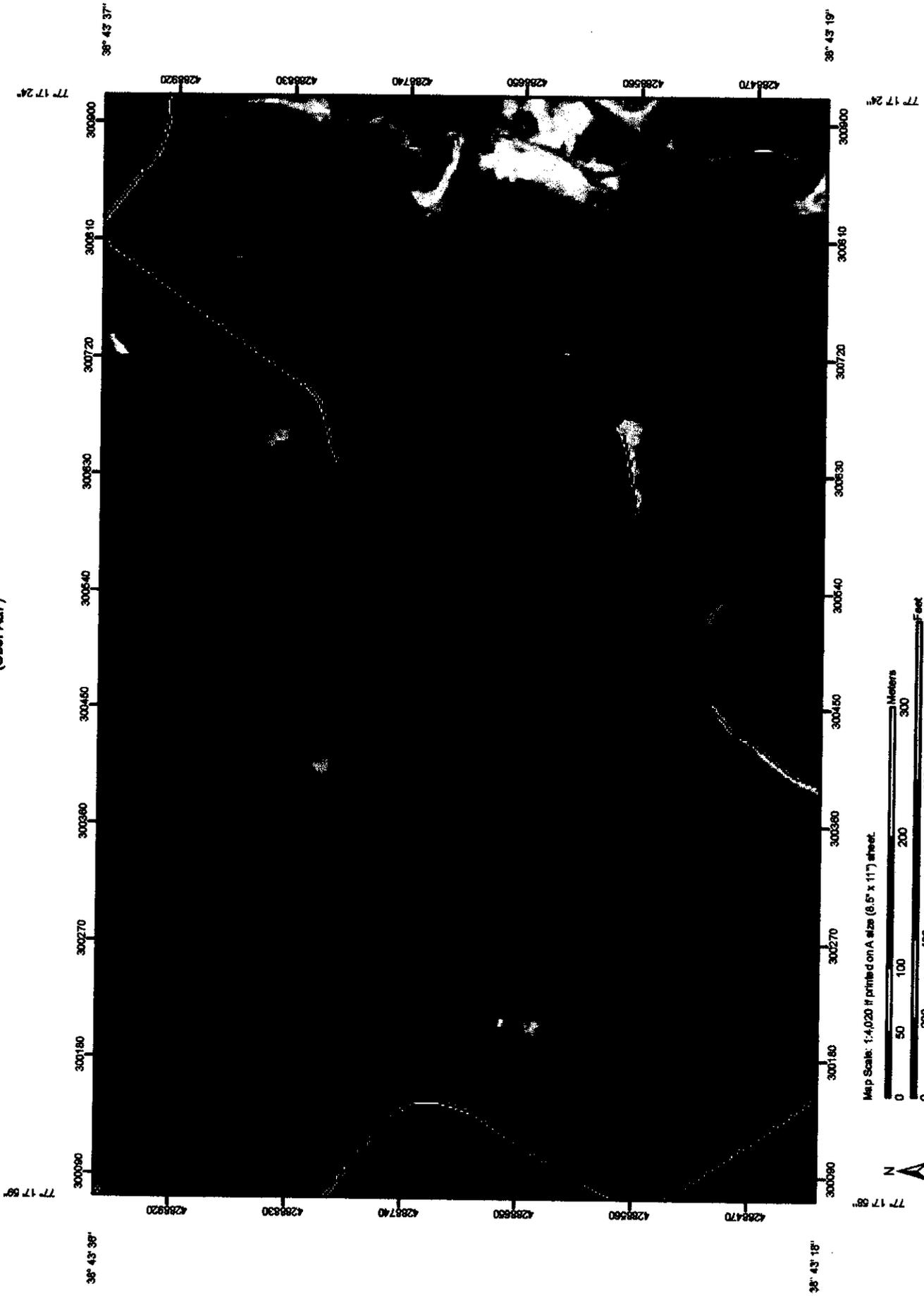
Soil Map—Fairfax County, Virginia  
(Ober A&F)



## Map Unit Legend

Fairfax County, Virginia (VA068)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
30A	Codorus and Hatboro soils, 0 to 2 percent slopes, occasionally flooded	4.7	12.7%
79C	Nathalie gravelly loam, 7 to 15 percent slopes	11.4	30.7%
87D	Rhodhiss sandy loam, 15 to 25 percent slopes	7.2	19.4%
87E	Rhodhiss sandy loam, 25 to 45 percent slopes	13.8	37.3%
Totals for Area of Interest		37.1	100.0%

Forest Productivity (Tree Site Index): yellow-poplar (Beck 1982 (350))—Fairfax County, Virginia  
(Ober A&F)



## Forest Productivity (Tree Site Index): yellow-poplar (Beck 1962 (350))

Forest Productivity (Tree Site Index): yellow-poplar (Beck 1962 (350))— Summary by Map Unit — Fairfax County, Virginia				
Map unit symbol	Map unit name	Rating (feet)	Acres in AOI	Percent of AOI
30A	Codorus and Hatboro soils, 0 to 2 percent slopes, occasionally flooded	54	4.7	12.7%
79C	Nathalie gravelly loam, 7 to 15 percent slopes	88	11.4	30.7%
87D	Rhodhiss sandy loam, 15 to 25 percent slopes	88	7.2	19.4%
87E	Rhodhiss sandy loam, 25 to 45 percent slopes	98	13.8	37.3%
Totals for Area of Interest			37.1	100.0%

### Rating Options

*Units of Measure:* feet

*Tree:* yellow-poplar

*Site Index Base:* Beck 1962 (350)

*Aggregation Method:* Weighted Average

*Component Percent Cutoff:* None Specified

*Tie-break Rule:* Higher

*Interpret Nulls as Zero:* Yes

**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*



**APPENDIX 7**

**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

January 5, 2009

**TO:** Suzie Zottl, Staff Coordinator,  
Fairfax County Department of Planning and Zoning, Zoning Evaluation Division

**FROM:** Willie Woode  
Senior Conservation Specialist

A handwritten signature in black ink, appearing to be "W. Woode", written over a horizontal line.

**RE:** Agricultural and Forestal District Renewal Application No. AR 83-S-011-03

I have reviewed the Ober Trust and Sarah Ober Agricultural and Forestal District renewal application, and walked the 21.3 acre property located in the Sandy Run Watershed at 8226 & 8228 Roseland Drive, in Fairfax Station. The property consists of four parcels recorded in the Fairfax County tax map system as 096-4 ((1)) -7Z, -8Z, -10Z & -11Z.

The property is mainly in wildlife preserve and residential use. There is no active agriculture on site. Therefore, there is no need for a formal soil and water quality conservation plan as requested in Fairfax County Chesapeake Bay Preservation Program or in the requirements for Agricultural and Forestal District status reinstatement.

A significant portion of the property is wooded. A forest management plan as provided by staff of the Virginia Department of Forestry will be of great value to maintaining the natural resources, environmental benefits and scenic vistas that the property offers.

A pond that may be less than  $\frac{1}{4}$  ac. in size is the source of one of two unnamed first order streams that feeds into Sandy Run. These two reaches converge with another first order stream within the property to form a second order stream that is delineated as a Chesapeake Bay Resource Protection Area (RPA). A total of approximately 800 linear feet of RPA exist within the limits of this property.

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**-More Than 60 Years of Conservation Leadership-**



RPA Buffer and Preservation: No activity based on existing land use practices was observed that may adversely impact water quality or the pollution filtering integrity of the buffer. The onsite portion of the buffer is dense and in mostly mature vegetation.

Pond Maintenance: The pond appears to be well maintained. A best management practice that may help enhance its habitat opportunities include allowing an un-mowed vegetated buffer around its edge. In addition, potential for excessive growth of emergent and sub-aquatic vegetation can be reduced by deepening the shelf area of the pond should algae become a concern during the summer months.

If property owners are concerned about the quality of the grass in the grassy areas of this property, soil tests are recommended to determine the macro-nutrient levels as well as the soil acidity (pH). Based on the laboratory recommendations provided, the appropriate amounts of fertilizer and lime may be added.

The driveway leading to 8226 Roseland Drive, shows signs of slight erosion of the capping material (road dust), due to offsite runoff flowing across the drive way. While it does not pose any water quality concerns at this time, it can be addressed by simply constructing a swale across the driveway. The swale can be lined with large blocky (flat sided) stones such that erosion is prevented and at the same time vehicular use is not impeded.

Further details regarding recommendations provided in this memo can be provided upon request. I can be reached at 703-324-1430 or by email at [willie.woode@fairfaxcounty.gov](mailto:willie.woode@fairfaxcounty.gov)

Cc: Sarah Ober, Property Owner

## FAIRFAX COUNTY, VIRGINIA

## MEMORANDUM

**DATE:** April 23, 2009

**TO:** Members, Planning Commission  
Members, Board of Supervisors

**FROM:** Agricultural and Forestal Districts Advisory Committee

**SUBJECT:** Recommendation on the Walnut Ridge Local Agricultural and Forestal District; Application AR 83-S-011-03

The Agricultural and Forestal Districts Advisory Committee met on April 21, 2009, to review the application to renew the Walnut Ridge Local Agricultural and Forestal District.

The Committee found the following:

- The Walnut Ridge Local Agricultural and Forestal District meets the minimum district size contained in Section 115-3-2;
- The Walnut Ridge Local Agricultural and Forestal District conforms with the Policy and Purpose of Chapter 115 of the Fairfax County Code;
- The Walnut Ridge Local Agricultural and Forestal District fulfills the majority of the applicable criteria found in Chapter 115 of the Fairfax County Code.

The Agricultural and Forestal Districts Advisory Committee therefore recommends that Appendix F of the Fairfax County Code be amended to renew the Walnut Ridge Local Agricultural and Forestal District. The Advisory Committee further recommends that the renewal of this district be subject to the Ordinance Provisions which are contained in Appendix I of the staff report.

**§ 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.

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**§ 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.
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**§ 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 underutilized 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.