



APPLICATION ACCEPTED: March 5, 2009  
PLANNING COMMISSION: July 30, 2009  
BOARD OF SUPERVISORS: August 3, 2009 @ 3:30 pm

# County of Fairfax, Virginia

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July 15, 2009

## STAFF REPORT

### BELMONT BAY II LOCAL AGRICULTURAL AND FORESTAL DISTRICT

APPLICATION AR 84-V-007-03

### MOUNT VERNON DISTRICT

**APPLICANT:** EDH Associates  
**ZONING:** R-E  
**PARCEL(S):** 113-4 ((1)) 27Z  
**ACREAGE:** 114.99  
**PLAN MAP:** Residential, 0.1 to 0.2 du/ac  
**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 Belmont Bay II Agricultural and Forestal District be approved, subject to the Ordinance Provisions listed in Appendix 1.

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

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Suzianne Zottl

It should be noted that it is not the intent of the 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 applicable ordinances, regulations, or adopted standards.

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

The approval of this Agricultural and Forestal District does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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).

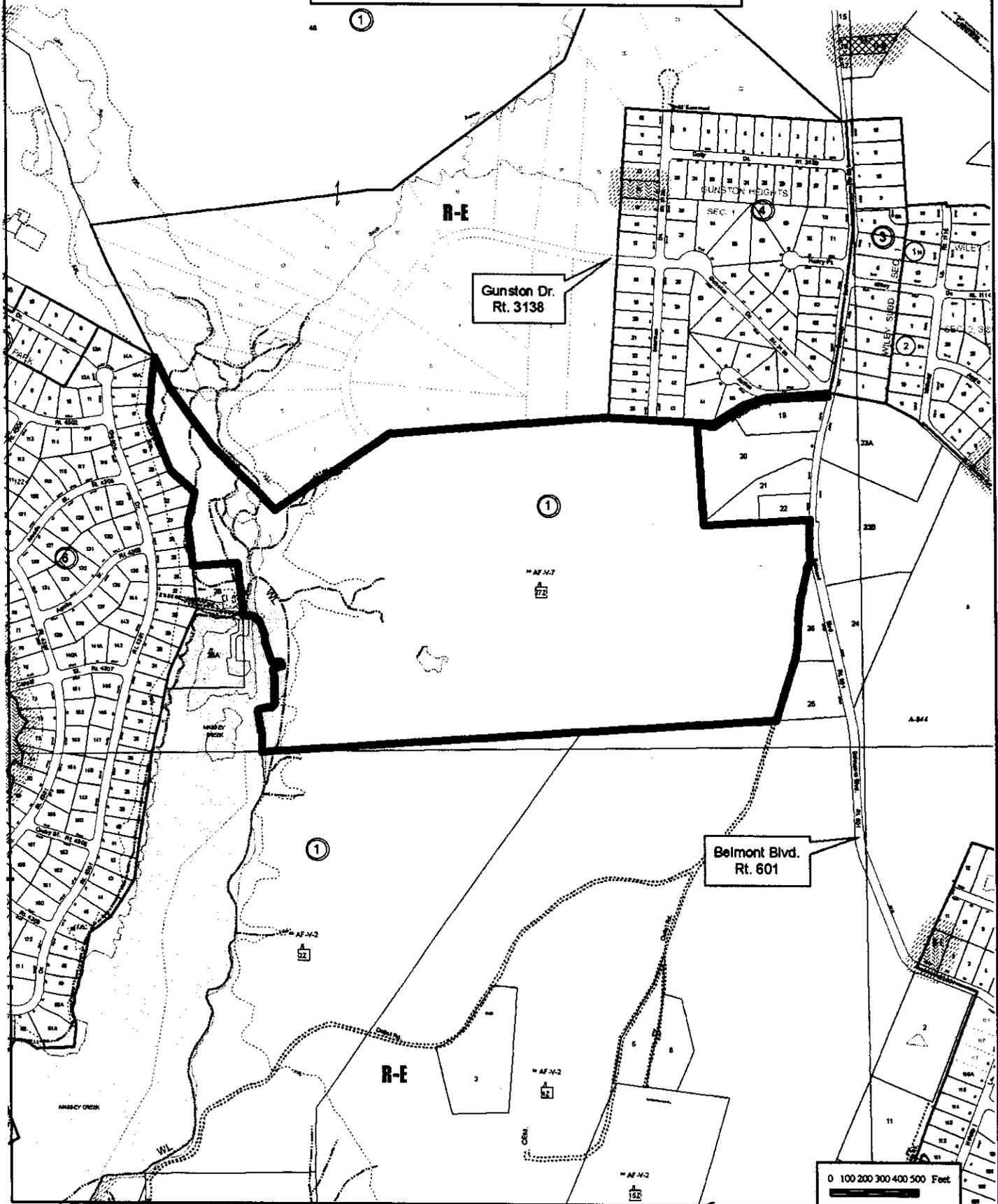
*O:\sbatti\Ag & Forest\Districts\2009-9 Belmont Bay II\Hooff- Cover.doc*



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 84-V-007-03



Gunston Dr.  
Rt. 3138

Belmont Blvd.  
Rt. 601

0 100 200 300 400 500 Feet

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

**DESCRIPTION OF APPLICATION**

**Proposal:** AR 84-V-007-03 is a request to renew the Belmont Bay II Local Agricultural and Forestal District under the provisions of Chapter 115 of the Fairfax County Code. The subject property is a 114.99 acre tract located between Belmont Drive and Massey Creek in the Mt. Vernon District.

Copies of the applicant's Statement of Justification and related application materials are contained in Appendix 2. Staff's Proposed Ordinance Provisions are contained in Appendix 1.

**Applicant:** EDH Associates

**Acreage:** 114.99 acres

**Use:** Silviculture (forestry)

**BACKGROUND**

The Belmont Bay II Local Agricultural and Forestal District was originally established for an eight year period on February 11, 1985, and was first renewed for an additional eight year term on February 3, 1993. On April 30, 2001, the District was again renewed for an additional eight year period (see Appendix 4.) The renewal application is for the same land area as the three previous applications.

**LOCATION AND CHARACTER**

**Surrounding Area Description:**

The district is located on Mason Neck, a portion of the County which in large part retains its rural character. The 287.65 acre Belmont Bay Farms I A&F District is located to the south, directly adjacent to the subject property. Belmont Bay itself is located to the south of both districts. Several large lots, generally with a single house on each, are located to the east. To the north are large, undeveloped residential lots which are part of the Gunston Heights subdivision. These undeveloped lots are incorporated into the Mason Neck Statewide A&F District. To the northeast is the Gunston Heights subdivision, comprised of half-acre lots. To the west lies Massey Creek, beyond which are additional residential lots of one half-acre or less. The entire area is zoned R-E (Residential Estate).

**Location and Character of the District:**

The 114.99 acre property is located between Belmont Boulevard and Massey Creek. The entire site is forested. Forest products which have been obtained from the site include pulp wood, fire wood, and saw logs. There are no structures located on the site.

**COMPREHENSIVE PLAN PROVISIONS (Appendix 4)**

**Plan Area:** Area IV  
**Planning District:** Lower Potomac  
**Planning Sector:** Mason Neck Sector (LP3)  
**Plan Map:** Residential use at a density of 0.1 to 0.2 dwelling unit per acre

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

Renewal of this A&F District is consistent with the existing and planned low density residential character of the surrounding area.

**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 outlet 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)**

A Forest Management Plan, dated May 13, 2009, is attached as Appendix 6. No Soil and Water Conservation Plan is required because the entire site is in forestry use.

The west side of the property borders on Massey Creek, and contains the 100 year floodplain, tidal wetlands, and mudflats associated with Massey Creek. Several of the tributaries of Massey Creek flow through the center portion of this site, and include steep slopes. The floodplain, steep slopes, and wetlands are all part of the Massey Creek Environmental Quality Corridor (EQC). This EQC is connected to habitat areas in the northern portions of Massey Creek, and the plant and wildlife communities present on the property are highly diverse.

Because this A&F District is managed for its forest and timber resources, the Forest Management Plan may allow the harvest of trees located within the limits of the ECQ. In order to be consistent with the Comprehensive Plan, the EQC should be acknowledged by the applicant and incorporated into the Forest Management Plan as the limits of clearing. Staff proposes to bring forward the ordinance provision relating to allowable uses in the EQC.

The soils located at the headwaters of the stream channels on this property are moderately to severely erodible. They consist of silt and clay, which have severe erosion potential and poor slope stability if disturbed. In the past, areas of the site have been clear cut, which could cause significant negative impacts to the waters of Massey Creek. Because of the severe soil constraints, the applicant should develop a Best Management Practices Plan that will protect the drainage channels on the site prior to any additional tree harvesting. Staff believes that the ordinance provision outlining mixed-age forest management and BMPs remains appropriate and should be carried forward.

This property also contains a Resource Protection Area (RPA) as defined by the County's Chesapeake Bay Preservation Ordinance, and certain provisions of that ordinance may be applicable to this site.

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

Article 5 of Chapter 115 of the Fairfax County Code contains two sets of criteria which are designed to serve as a guide in the evaluation of proposed Local Agricultural and Forestal Districts. All of the 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 114.99 acres in size, and is entirely in forestal uses. This criterion has been satisfied.

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

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

3. In general, the district should be consistent with the Comprehensive Plan. The following land uses identified in the Plan are appropriate for a district: .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 land to the north, east, and south is planned for low density residential use at 0.1-0.2 du/ac. To the west, Massey Creek itself is planned as private open space. 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 is a forestal district; therefore this criterion does not apply.

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 district is 114.99 acres and owned in its entirety by EDH Associates. 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-VIII soils may be considered if such lands have been improved and are managed to reduce soil erosion, maintain soil nutrients, and reduce non-point pollution.

The site is not in agricultural uses, therefore this criterion does not apply. (Approximately 16% of the site consists of soils of Capability Classes II, III, and IV. Eighty-four percent of the soils are classified as Class V, VI, and VII.)

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.

This site is not in agricultural use; therefore, this criterion does not apply.

9. Forest land and undeveloped land in the district should be kept in an undisturbed state, or if periodically harvested or experiencing erosion problems, shall be used in a planned program of soil management, soil conservation, and pollution control practices which are intended to reduce or prevent soil erosion, maintain soil nutrients, and reduce non-point source pollution. Exceptions to this criterion may be made only for those lands which upon initial application for

the establishment of a district are not used in such a program but for which a conservation plan is being prepared or has been requested from the Northern Virginia Soil and Water Conservation District or the Virginia Division of Forestry.

A Forest Management Plan, dated May 13, 2009, has been prepared by the Virginia Department of Forestry. The ordinance provision requiring the applicant to abide by the provisions of the Forest Management Plan has been carried over from previous approvals. 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.

This property has been under the same ownership (the Hooff family) since the late 1940s. Selective timber harvesting has taken place several times, and the applicant has indicated his intention to continue this practice. The applicant has also indicated his intention to seek expert guidance in the matter of tree health and harvesting. Staff believes that the applicant has shown a commitment to maintaining the forestal uses of this property for the life of the district, and to following the provisions of the Forest Management Plan. 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.

No forest products have been sold from this property in approximately 18 years, however it must be noted that the nature of the timber industry necessitates that there will be time periods (20 years or more) during which no timber may be harvested or sold while the trees reach a marketable size. Therefore, staff believes that this criterion has 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 forested lands of the subject property preserve the rural character of this area, which is experiencing the increased residential development found across all parts of the County. 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.

In 1984, the County Archaeologist conducted an archaeological survey on several portions of the Hooff's property (including both this tract and Belmont Bay Farms I to the south). A copy of the County Archaeologist's comments based on that survey is contained in Appendix 9. Identified sites include: seven prehistoric sites which are at least 5,500 years in age, former house sites of the Reverend Lee Massey (2<sup>nd</sup> Rector of the Pohick Church and George Washington's minister), and a 19<sup>th</sup> century cemetery. Since this part of the County represents the earliest area settled by Euro-Americans, the County Archaeologist believes that these two properties have a very high potential for containing invaluable archaeological resources. Therefore, the County Archaeologist believes that an A&F District would help preserve these sites and would allow further opportunities for study. An ordinance provision addresses this issue.

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

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

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

The subject property is zoned R-E. This criterion has not been 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 three of the criteria in Group B.

**AFDAC RECOMMENDATION (Appendix 7)**

On June 23, 2009, the Agricultural and Forestal Districts Advisory Committee voted unanimously to recommend that the Belmont Bay II Local Agricultural and Forestal District be renewed for an eight year term, subject to the Ordinance Provisions contained in Appendix 1 of this report.

**CONCLUSIONS AND RECOMMENDATIONS****Staff Conclusions**

As noted, staff believes the application for the renewal of the Belmont Bay II Local Agricultural and Forestal District satisfies all of the applicable criteria in Group A and three of the criteria in Group B, thus meeting the guidelines outlined in Sect. 115 of the County Code. The property has remained in forestal use since the district was originally established. 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 exceeds the minimum acreage requirement, and is in conformance with the Comprehensive Plan.

**Staff Recommendations**

Staff recommends the Board amend Appendix F of the Fairfax County Code to renew the Belmont Bay II Local Agricultural and Forestal District subject to the proposed Ordinance Provisions contained in Appendix 1.

It should be noted that it is not the intent of the 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 applicable ordinances, regulations, or adopted standards.

The approval of this Agricultural and Forestal District does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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

**APPENDICES**

1. Proposed Ordinance Provisions
2. Statement of Justification and Application Material
3. Approval of AR 84-V007-02
4. Land Use and Environmental Analysis

**APPENDICES (Cont.)**

5. Transportation Analysis
6. Forest Management Plan
7. Agricultural and Forestal Districts Advisory Committee Recommendation
8. Virginia State Tax Code Provisions
9. County Archaeologist Comments
10. Glossary

**PROPOSED ORDINANCE PROVISIONS****July 15, 2009****AR 84-V-007-03**

If it is the intent of the Board of Supervisors to renew the Belmont Bay II Local Agricultural and Forestal District as proposed in Application AR 84-V-007-03 pursuant to Chapter 44 of Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code on Tax Map 113-4 ((1)) 27Z, staff recommends that the approval be subject to the following Ordinance Provisions:

**Standard Provisions (From Chapter 115)**

- (1) That 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) That 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) That 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) That 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) As determined by the Virginia Department of Forestry (DOF) after consultation with the County's Urban Forestry Division of the Department of Public Works and Environmental Services, the boundaries of the Environmental Quality Corridor (EQC) shall be considered the permanent limits of clearing and grading for the life of the District (See Attachment A.) No activities may be permitted in the EQC except for the following as determined by the DOF after consultation with the County's Urban Forestry Division:

- (a) Existing residential and agricultural uses including all pasture land, farm related buildings, residential structures, and surrounding yards. Additional residential and agricultural activities may be added provided that no clearing of the EQC is associated with such expansion;
- (b) The removal of dead, dying, or diseased vegetation; and
- (c) Mixed age forest management in accordance with the DOF guidelines for best management practices (BMPs) to provide water quality benefits and to minimize erosion may be performed provided that: (1) no disturbance or removal of any trees shall be permitted within the required area of undisturbed open space surrounding any bald eagle's nest as required by State and Federal regulation; (2) Any tree removal on steep slopes (15% or greater) shall be limited to the removal of dead and dying vegetation.

This provision does not relieve the applicant from compliance with the Chesapeake Bay Preservation regulations. Prior to any removal of any vegetation within the EQC, the applicant shall submit to the DOF and the County's Urban Forestry Division for review and approval of the following information: (1) a plot sample timber cruise (inventory) for the area of tree removal which depicts the species and diameter distribution of existing marketable trees and identifying the portion thereof which is proposed to be removed; (2) the proposed access to the area of tree removal; and (3) forestry BMPs which provide water quality benefits and include erosion and sedimentation controls. The owner shall submit to inspections by the Virginia DOF and the County's Urban Forestry Division to ensure compliance with this provision.

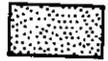
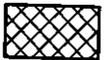
- (6) The applicant shall implement and abide by the recommendations of the Forest Management Plan dated May 13, 2009, for the life of the Belmont Bay II Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the DOF.
- (7) The Heritage Resources Branch of the Fairfax County Park Authority shall be permitted to survey the property and recover artifacts from the property for the life of the Belmont Bay II Local Agricultural and Forestal District. Surveys and other similar activities of the Heritage Resources Branch shall be conducted only with the prior permission of the owners of the property and at terms mutually acceptable to both parties established before each occurrence. All surveys and other archaeological activities shall be conducted in a manner which protects the privacy of the sites and the property within the District. All prehistoric and historic artifacts which are found on the property may be loaned to the County for cataloging and study for a period of up to five years, and shall be returned to the property owner at the end of the five year period.
- (8) The applicant shall adhere to all applicable Federal and State Regulations (including the 1973d Endangered Species Act, as amended) regarding the protection of the known bald eagle nest on-site, and any other endangered

species which may be present on-site as determined by the United States Fish and Wildlife Service and/or the Virginia Department of Game and Inland Fisheries. Should these agencies differ, the U.S. Fish and Wildlife Service shall take precedence.

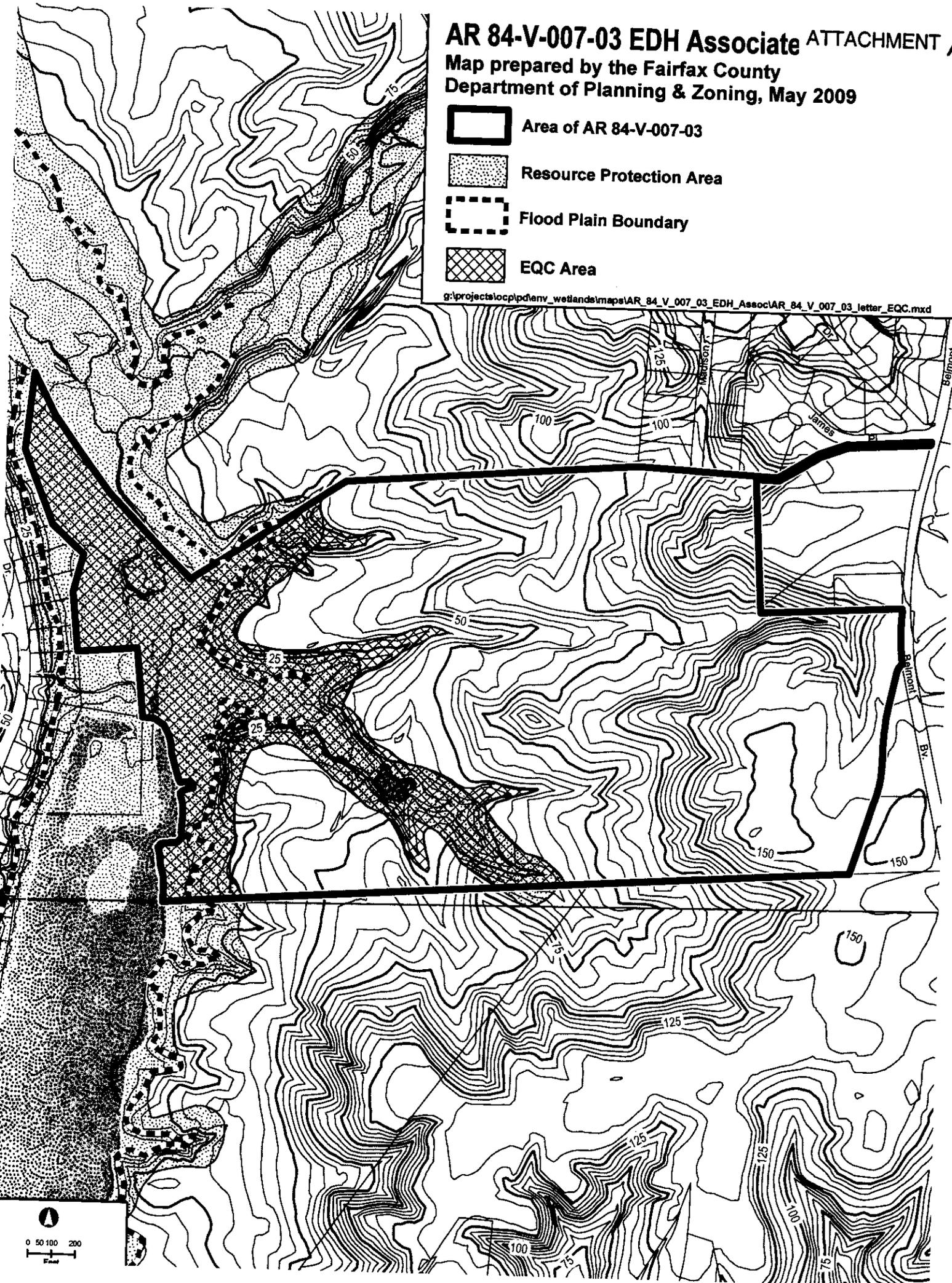
- (9) The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if warranted in the discretion of the Board of Supervisors upon determination by a court or any declaration or enactment by the General Assembly that renders any provisions illegal or unenforceable. The reconsideration shall be in accordance with procedures established by the Board of Supervisors and communicated to the property owner(s) to demonstrate that the determination by a court or the declaration or enactment by the General Assembly does not apply to the conditions of this district.

# AR 84-V-007-03 EDH Associate ATTACHMENT A

Map prepared by the Fairfax County  
Department of Planning & Zoning, May 2009

-  Area of AR 84-V-007-03
-  Resource Protection Area
-  Flood Plain Boundary
-  EQC Area

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**EDH Associates  
and  
Lucinda A. Hanchin, Trustee**

**Application for renewal of a Agricultural and Forestal District**

0.1 Statement of Justification

The application meets the established criteria as set out in Chapter 115 Article 5 Section 115-5-1 of the Code of The County of Fairfax for a Local Agricultural and Forestal District. The parcel submitted in this application is in an area, Mason Neck, which is well suited for this type of protective legislation. This area of Fairfax County is a rural pocket in a highly developed urban area. A substantial percentage of the surrounding acreage is dedicated to parks. It is the applicants feeling that the approval of this application is in concert with the intent of the Agricultural and? Forestal District legislation, and the County policy set out in the legislation to conserve, protect, and encourage the development and improvement of the agricultural and forest resources of the County. Keeping this parcel underdeveloped will enhance the rural atmosphere of Mason's Neck, and add nothing to the degradation of the environment.

0.2 Criteria Group A

- (1) The parcel in application is: Used as forest
- (2) The parcel in the request is zoned: R-E
- (3) Comprehensive Plan of the county shows the area inclusive of the parcel in this request identified for land uses of .2 - .5 dwelling units per acre.
- (4) The lands surrounding the parcel on three sides are identified as .2 - .5 dwelling units per acre. To the west of the site across Massy Creek is identified as .5 -1 dwelling unit per acre. Both of these designations are within the guidelines in the criteria in Section 115-5-1 of the ordinance. Additionally, to the ease across Belmont Blvd. And agricultural district currently exists.
- (5) The parcel is over 25 acres in size.
- (6) Not applicable - all parcels included.
- (7) Not applicable - parcel is in a forest.
- (8) Not applicable - parcel is in a forest.

MAR 03 2009

Zoning Evaluation Division

Application No. AR 84-V-007-03

**APPLICATION FOR THE ESTABLISHMENT OF A  
AGRICULTURAL AND FORESTAL DISTRICT**

**FAIRFAX COUNTY**

1. Type of application: Local  Statewide   
Initial  Amendment  Renewal  AF 84-V-007
2. Please list the Tax Map number, the name and address of each owner and other information for each parcel proposed for this district:

Owner's Name & Address	Tax Map Number	Year Acquired	Zoning District	Acres
EDH Associates 1707 Duke Street Alexandria, VA. 22314 Formerly Charles R. Hooff, Jr. Lucinda A. Hanchin TR 8908 Lorton Road Lorton, VA. 22079 703-690-4006	113-4-1-	27Z		114.992

3. Total acreage in the proposed district: 114.992 acres.
4. Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm \_\_\_\_\_ forest XX.

AR 2009-0015

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

Name: Charles R. Hooff, III

Address: 1707 Duke Street  
Alexandria, VA. 22314

Telephone: 703-549-6103

E-mail: crhooff@crhooff.com

6. Signature of all property owners:

EDI Associates Ltd.  
by [Signature]  
Charles R. Hooff, manager

[Signature]  
Lucinda A. Hanchin, trustee

\_\_\_\_\_  
\_\_\_\_\_

\$50.00 pd.

TO BE COMPLETED BY THE COUNTY

[Signature]

Date application accepted: 3/5/09

Date of action by Board of Supervisors: \_\_\_\_\_

Approved as submitted       Denied

Approved with modifications

[Handwritten mark]

**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
NONE		

use additional page(s) if necessary

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

NONE KNOWN

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

NONE

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: July 1983

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
Forest Products	No significant	
Pulp Wood	Cut	
Firewood	Since 1985	-0-
Saw logs		





# FAIRFAX COUNTY

APPENDIX 3

OFFICE OF THE CLERK  
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

May 18, 2001

FAX: 703-324-3926

TTY: 703-324-3903

Mr. Hooff  
EDH Associates L.L.C.  
1707 Duke Street  
Alexandria, Virginia 22134

RE: Agricultural and Forestal District Application Number AR 84-V-007-2

Dear Mr. Hooff:

Agricultural and Forestal District Application AR 84-V-007-2 in the name of EDH Associates, L.L.C. 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-16 and additional environmental provisions, was renewed by ordinance by the Board of Supervisors at a regular meeting held on April 30, 2001, as the Belmont Bay II Local Agricultural and Forestal District, subject to the attached ordinance provisions.

Sincerely,

Nancy Vehrs,  
Clerk to the Board of Supervisors

NV/ds

Attachment

cc: Chairman Katherine K. Hanley  
Supervisor Hyland, Mount Vernon District  
Janet Coldsmith, Director, Real Estate Division, Tax Administration  
Michael Congleton, Deputy Zoning Administrator, DPZ  
Barbara A. Byron, Director, Zoning Evaluation Division, DPZ  
Thomas Conry, Dept. Manager, GIS, Property Mapping/Overlay  
Robert Moore, Transportation Planning Division, Office of Transportation  
Charles Strunk, Project Planning Section, Office of Transportation  
Michelle Brickner, Director, Office of Site Development Services, DPWES  
Bonds & Agreements Branch, DPWES  
Frank Edwards, Resident Engineer, VDOT  
Land Acquisition & Planning Division, Park Authority  
Diane Hoffman, District Administrator, No. Va. Soil & Water Conservation District  
Barbara White, Forester, Virginia Department of Forestry  
James W. Cochran, Supervising Appraiser, Real Estate Division, 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 30, 2001, 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-16. Belmont Bay II Local Agricultural and Forestal District  
(AR 91-D-004)

(a) The following parcel of land situated in the Mt. Vernon District, and more particularly described herein, is hereby included in the Belmont Bay II Local Agricultural and Forestal District:

Owner	Fairfax County Tax Map Parcel Number	Acreage
EDH Associates	113-4 ((1)) 27	114.99 acres

(b) The Belmont Bay II Local Agricultural and Forestal District is established effective April 30, 2001, 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) As determined by the Virginia Department of Forestry (DOF) after consultation with the County's Urban Forestry Division of the Department of Public Works and Environmental Services, the boundaries of the Environmental Quality Corridor (EQC) shall be considered the permanent limits of clearing and grading for the life of the District. (See Attachment A) No activities may be permitted in the EQC except for the following as determined by the DOF after

consultation with the County's Urban Forestry Division:

- (a) Existing residential and agricultural uses including all pasture land, farm related buildings, residential structures, and surrounding yards. Additional residential and agricultural activities may be added provided that no clearing of the EQC is associated with such expansion;
- (b) The removal of dead, dying, or diseased vegetation; and
- (c) Mixed age forest management in accordance with the DOF guidelines for best management practices (BMPs) to provide water quality benefits and to minimize erosion may be performed provided that: (1) no disturbance or removal of any trees shall be permitted within the required area of undisturbed open space surrounding any bald eagle's nest as required by State and Federal regulation; (2) Any tree removal on steep slopes (15% or greater) shall be limited to the removal of dead and dying vegetation.

This provision does not relieve the applicant from compliance with the Chesapeake Bay Preservation regulations. Prior to any removal of any vegetation within the EQC, the applicant shall submit to the DOF and the County's Urban Forestry Division for review and approval of the following information: (1) a plot sample timber cruise (inventory) for the area of tree removal which depicts the species and diameter distribution of existing marketable trees and identifying the portion thereof which is proposed to be removed; (2) the proposed access to the area of tree removal; and (3) forestry BMPs which provide water quality benefits and include erosion and sedimentation controls. The owner shall submit to inspections by the Virginia DOF and the County's Urban Forestry Division to ensure compliance with this provision;

(6) The applicant shall implement and abide by the recommendations of the Forest Management Plan which was prepared by the State Forester in August 1992 and amended on December 8, 1992, for the life of the Belmont Bay Farms II Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the State Forester.;

(7) The Heritage Resources Branch of the Fairfax County Park Authority shall be permitted to survey the property and recover artifacts from the property for the life of the Belmont Bay Farms II Local Agricultural and Forestal District. Surveys and other similar activities of the Heritage Resources Branch shall be conducted only with the prior permission of the owners of the property and at terms mutually acceptable to both parties established before each occurrence. All surveys and other archaeological activities shall be conducted in a manner which protects the privacy of the sites and the property within the District. All prehistoric and historic artifacts which are found on the property may be loaned to the County for cataloging and study for a period of up to five years, and shall be returned to the property owner at the end of the five year period;

(8) The applicant shall adhere to all applicable Federal and State Regulations (including the 1973d Endangered Species Act, as amended) regarding the protection of the known bald eagle nest on-site, and any other endangered species which may be present on-site as determined by the United States Fish and Wildlife Service and/or the Virginia Department of Game and Inland Fisheries. Should these agencies differ, the U.S. Fish and Wildlife Service shall take precedence;

(9) 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 30th day of April, 2001.



NANCY VEHRs

Clerk to the Board of Supervisors



# County of Fairfax, Virginia

## MEMORANDUM

June 4, 2009

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

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

**SUBJECT:** LAND USE ANALYSIS & ENVIRONMENTAL ASSESSMENT for:  
AR 84-V-007-03 EDH Associates

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

### DESCRIPTION OF THE APPLICATION

The applicant seeks approval to renew an approximately 115-acre Agricultural and Forestal (A & F) District which is comprised of one parcel owned by EDH Associates. This district is heavily forested and it is characterized by terrain with significant topographic relief.

### LOCATION AND CHARACTER

The subject property is located in southern Fairfax County in the Mill Branch watershed within the Mount Vernon Magisterial District, the Mason Neck Community Planning Sector (LP3) of the Lower Potomac Planning District. The district is surrounded to the north, east and south by land which is planned for residential use at .1-.2 dwelling unit per acre (du/ac) or 5-10 acre lots. Massey Creek and South Branch form the western boundary.

**COMPREHENSIVE PLAN MAP:** residential use at .1-.2 dwelling unit per acre

## COMPREHENSIVE PLAN CITATIONS

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

### Land Use:

In the Fairfax County Comprehensive Plan, 2007 Edition, Area IV, Lower Potomac Planning District, as amended through January 26, 2009 LP3-Mason Neck Community Planning Sector, pages 109-111, the Plan states:

- “1. This sector is planned for very low-density single family residential use at up to .1 dwelling unit per acre. As an option, a density of up to .2 dwelling unit per acre may be appropriate if it is clustered and results in the preservation of EQC and other sensitive lands, provides substantial land in privately protected open space or public ownership, and contributes to maintaining the rural character of Mason Neck. Development at the baseline and optional levels should only occur where suitable soils allow for septic systems. . . .
3. The establishment and renewal of Agricultural and Forestal Districts should be encouraged because such lands under these districts complement and enhance existing and planned land uses of very low density residential uses and parkland in the sector.”

### Environment:

In the Fairfax County Comprehensive Plan, 2007 Edition, Policy Plan, Environment, as amended through February 25, 2008, on pages 7-9, 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 d.                    Preserve the integrity and the scenic and recreational value of stream valley EQCs. . . .

Policy l.                    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. . . .

Development proposals should implement best management practices to reduce runoff pollution and other impacts. Preferred practices include: those which recharge groundwater when such recharge will not degrade groundwater quality; those which preserve as much undisturbed open space as possible; and, those which contribute to ecological diversity by the creation of wetlands or other habitat enhancing BMPs, consistent with State guidelines and regulations.”

In the Fairfax County Comprehensive Plan, 2007 Edition, Policy Plan, Environment, as amended through February 25, 2008, on page 10, the Plan states:

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

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

In the Fairfax County Comprehensive Plan, 2007 Edition, Policy Plan, Environment, as amended through February 25, 2008, on pages 14-15, the Plan states:

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

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

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

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

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

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

Fairfax County Comprehensive Plan, 2007 Edition, Policy Plan, Environment, as amended through February 25, 2008, on page 16, the Plan states:

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

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

**LAND USE ANALYSIS:**

The subject property will be maintained and preserved in a natural state. Renewal of the Agricultural and Forestal District is consistent with the existing and planned low density residential character of the site and the surrounding area.

**ENVIRONMENTAL ANALYSIS:**

**Water Quality Protection and Tree Preservation**

This site falls entirely within the County's Mill Branch Watershed. Massey Creek and South Branch traverse in a north south direction and form the western property boundary of the district. Three smaller unnamed tributaries traverse the property in an east-west direction. The approximately 115-acre subject property is characterized by stream valley and very steeply sloping terrain along the stream valleys. More than 30 acres of the district is delineated as an Environmental Quality Corridor Environmental Quality Corridor (EQC) per Policy Plan guidance and Resource Protection Area (RPA) as defined by the County's Chesapeake Bay Preservation Ordinance (CBPO). The extent of the EQC and RPA are identified on the attached map.

The applicant proposes to maintain the district as undisturbed, forested open space. A current Forestry Management Plan which provides specific recommendations for this site such as the management of invasive species as well as control of pests has been prepared by the Virginia Department of Forestry for the renewal of this district. The applicant is encouraged to implement the recommendations in the Forestry Management Plan to improve the forest health of the district. This application conforms to the Comprehensive Plan guidance that calls for the protection and preservation of EQCs. No land disturbance is proposed for the district. Renewal of this Agricultural Forestal District is compatible with the goal of the Comprehensive Plan to preserve this environmentally sensitive area of Fairfax County.

**COUNTYWIDE TRAILS PLAN:**

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

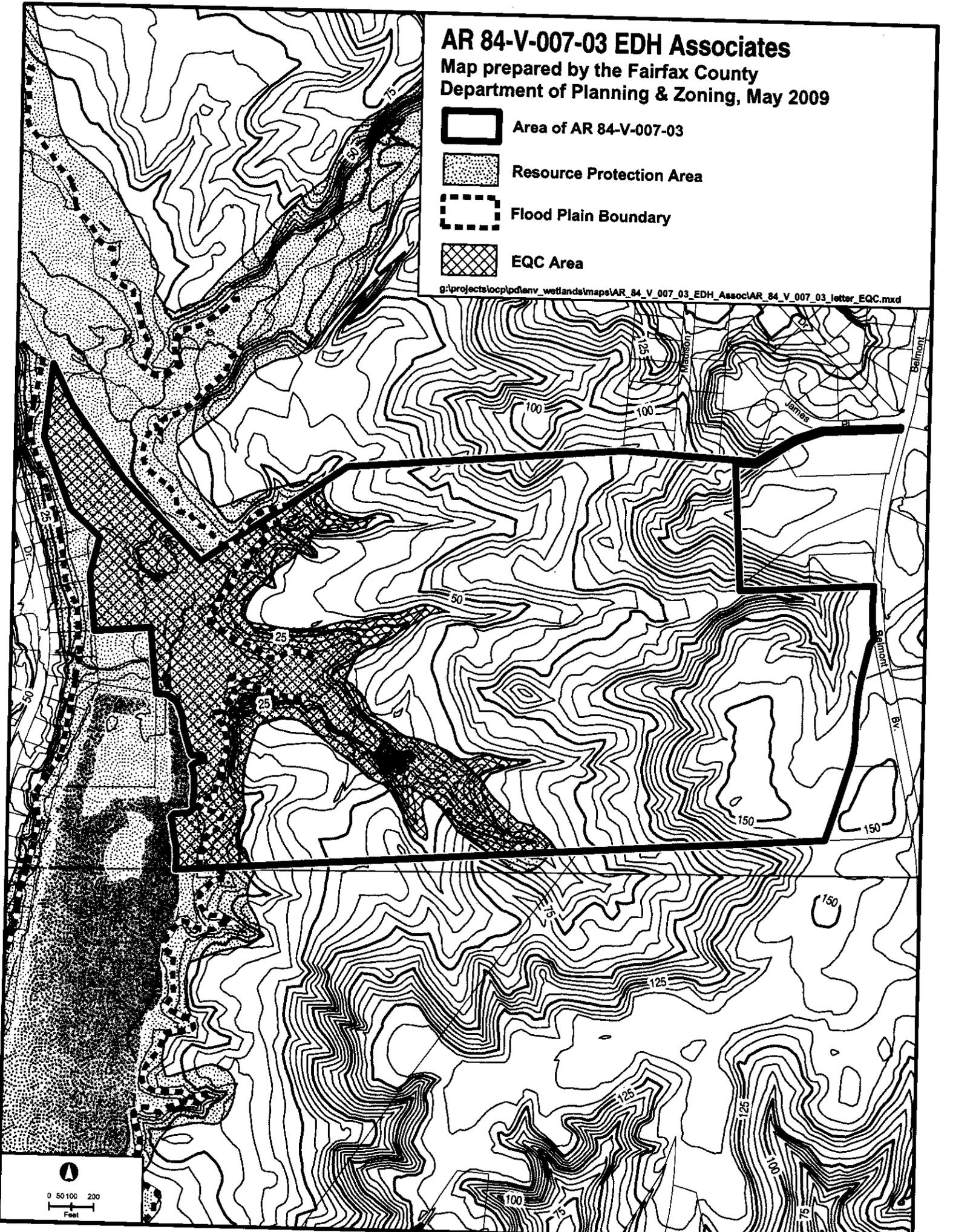
PGN: MAW

Attachment

**AR 84-V-007-03 EDH Associates**  
Map prepared by the Fairfax County  
Department of Planning & Zoning, May 2009

-  Area of AR 84-V-007-03
-  Resource Protection Area
-  Flood Plain Boundary
-  EQC Area

g:\projects\locpl\plenv\_wetlands\maps\AR\_84\_V\_007\_03\_EDH\_AssociAR\_84\_V\_007\_03\_letter\_EQC.mxd





# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** March 18, 2009

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

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

**SUBJECT:** Transportation Impact

**REFERENCE:** AR 84-V-007-03; EDH Associates  
Land Identification Map: 113-4 ((1)) 27Z

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 forestall districts may inhibit the ability of the County and/or VDOT to obtain rights-of-way for needed transportation improvements. If this is the case, the land that would reasonably be needed for right-of-way during the eight-year life of the approval should be excluded from the district.

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

AKR



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

May 13, 2009

AR 84-V-007-03  
DOF# FAX93008

Mr. Charles R. Hooff, III  
1707 Duke Street  
Alexandria VA 22314

Dear Mr. Hooff

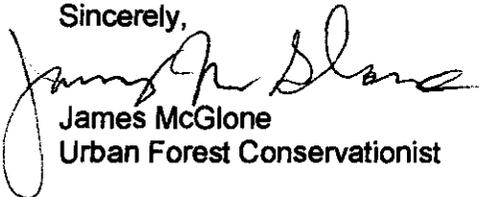
It was a pleasure to walk your property today.

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 also included information on wineberry, an invasive species I noted on your property. With an infestation like this it is best to attack aggressively before it spreads. A spot application of a glyphosate herbicide like RoundUp or a triclopyr herbicide like Brush-Be-Gone should control and eventually eliminate it. If you have any questions about this plan, please contact me.

Sincerely,

  
James McGlone  
Urban Forest Conservationist



REPORT ON FORESTLANDS  
OF  
EDH Associates  
1707 Duke Street  
Alexandria VA, 22314

**Location:** The property is east of Massey Creek and west of Belmont Boulevard and Belmont Farm Road and centered on the intersection of the two roads on Mason Neck. This property is A&F number AR-84-V-007-03 and DOF # FAX93008

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

**Landowner's Objectives:** Multiple use management, including wildlife, recreation, water quality and timber management.

**Introduction:** This is a 115 acre parcel located on Mason Neck. It is rolling to steep land that runs west from the upland in the center of Mason Neck to the marshy wetlands near Massey Creek. The parcel is a valuable wildlife patch connected to the Federal, State and Regional land conservation areas on Mason Neck and is part of a conservation corridor that runs up the Pohick and Accotink Stream valleys into central Fairfax County. Because of the management objectives and the current state of the forest the entire tract will be dealt with as one parcel.

**Soils:** The dominant soil type is Sassafras-Marumsco complex. This is a sandy alluvial soil (sassafras) with marine clay (marumsco) inclusions that was laid down by the Potomac River when it flowed here. It is an acidic soil well suited to growing hardwood trees with an understory of mountain laurel, blueberry, rhododendron and other acid loving shrubs and plants.

The other major soil type, Codorus and Hatboro, are found in the flood plane of Giles Run and South Branch in the northwest corner of the property. These are alluvial soils derived from metamorphic and crystalline rocks found in the uplands near the Old Lorton Prison. They support mixed bottomland hardwoods.

**Forest Type:** The uplands are a mesic to dry-mesic forest dominated by white oak (*Quercus alba*), chestnut oak (*Quercus prinus*), beech (*Fagus grandifolia*), and red maple (*Acer rubrum*). Other trees are black Oak (*Q. velutina*), northern red oak (*Q. rubra*), southern red oak (*Q. falcata*), scarlet oak (*Q. coccinea*), hickories (*Carya spp.*), black gum (*Nyssa sylvatica*), tulip poplar (*Liriodendron tulipifera*), sweetgum (*Liquidambar styraciflua*) and black locust (*Robinia pseudoaccacia*). The understory consists almost entirely of American holly (*Ilex opaca*) and young beech, both shade tolerant and deer resistant. The shrub layer is mostly blueberry (*Vaccinium spp.*), probably deerberry and/or early lowbush blueberry and mountain laurel (*Kalmia latifolia*). There is no oak regeneration, very little red maple and hickory regeneration,

and some sweetgum regeneration as well as beech and holly. This follows the food preference order of deer.

The bottomlands are a wet-mesic forest dominated by red maple, tulip poplar and sweetgum, with some elm (*Ulmus spp.*) and sycamore (*Platanus occidentalis*). There is some pawpaw (*Asimina triloba*) in the understory near the old pond and a ¼ acre patch of Devil's walking stick (*Aralia spinosa*) on the hill just south of the pond.

**Quality/Size:** The timber quality is good and the forest is well stocked. The 1983 select cut harvest is still evident in the size of timber species present. Most of the oaks were between 6 and 18 inches DBH. Larger trees were all poplar, sweetgum, or beech, or had obvious defects.

**Forest Health:** No evidence of epidemic disease was observed in the forest and the trees seemed generally healthy. There is ample evidence of excessive deer browse in the forest. The browse line on the mountain laurel, a starvation food for deer, is obvious and there is no regeneration except for beech, holly, maple, sweetgum, and a few hickories, all deer resistant species. Therefore, although the trees are healthy, the forest is unhealthy due to poor age distribution.

One common problem with forest is non-native invasive species. Although this property is mostly free of non-native plants, Japanese Stilt Grass (*Microstegium vimineum*) is widespread. Control or elimination of this plant would be desirable, but would require a huge commitment to treating almost half the property on a yearly basis for the next 10 to 20 years. There is also a ¼ acre patch of wineberry (*Rubus phoenicolasius*) just east of the pond and south of the road that runs along the toe of the dam (see map) that appears to be a relatively recent and contained infestation. This plant can be eliminated from the property through mechanical removal or herbicide (see included information sheet).

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

**Water Quality:** The forested nature of the property provides excellent water quality protection. There are two small ephemeral or intermittent streams in the northern part of the property. There is also a perennial stream that rises near the center of the southern boundary and flows northwest toward Massey Creek. This stream was dammed to create a small pond. There is a head cut and deep channel incision upstream of the pond. The head cut may be a relic from past land uses or a reaction to the change in hydrologic slope due to the creation of the pond. In either case the pond should catch most of the sediment from this in-stream erosion.

**Wildlife Habitat:** Deer sign was observed in the forest in the form of browse lines on the mountain laurel. The presence of both nut and berry producing plants provides a wide variety of food for birds and mammals. However, the sparse shrub and understory layers provide little

nesting habitat for birds; 75% of woodland bird species nest within 15 feet of the ground. Given the proximity to other large protected blocks of open land, the diversity of food sources, the presence of water and the outstanding (by Fairfax County standards) quality of the forest, this property provides excellent wildlife habitat.

**Recreation / Aesthetics:** this area is desirable for passive recreation such as walking, photography, bird and wildlife watching, and the general observation of nature. It would also be productive for deer hunting. There are a few old roads on the property, one of which had been recently used by a dirt bike, that provide good opportunities for hiking and riding.

**Recommendations:** This property is currently meeting most of the landowners needs. The commercial timber species are still recovering from the 1983 harvest. The forest should be monitored for non-native invasive species and new infestations should be removed when detected. The wineberry patch on the property should be removed. The forest should also be monitored for the health of the trees. Deer management (see below) would help achieve more of the landowner's goals by allowing the reestablishment of the missing herbaceous plants and shrubs, and allowing regeneration of the existing oak species.

### **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:**

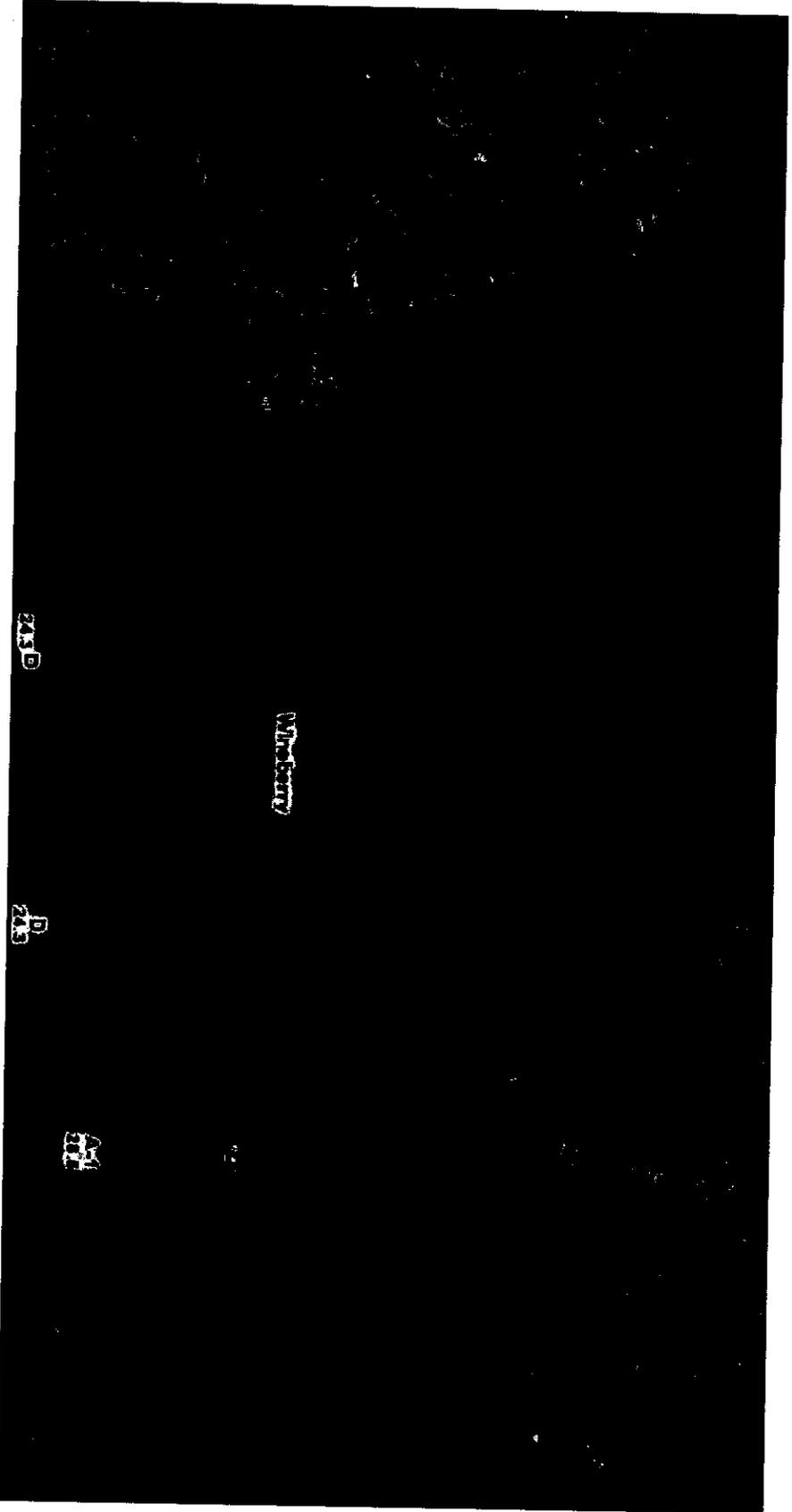
Protection of this property from wildfire is essential. Wildfire destroys valuable timber and property. Should wildfire occur on this or adjacent property call 911 immediately to report it to the Fairfax County Fire and Rescue Department.



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

## **EDH Associates A&F District**

AR 84-V-007-03 FAX93008



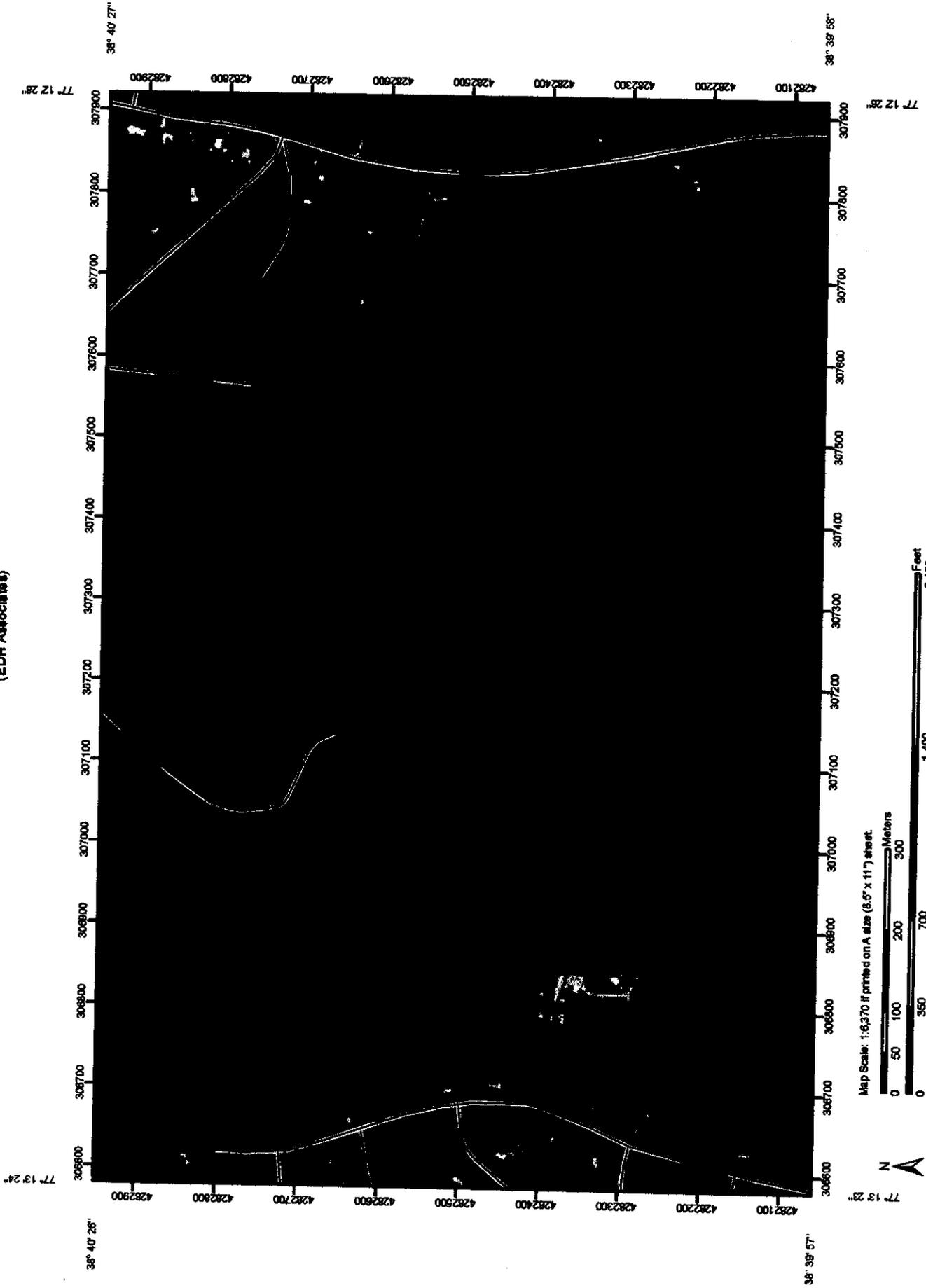
Determined from aerials photography, not to be used for boundary determination.

Map By: James M. McGione

Generated by the Integrated Forest Resource Information System - Copyright 2006 Virginia Department of Forestry

Report Date: Wednesday, May 27, 2009

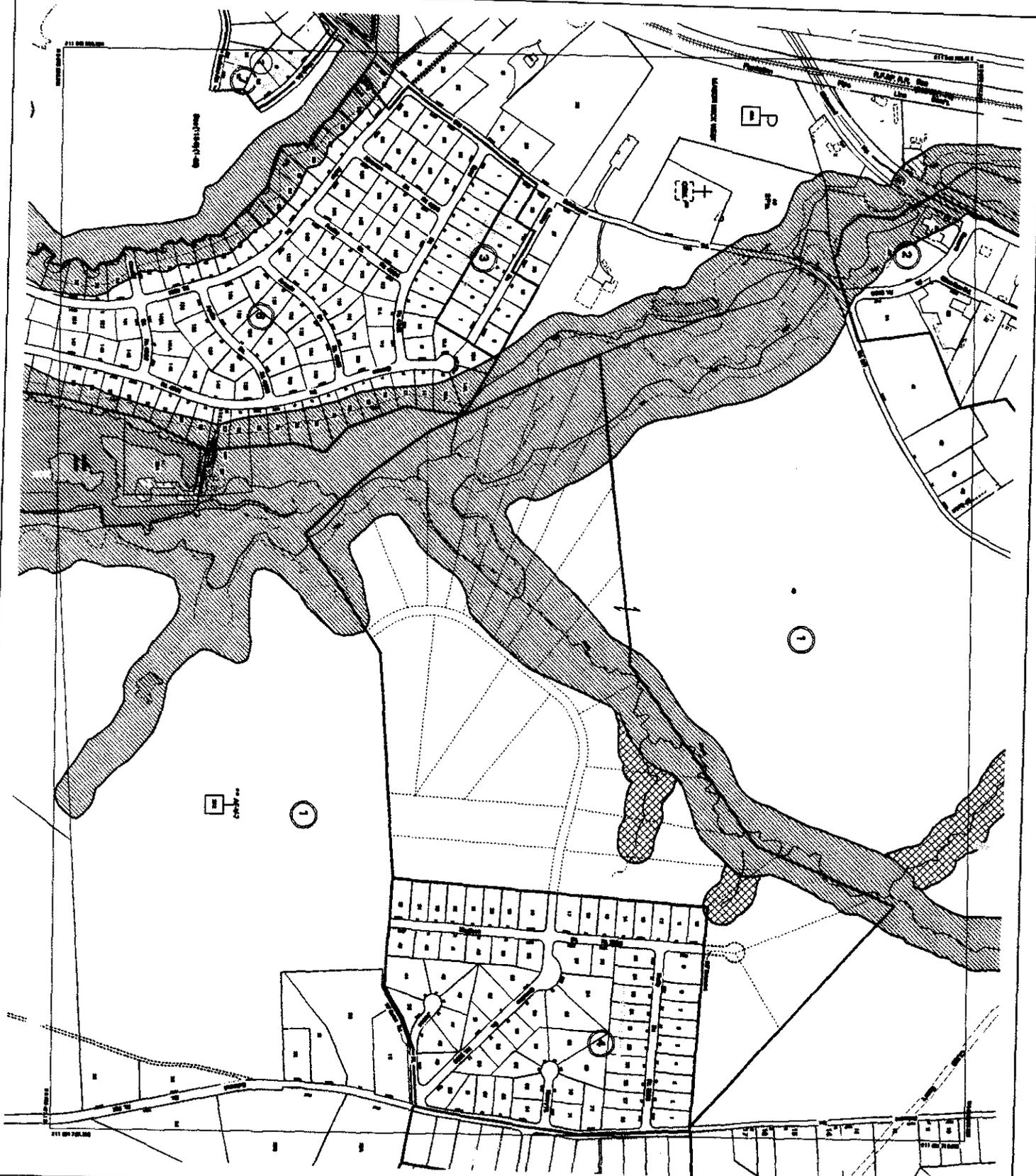
Soil Map—Fairfax County, Virginia  
(EDH Associates)



Web Soil Survey 2.1  
National Cooperative Soil Survey

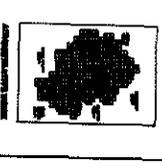
## Map Unit Legend

Fairfax County, Virginia (VA058)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
7B	Beltsville silt loam, 2 to 7 percent slopes	7.8	6.5%
30A	Codorus and Hatboro soils, 0 to 2 percent slopes, occasionally flooded	19.8	16.4%
37B	Elsinboro loam, 2 to 7 percent slopes, rarely flooded	3.9	3.2%
60A	Honga peat, 0 to 1 percent slopes, very frequently flooded, tidal	0.0	0.0%
67B	Kingstowne-Beltsville complex, 2 to 7 percent slopes	0.6	0.5%
71E	Kingstowne-Sassafras-Marumsco complex, 25 to 45 percent slopes	0.8	0.7%
74B	Lunt-Marumsco complex, 2 to 7 percent slopes	5.5	4.5%
81C	Sassafras-Marumsco complex, 7 to 15 percent slopes	21.8	18.1%
81D	Sassafras-Marumsco complex, 15 to 25 percent slopes	29.1	24.1%
81E	Sassafras-Marumsco complex, 25 to 45 percent slopes	31.2	25.9%
95	Urban land	0.3	0.2%
<b>Totals for Area of Interest</b>		<b>120.8</b>	<b>100.0%</b>



**CADASTRAL MAP**  
 The City of Toronto  
 1974

**PROPERTY MAP**  
 113-4  
 Approved by O.M.B.F.S.  
 1974



**113-4**  
 1134 1134 1134  
 1134 1134 1134

**PROPERTY MAP**  
 113-4  
 Approved by O.M.B.F.S.  
 1974

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 1974

**FAIRFAX COUNTY, VIRGINIA****MEMORANDUM**

**DATE:** June 25, 2009

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

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

**SUBJECT:** Recommendations on the Belmont Bay II Local Agricultural and Forestal District; Application AR 84-V-007-03

The Agricultural and Forestal Districts Advisory Committee met on June 23, 2009, to review the application to renew the Belmont Bay II Local Agricultural and Forestal District (Application AR 84-V-007-03), and made the following findings:

- The Belmont Bay II Local Agricultural and Forestal District meets the minimum district size contained in Section 115-3-2;
- The Belmont Bay II Local Agricultural and Forestal District conforms with the Policy and Purpose of Chapter 115 of the Fairfax County Code;
- The Belmont Bay II Local Agricultural and Forestal District fulfills all of the applicable criteria in Group A, and three (3) of the criteria in Group B (found in Chapter 115 of the Fairfax County Code).

The Agricultural and Forestal Districts Advisory Committee therefore unanimously recommends that Appendix F of the Fairfax County Code be revised to renew the Belmont Bay II Local Agricultural and Forestal District. The Advisory Committee further recommends that the establishment of this district be subject to the Ordinance Provisions which are contained in Appendix 1 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.

**§ 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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## FA' TAX COUNTY, VIRGINIA

## MEMORANDUM

TO: Peter Johnson, Director  
Zoning Evaluation Division

DATE September 11, 1984

FROM:   
D. Wayne Pumphrey, Director  
Land Use Planning Division

FILE NO:

SUBJECT: Rezoning AF 84-V-002

## REFERENCE:

With the cooperation and assistance of the Hooff family, Mike Johnson and Sue Henry currently are conducting an archaeological survey and testing program on prehistoric and 18th and 19th century historic archaeological site(s) on the southern edge of this parcel. These sites, which have at least 5,500 years of prehistory and contain the former home of the Reverend Lee Massey, 2nd Rector of Pohick Church, and George Washington's Minister, are important heritage resources.

Mike Johnson has conducted a preliminary archaeological resource survey of the eastern part of the tract (117-2((1))2) and located seven prehistoric sites. A cemetery dating at least to the early 19th century is present on the property, and other archaeological material have been reported.

Since this part of the county represents the earliest area settled by Euro-Americans it is felt that the parcel has very high potential for containing invaluable archaeological sites and that an A and F district would best serve to protect those resources. As a result, I strongly endorse this request. I would like to recommend though that if the district is approved, it be with the recommendation that any alteration to the present land surface (cutting, filling, clearing, or construction) other than plowing be preceded by an archaeological survey.

Encl.

## 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 rightsof-way, parcels owned in common by homeowner's associations, etc.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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