



APPLICATION ACCEPTED: August 26, 2010
PLANNING COMMISSION: November 18, 2010
BOARD OF SUPERVISORS: December 7, 2010

County of Fairfax, Virginia

November 2, 2010

STAFF REPORT ARMSTRONG LOCAL AGRICULTURAL AND FORESTAL DISTRICT

APPLICATION AF 2010-SP-001

SPRINGFIELD DISTRICT

APPLICANT: Charles and Catherine Armstrong
PRESENT ZONING: R-C, WS
PARCELS: 95-3 ((1)) 8A
ACREAGE: 40.0 acres
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 establish the Armstrong Local Agricultural and Forestal District be approved subject to the Ordinance Provisions listed in Appendix 1.

It should be noted that approval of an agricultural and forestal district application does not automatically qualify a property for land use value assessment. Upon application to the Department of Tax Administration (DTA) for taxation on the basis of land use assessment, DTA must independently determine if the subject property meets the definition of either agricultural and/or forestal use, as well as the appropriate guidelines, including minimum acreage, for either use, as required by Title 58.1 of the Code of Virginia, which is found in Appendix 9.

Suzie Zottl

It should be noted that it is not the intent of staff to recommend that the Board, in amending Appendix F of the County Code to include the Ordinance Provisions listed in Appendix 1, relieve the applicant/owner from compliance with the provisions of any other applicable ordinances, regulations, or adopted standards.

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

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

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

A&F District
AF 2010-SP-001

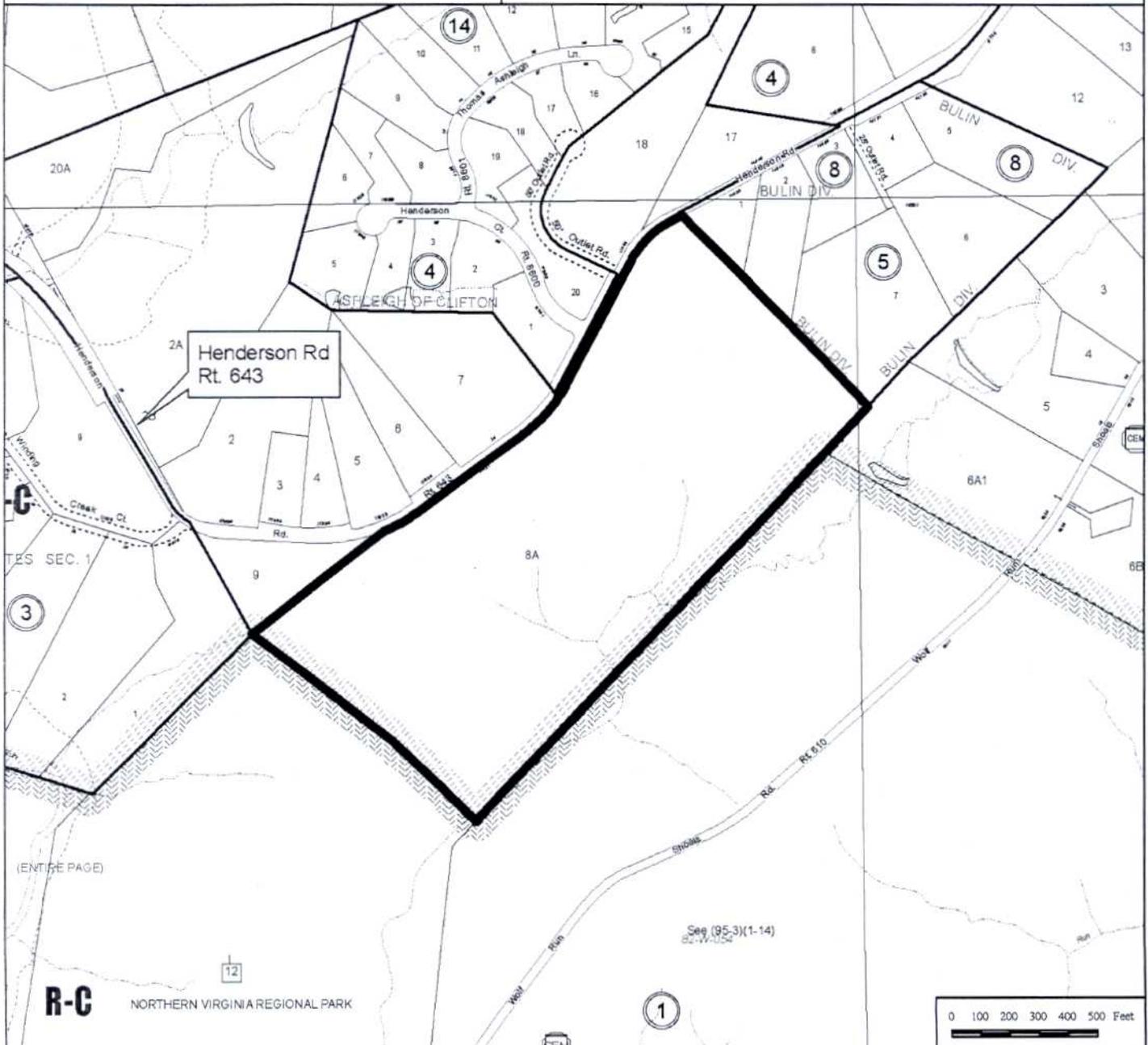


Applicant: CHARLES R ARMSTRONG AND KATHERINE ARMSTRONG

Accepted: 08/26/2010
Proposed: AGRICULTURAL AND FORESTRAL DISTRICT RENEWAL

Area: 40 AC OF LAND; DISTRICT - **SPRINGFIELD**

Zoning Dist Sect:
Located: 11921 HENDERSON ROAD
Zoning: R- C
Overlay Dist: WS
Map Ref Num: 095-3- /01/ /0008A



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

DESCRIPTION OF APPLICATION

Proposal:	<p>AF 2010-SP-001 is a request to establish the Armstrong Local Agricultural and Forestal District under the provisions of Chapter 115 of the Fairfax County Code. The subject property is a 40.0 acre tract located south of Henderson Road and north of the Bull Run Park (Northern Virginia Regional Park Authority) in the Springfield District.</p> <p>Copies of the applicant's Statement of Justification and Application are contained in Appendix 2. Staff's Proposed Ordinance Provisions are contained in Appendix 1.</p>
Applicant:	Charles and Katherine Armstrong
Acreage:	40.0 acres
Use:	Open Space and Forested – 39 acres Residential - 1 acre

BACKGROUND

The subject property has been owned by the applicant since 1957, and has been in use as residential and agricultural property since that time. The Armstrong Local Agricultural and Forestal District (AF 92-S-002) was originally established for an eight year period on June 7, 1993. The district was renewed again for an eight year term on December 3, 2001 (See Appendix 3). The district expired on December 3, 2009. The applicant has applied to re-establish the District, and the District has been assigned a new case number.

During the time that this district was in existence, no major changes to the property have transpired. However, the applicant has expressed a desire to cease hay operations and instead let that area of the property be taken over by forest. This is the only substantial change in the use of the property. The current application is for the same land area as the original district.

LOCATION AND CHARACTER

Surrounding Area Description:

The subject property and surrounding area are zoned R-C and WS, and are planned for residential uses at 0.1 to 0.2 dwelling units per acre, private open space, and public park land. The subject property is surrounded to the north and west by large-lot,

single family detached residences. To the south and east is the Northern Virginia Regional Park Authority Bull Run Park.

Location and Character of the District:

The 40.0 acre site is located in the Pohick Planning District, Dominion Community Planning Sector (P5), of Area III. The eastern portion of the site (along Henderson Road) consists of open fields; the property owner has indicated to the Virginia Department of Forestry their desire to stop fielding this land and allow it to succeed into forest. The western portion of the site—along the banks of an unnamed creek—is forested. The property is zoned R-C and WS and developed with the following structures:

Structure	Year Built	Use
Main house	Circa 1923	Residence
Garage	unknown	Garage
Barns (2)	unknown	Barns

COMPREHENSIVE PLAN PROVISIONS (Appendix 4)

- Plan Area:** Area III
- Planning District:** Pohick
- Planning Sector:** Dominion Sector (P5)
- Plan Map:** Residential use at a density of 0.1 to 0.2 dwelling unit per acre and private open space

ANALYSIS

Land Use Analysis (Appendix 4)

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

Transportation Analysis (Appendix 5)

The Department of Transportation has no concerns with the renewal of this District.

Environmental Analysis

A Forest Management Plan dated October 14, 2010, is included as Appendix 6; a Soil and Water Quality Conservation Plan dated October 11, 2010, is included as Appendix 7.

The creek that runs along the western boundary of the property is an unnamed, intermittent creek, but the steep slopes surrounding it contain valuable upland and bottomland natural resources and are considered to be an Environmental Quality Corridor (EQC). This portion of EQC connects to the Regional Park Authority land and creates a corridor that stretches all the way to the Occoquan Reservoir. These valuable habitats should be preserved as a wildlife corridor and to protect water quality. The Forest Management Plan is based on the applicant's intent to preserve these lands as conservation areas. An ordinance provision is proposed which requires the applicant to consider the boundary of the EQC, as shown in the attached map, as the limits of clearing and grading for the life of the district.

Because the property is located in the headwaters of several drainageways, portions of the soils are poorly drained. The areas near the mouths of the drainageways contain severely erodible soils. The proposed limits of clearing and grading (the boundaries of the EQC) would protect the most sensitive areas of the 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 40.0 acres in size and is entirely in forest conservation and agricultural uses; the property owner's intent is to have the property completely in forest conservation with the succession of the hay fields into forest. One acre used for residential purposes. This criterion has been satisfied.

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

The property is zoned R-C and WS. This criterion is satisfied.

3. In general, the district should be consistent with the Comprehensive Plan. The following land uses identified in the Plan are appropriate for a district: .1-.2 dwelling unit per acre; .2-.5 dwelling unit per acre; .5-1 dwelling unit 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) and private open space. Therefore, this criterion has been satisfied.

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

The Comprehensive Plan designates a majority of the surrounding land within one-quarter mile of the district for low density residential use at 0.1 to 0.2 du/ac, private open space, and public park. Therefore, this criterion has been satisfied.

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

This property qualifies as open space and forestal uses. Therefore this criterion is not applicable.

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

The proposed district is a single parcel consisting of 40.0 acres owned by the applicant; 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.

This criterion is not applicable because this is a forestal district; however, approximately 68% of the site consists of soils of Capability Classes II, III, and IV. The soils information for this District is on file with the Department of Planning and Zoning.

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

The applicant has an approved and signed Conservation Plan prepared by the Northern Virginia Soil and Water Conservation District and dated October 11, 2010 (See Appendix 7). An ordinance provision requires the applicant to abide by the recommendations of the Soil and Water Conservation Plan for the life of the A&F District. Therefore, staff believes this criterion is satisfied.

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

Approximately 1/2 of the subject property is forested and maintained as an undisturbed, wooded conservation area, and the applicant plans to allow the area currently in hay fields to succeed into forest. A Forest Management Plan detailing this can be found in Appendix 7. Therefore, this criterion is satisfied.

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

The applicant has owned this property since 1957 and since that time has maintained the property in its residential, forestal, and open space uses. The applicant has committed to continuing these uses for the life of the Agricultural and Forestal District. Staff believes that this criterion has been satisfied.

Criteria Group B:

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

There is no record of farm and/or forest products having been regularly produced and sold from the property during the last five years; this criterion has not been satisfied.

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

The wooded and open lands of the subject property enhance the rural character of the Clifton area. The land provides scenic vistas through the existing hay fields and forest, including a connection to the adjacent park land. As the hay fields are converted into forested use, the property will continue to provide scenic vistas that support the rural character of this area. Therefore, staff believes this criterion has been satisfied.

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

The subject property has no known historical or archaeological resources. Therefore, this criterion is not applicable.

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

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

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

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

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

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

As previously noted, these criteria serve as a guide in determining whether or not an agricultural district should be established; they are not a prerequisite for establishing a

district. As previously stated, all of the applicable criteria in Group A and at least two criteria in Group B should be satisfied. It is staff's opinion that this application satisfies all of the applicable criteria in Group A and two of the criteria in Group B., satisfying the criteria for establishing a Local Agricultural and Forestal District.

AFDAC RECOMMENDATION (Appendix 8)

On November 2, 2010, the Agricultural and Forestal Districts Advisory Committee voted to recommend that the Armstrong Local Agricultural and Forestal District be established 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 has concluded that the application for the establishment of the Armstrong Local Agricultural and Forestal District satisfies all of the applicable criteria in Group A and two of the criteria in Group B, thus meeting the guidelines outlined in Sect. 115 of the County Code. 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 establish the Armstrong 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 staff to recommend that the Board in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

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

APPENDICES

1. Proposed Ordinance Provisions
2. Application and Statement of Justification
3. Approval of AR 92-S-002
4. Land Use and Environmental Analysis
5. Transportation Analysis
6. Forest Management Plan
7. Soil and Water Quality Conservation Plan
8. Agricultural and Forestal District Advisory Committee Recommendation
9. Title 58.1 Article 4 *Special Assessment for Land Preservation*
10. Glossary of Terms

PROPOSED ORDINANCE PROVISIONS

November 2, 2010

AF 2010-SP-001

If it is the intent of the Board of Supervisors to establish the Armstrong Local Agricultural and Forestal District as proposed in Application AF 2010-SP-002 in accordance with Chapter 44 of Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code on Tax Map 95-3 ((1)) 8A, staff recommends that the approval be subject to the following Ordinance Provisions:

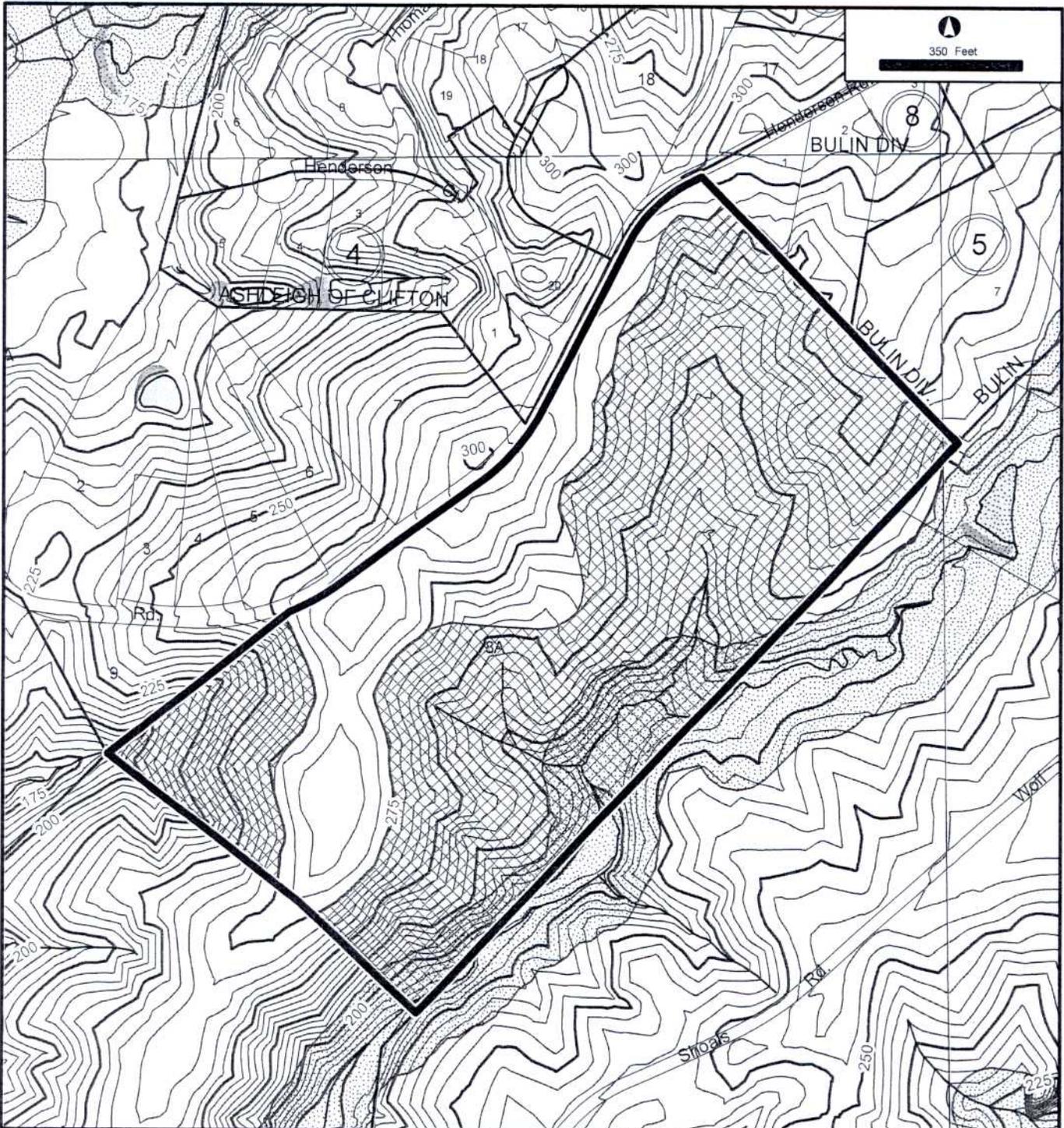
Standard Provisions (From Chapter 115)

- (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) The applicants shall implement and abide by the recommendations of the Soil and Water Conservation Plan dated October 11, 2010, for the life of the Armstrong Local Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to time as determined necessary by the Soil and Water Conservation District.

- (6) The applicants shall implement and abide by the recommendations of the Forest Management Plan dated October 14, 2010, for the life of the Armstrong Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the State Forester. If the applicants choose to harvest the timber on the lands within this Agricultural and Forestal District, such harvesting shall be in coordination with the State Forester so that special techniques designed to protect water quality may be utilized.
- (7) Those areas delineated as Environmental Quality Corridors (EQCs) shall be left undisturbed, with the exception of selective thinning operations performed to enhance existing vegetation and the removal of dead, dying and diseased vegetation in accordance with the Forest Management Plan and as approved by the Urban Forester. The boundaries of the EQC shall be the permanent limits of clearing and grading for the life of the Armstrong Local Agricultural and Forestal District (see Attachment 1).
- (8) The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if warranted in the discretion of the Board of Supervisors upon determination by a court or any declaration or enactment by the General Assembly that renders any provisions illegal or unenforceable. The reconsideration shall be in accordance with procedures established by the Board of Supervisors and communicated to the property owner(s) to demonstrate that the determination by a court or the declaration or enactment by the General Assembly does not apply to the conditions of this district.



Parcel 95-3 ((1)) 0008A

Map prepared by the Fairfax County
Department of Planning & Zoning, October 2010

-  Subject Parcel
-  EQC within Parcel 95-3 ((1)) 0008A
-  Resource Protection Area

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RECEIVED
Department of Planning & Zoning

JUL 12 2010

Zoning Evaluation Division

Application No. AF 2010-SP-001

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

FAIRFAX COUNTY

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

Owner's Name & Address	Tax Map Number	Year Acquired	Zoning District	Acres
CHARLES R ARMSTRONG 11921 Henderson Rd Clifton, VA 20124	095-3-01-0008-A	2008	R-C, WIS KA+CA	40
KATHERINE ARMSTRONG 11202 Bridgwood Trail Zionsville, IN 46077				
Original district was for Manopz C ARMSTRONG - DECEASED JUNE 27, 2008				

3. Total acreage in the proposed district: 40 acres.
4. Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm 1 forest .

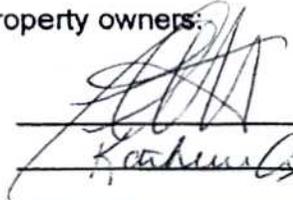
5. Name, address and telephone number of the property owner or representative who will act as a contact person for this application:

Name: Charles R. Armstrong

Address: 11921 Henderson Road
Clifton, VA 20124

Telephone: 703-250-9334 or 202-550-2878

6. Signature of all property owners:



Charles R. Armstrong

TO BE COMPLETED BY THE COUNTY

Date application accepted: 3/26/10



Date of action by Board of Supervisors: _____

- Approved as submitted Denied
 Approved with modifications

ALL APPLICANTS

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

Structure	Year built	Use
House	Circa 1923	Residence
Garage	Unknown	Garage
Barns (2)	Unknown	Barns

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: _____

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

Written Statement of Justification

RECEIVED
Department of Planning & Zoning
JUL 12 2010
Zoning Evaluation Division

Local Agricultural and Forestal Districts

AR 92-S-002

11921 Henderson Road

Clifton, VA 20124

Owners: Charles R. Armstrong

Katherine Armstrong

The above residence meets the criteria group A presented in Article 5 of Chapter 115 of the Fairfax County Code, "Local Agricultural and Forestal Districts" by:

- Total Acreage: 40 (39 conservation and 1 residential use)
- There are no development plans for this location in the next eight years (a home, garage and two barns currently reside on the land)
- Land is zoned to the R-C district

The above residence meets the criteria group B presented in the Article 5 of Chapter 115 of the Fairfax County Code, "Local Agricultural and Forestal Districts" by:

- Total Acreage: 40 (39 conservation and 1 residential use). This land provides scenic vistas, improves the aesthetic quality of the views from Henderson Road and contributes to maintaining the existing rural character of an area
- Land is zoned to the R-C district

Signature: _____

Charles R. Armstrong

Date: July 17, 2010

Signature: _____

Katherine Armstrong

Date: July 6, 2010



FAIRFAX COUNTY

APPENDIX 3

OFFICE

BOARD OF SUPERVISORS

12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035-0072

V I R G I N I A

Telephone: 703-324-3151

FAX: 703-324-3926

TTY: 703-324-3903

December 10, 2001

Ms. Marope C. Armstrong
11921 Henderson Road
Clifton, Virginia 20124

RE: Agricultural and Forestal District Application Number AR 92-S-002

Dear Ms. Armstrong:

Agricultural and Forestal District Application AR 92-S-002 in the name of Marope C. Armstrong 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-45 and additional environmental provisions, was renewed by ordinance by the Board of Supervisors at a regular meeting held on December 3, 2001, as the Armstrong 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 McConnell, Springfield 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
Virginia Department of Forestry
James W. Cochran, Supervising Appraiser, Real Estate Division, DTA

ADOPTION OF AN AMENDMENT TO CHAPTER 115
(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, December 3, 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 (Local Agricultural and Forestal District), Appendix F, 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 (Local Agricultural and Forestal District), Appendix F, as follows:

F-45. Armstrong Local Agricultural and Forestal District
(AR 92-S-002)

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

Owner	Fairfax County Tax Map Parcel Number	Acreage
Marope C. Armstrong	95-3 ((1)) 8	40.0

(b) The Armstrong Local Agricultural and Forestal District is established effective December 3, 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) The applicants shall implement and abide by the recommendations of the Soil and Water Conservation Plan dated October 8, 2001, for the life of the Armstrong Local Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to time as determined necessary by the Soil and Water Conservation District;

(6) The applicants shall implement and abide by the recommendations of the Forest Management Plan dated January 13, 1993, for the life of the Armstrong Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined

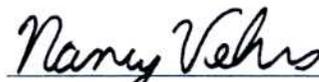
necessary by the State Forester. If the applicants choose to harvest the timber on the lands within this Agricultural and Forestal District, such harvesting shall be in coordination with the State Forester so that special techniques designed to protect water quality may be utilized;

(7) Those areas delineated as Environmental Quality Corridors (EQCs) shall be left undisturbed, with the exception of selective thinning operations performed to enhance existing vegetation and the removal of dead, dying, and diseased vegetation in accordance with the Forest Management Plan and as approved by the Urban Forester. The boundaries of the EQC shall be the permanent limits of clearing and grading for the life of the Armstrong Local Agricultural and Forestal District (limits of EQC on file with the Fairfax County Department of Planning and Zoning);

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

This amendment shall become effective upon adoption.

GIVEN under my hand this 3rd day of December, 2001.



NANCY VEHRS

Clerk to the Board of Supervisors



County of Fairfax, Virginia

MEMORANDUM

DATE: October 22, 2010

TO: Regina Coyle, Director
Zoning Evaluation Division, DPZ

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

SUBJECT: Comprehensive Plan Land Use and Environmental Assessment for:
AF 2010-SP-001 Armstrong

This memorandum, prepared by Maya Dhavale, includes citations from the Comprehensive Plan that provide guidance for the evaluation of the above referenced application and lists and explains land use guidance and environmental policies for this property. The application requests renewal of a forty (40) acre Agricultural and Forestal (A&F) District. The extent to which the proposed use, intensity, and development plan are consistent with the land use and environmental guidance contained in the Comprehensive Plan is noted.

DESCRIPTION OF THE APPLICATION

The 40-acre Armstrong property within the Springfield Magisterial District is a renewal of an existing Agricultural and Forestal District. The district is located in the Ryans Dam watershed in southern central Fairfax County in the Dominion Community Planning Sector (P5) of the Pohick Planning District of Area III.

The district is comprised of a single forty acre parcel, although the previous district was composed of two parcels totaling fifty acres. The parcel in the current district is owned by Mr. Charles R. Armstrong and Ms. Katherine Armstrong. In the original application for the establishment of the A&F District, the property was mostly used for agricultural purposes. This renewal indicates that the primary use will be for conservation. The property has a soil and water conservation plan prepared by the Northern Virginia Soil and Water Conservation District (NVSWCD), as well as a Forestry Management Plan developed by the Virginia Department of Forestry (VDOF). There is a main residence, two barns, and a garage on the property.

The district produces no agricultural products. Of the forty acres, none are in active agricultural uses, thirty-nine are forested or undeveloped, and one is used for residential purposes.

LOCATION AND CHARACTER

The subject property is located in the south central portion of the County in the Ryans Dam watershed and zoned R-C and planned for residential use at 0.1-0.2 dwelling unit per acre (du/ac) with a small part planned for private open space. The northern and eastern properties are all zoned R-C and predominately planned for 0.1-0.2 du/ac. The land to the west and south is zoned R-C and predominately planned for public park.

COMPREHENSIVE PLAN CITATIONS

Plan Map: Residential use at 0.1 to 0.2 du/ac (5 to 10-acre lots) and Private Open Space

Plan Text: In the Fairfax County Comprehensive Plan, Area III Volume, 2007 Edition, Pohick Planning District Overview, as amended through September 28, 2010, under the heading, "District-wide Recommendations, Environment," beginning on page 9, the Plan states:

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

Preservation policies are most suitable for the Occoquan Reservoir watershed. . . .

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

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

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

Plan Text: In the Fairfax County Comprehensive Plan, Area III Volume, 2007 Edition, Pohick Planning District, P5- Dominion Community Planning Sector, as amended

through September 28, 2010 under the heading, "Land Use," beginning on page 61, the Plan states:

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

In the Fairfax County Comprehensive Plan, Policy Plan, 2007 Edition, Environment section as amended through July 27, 2010, beginning on page 7, the Plan states:

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

Policy 1. In order to augment the EQC system, encourage protection of stream channels and associated vegetated riparian buffer areas along stream channels upstream of Resource Protection Areas (as designated pursuant to the Chesapeake Bay Preservation Ordinance) and Environmental Quality Corridors. To the extent feasible in consideration of overall site design, stormwater management needs and opportunities, and other Comprehensive Plan guidance, establish boundaries of these buffer areas consistent with the guidelines for designation of the stream valley component of the EQC system as set forth in Objective 9 of this section of the *Policy Plan*. Where applicable, pursue commitments to restoration of degraded stream channels and riparian buffer areas. . . .

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

Policy a: 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. This may include: habitat for species that have been identified by state

or federal agencies as being rare, threatened or endangered; rare vegetative communities; unfragmented vegetated areas that are large enough to support interior forest dwelling species; and aquatic and wetland breeding habitats (i.e., seeps, vernal pools) that are connected to and in close proximity to other EQC areas.

Connectivity: This segment of open space could become a part of a corridor to facilitate the movement of wildlife and/or conserve biodiversity. This may include natural corridors that are wide enough to facilitate wildlife movement and/or the transfer of genetic material between core habitat areas.

Hydrology/Stream Buffering/Stream Protection: The land provides, or could provide, protection to one or more streams through: the provision of shade; vegetative stabilization of stream banks; moderation of sheet flow stormwater runoff velocities and volumes; trapping of pollutants from stormwater runoff and/or flood waters; flood control through temporary storage of flood waters and dissipation of stream energy; separation of potential pollution sources from streams; accommodation of stream channel evolution/migration; and protection of steeply sloping areas near streams from denudation.

Pollution Reduction Capabilities: Preservation of this land would result in significant pollutant reductions. Water pollution, for example, may be reduced through: trapping of nutrients, sediment and/or other pollutants from runoff from adjacent areas; trapping of nutrients, sediment and/or other pollutants from flood waters; protection of highly erodible soils and/or steeply sloping areas from denudation; and/or separation of potential pollution sources from streams.

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. . . .

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

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

LAND USE ANALYSIS

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

ENVIRONMENTAL ANALYSIS

This section characterizes the environmental concerns raised by an evaluation of this site and the proposed land use. Solutions are suggested to remedy the concerns that have been identified by staff. There may be other acceptable solutions. Particular emphasis is given to opportunities provided by this application to conserve the County’s remaining natural amenities.

Water Quality Protection

There is a portion of the property with both Resource Protection Areas (RPA) and Environmental Quality Corridors (EQC). These areas are currently undeveloped, and should be protected from any development or land disturbing activities. As the applicant has indicated that the area with RPA and EQC will be conserved, the location of these areas is provided for the applicant’s information.

Natural Resource and Tree Conservation

The property has a Soil and Water Conservation Plan developed by the Northern Virginia Soil and Water Conservation District (NVSWCD) for the initial application of the A&F District. This plan should be reviewed by the Senior Conservation Specialist from the NVSWCD with

this application and updated, if necessary, to reflect the switch from a primarily agricultural to a primarily conservation focus.

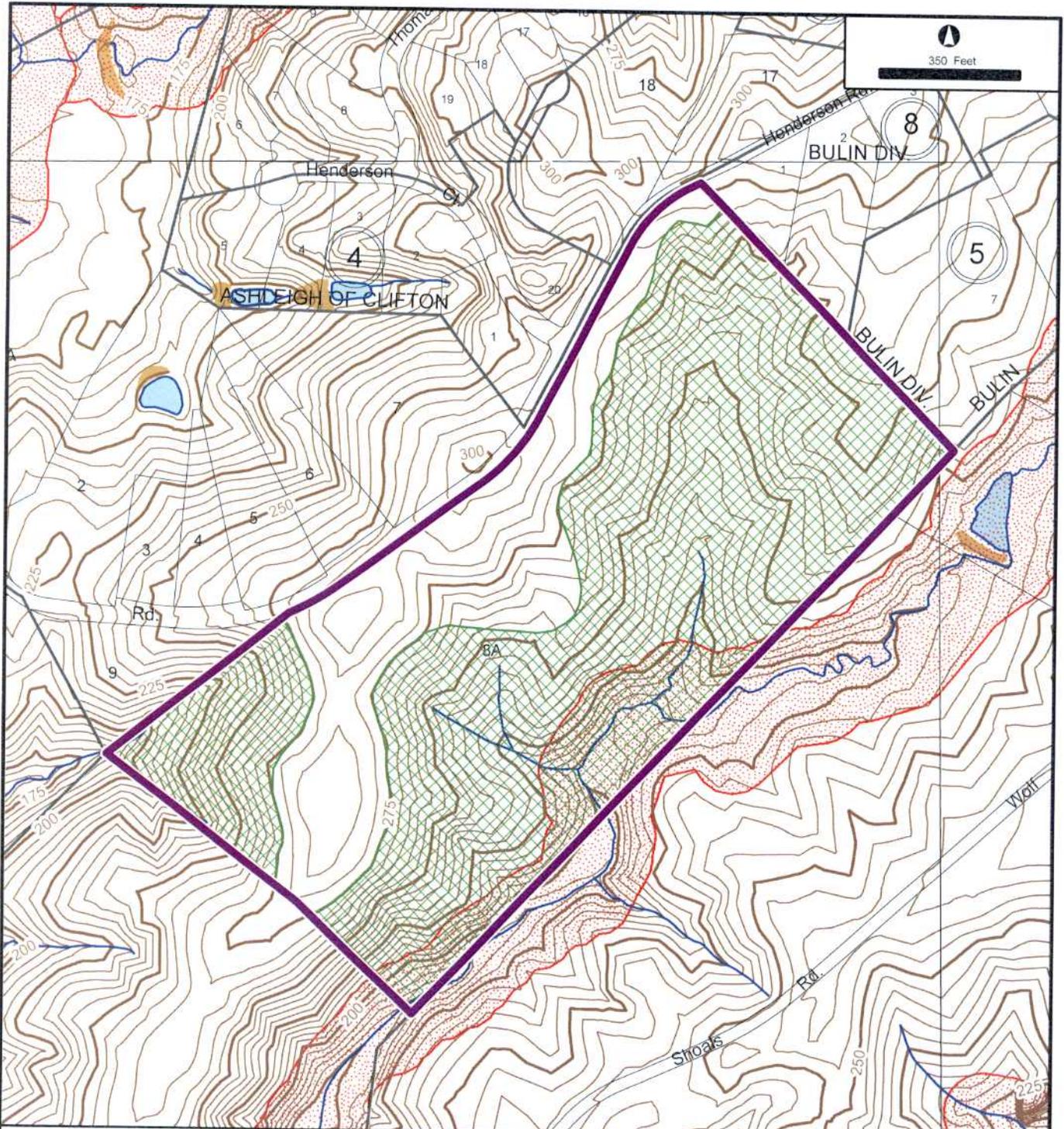
Silvicultural activities comply with the Chesapeake Bay Preservation Ordinance (CBPO) through the development of a Forestry Management Plan as prescribed by the Virginia Department of Forestry's Best Management Practices Handbook for Forestry Operations and prepared in conjunction with the Virginia Department of Forestry (VDOF). The property was evaluated by the Urban Forest Conservationist from the VDOF in October 2010, and the Forestry Management Plan was updated to reflect the applicant's interest in reestablishing and conserving the natural resources on the property. The applicant is strongly encouraged to enact the recommendations regarding tree spacing, removal of invasive species, and deer management.

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

COUNTYWIDE TRAILS PLAN

The Countywide Trails map depicts a natural surface or stone dust trail along the portion of the subject property on Henderson Road.

PGN: MPD

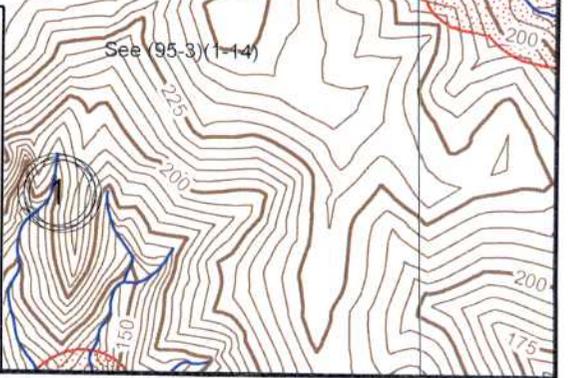


Parcel 95-3 ((1)) 0008A

Map prepared by the Fairfax County
Department of Planning & Zoning, October 2010

-  Subject Parcel
-  EQC within Parcel 95-3 ((1)) 0008A
-  Resource Protection Area

g:\projects\locpl\env_wetlands\maps\Parcel_95_3_1_0008A_EQC.mxd





County of Fairfax, Virginia

MEMORANDUM

DATE: October 14, 2010

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

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

FILE: 3-4 (AF 2010-SP-001)

SUBJECT: Transportation Impact

REFERENCE: AF 2010-SP-001; Charles R. & Katherine Armstrong
Land Identification Map: 95-3 ((1)) 8A

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/mdd

Carl E. Garrison III
State Forester



COMMONWEALTH of VIRGINIA

DEPARTMENT OF FORESTRY
900 Natural Resources Drive, Suite 800
Charlottesville, VA 22903
www.dof.virginia.gov
(434) 977-6555
Fax: (434) 296-2369

October 14, 2010

Mr. Charles R. Armstrong
11921 Henderson Road
Clifton VA 20126

Dear Mr. Armstrong:

I enjoyed walking your property last week and observing the fine forest resource you are protecting there. Allowing the forest to expand into the old field makes your property a valuable addition to Fairfax County's Agricultural and Forestal District program.

This letter serves to update the forest management plan prepared by my office in 1993. I have enclosed a copy of the plan and a new map for your convenience. For the most part the stand descriptions and recommendation remain the same.

In stand B, as succession to hardwood continues, you will see increased failure of the Virginia pine (*Pinus virginiana*) which will create cavity trees and canopy opening recommended in the 1993 plan. There are a few blow down areas in this stand, these represent an opportunity to guide succession. Right now the dominant regeneration is beech (*Fagus grandifolia*), but these blow down areas could be planted with oaks, which provide better wildlife habitat.

I have added a stand D to the map. This area was previously maintained as open field and you have expressed interest in allowing the volunteer trees to grow and create additional forest. Not mowing in this area is a first step in this process and has already resulted in volunteer Virginia pine and loblolly pine (*P. taeda*). Seeds of both these species germinate better when they have contact with mineral soil. If you wish to increase the rate at which tree establish in the area, creating seed beds by scarifying an area to expose soils in late September or early October will help. You should be warned that tulip poplar (*Liriodendron tulipifera*) will also take advantage of the seed beds and usually outgrow the pines. There may be other competitors for the seed beds as well.

There are three specific concerns I noted on the property. First, the loblolly pine growing along Henderson Road is overcrowded. They are currently growing on about 3 foot centers and should be growing with 15 foot spacing. Many of the trees are suppressed and not keeping up. At a minimum, I would recommend felling all trees less than 12 inches in diameter at breast height. This will reduce the risk of trees falling in the road or on the power line. It will also invigorate the remaining trees by reducing competition for sun and other resources.

My second concern is the autumn olive invading the old field. Autumn olive has a comparative advantage over the pine you are trying to favor here. It grows faster and readily seeds into turf. While the berries are

Mission: We Protect and Develop Healthy, Sustainable Forest Resources for Virginians.

attractive to birds, they do not have the nutritional content that our native berries do and do not support migration as well, particularly across the Gulf of Mexico. I have provided a fact sheet on the plant with control options. If you wish to have soft mast species in the field to compliment the hard mast produced by the oaks and hickories in the forest, I would suggest hawthorns (*Crataegus* spp.), serviceberries (*Amelanchier* spp.) or native cherries (*Prunus serotina*, *P. virginiana*).

My final concern is the excessive deer browse on the property. I observed browse lines on the mountain laurel (*Kalmia latifolia*) in stand A and browse on green briar (*Smilax* spp.), which are both starvation foods for deer. Excessive browse has also resulted in a general lack of regeneration and absence of a shrub layer in the forest. The young trees and shrubs are critical nesting habitat for about 75 per cent of forest songbird which nest within 15 feet of the ground. I noted tree stands on the property and encourage continued and increased hunting on the property. The Virginia Department of Game and Inland Fisheries have program to assist landowners with managing deer herds on their property. The regional office phone number is 540-899-4169.

One last suggestion is to periodically cut the vines growing on the catalpas (*Catalpa* spp.) and other trees growing the open areas.

If you have any questions regarding these recommendations or I can be of assistance, please don't hesitate to contact me.

Sincerely,



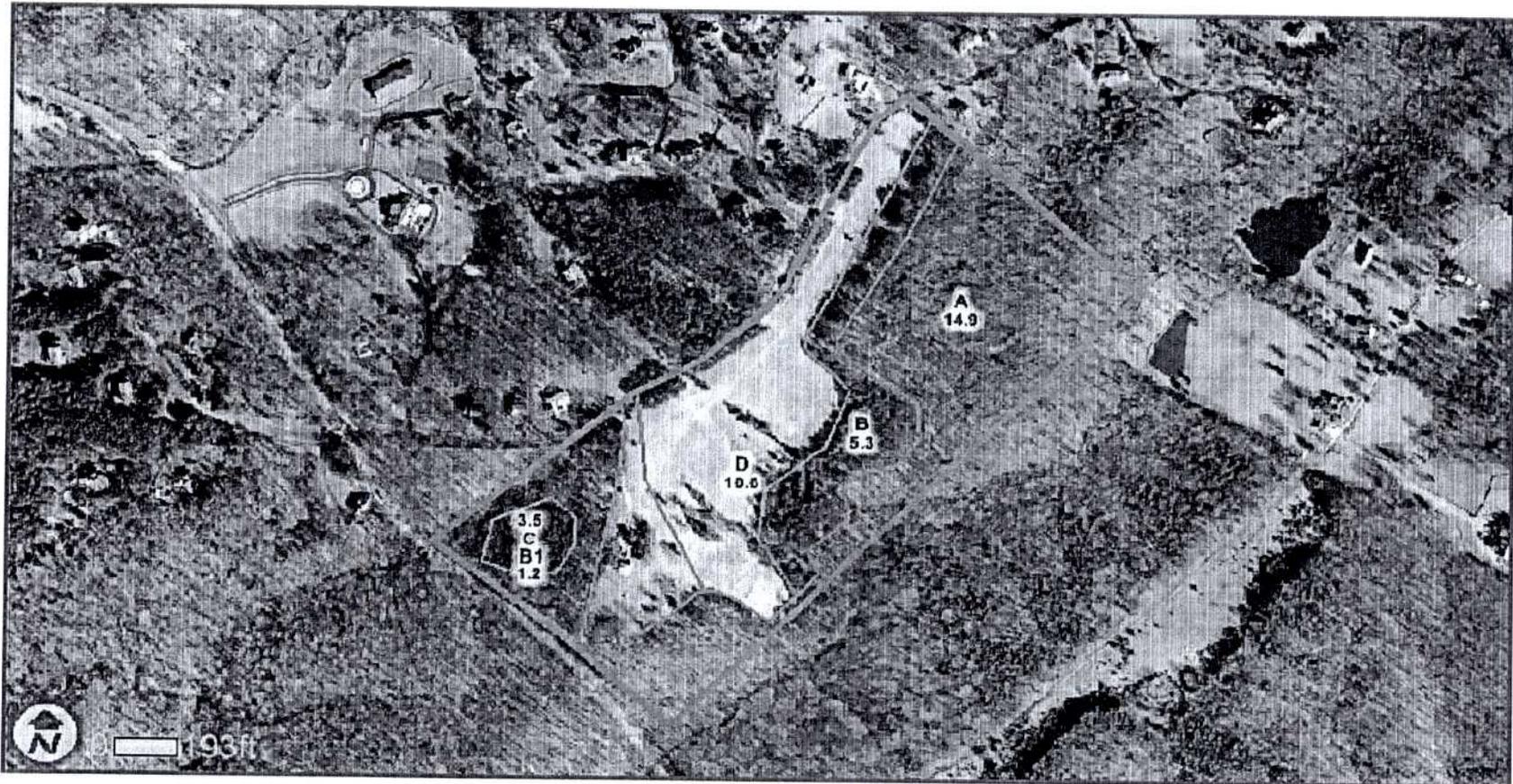
James McGlone
Urban Forest Conservationist

Enclosures



Armstrong A&F District

AF 2010-SP-001 FAX93002



Boundaries are approximate based on aerial photography

Map By: James M. McGlone

Report Date: Thursday, October 14, 2010



Northern Virginia Soil and Water Conservation District

12055 Government Center Parkway, Suite #905

Fairfax, VA 22035

<http://www.fairfaxcounty.gov/nvswcd>

Tel: 703-324-1460

Fax: 703-423-1421

---Soil and Water Quality Conservation Plan---

Property Owners/Operators:

Armstrong A&F District – AF 2010-SP-001
11921 Henderson Road
Clifton, VA 20124

Plan Prepared by:

Willie Woode, Senior Conservation Specialist, NVSWCD

Date:

October 11, 2010

Property Assessment:

This is a 40-acre property in the Occoquan River – Reservoir Watershed (PL-47). It is located at 11921 Henderson Road in Clifton. Tax map number is 95-3 ((1)) -0008A. Approximately 13.0 acres of the property is kept in hay production. My visual inspection suggests there are two distinct management styles for the grassy area. Based on that, the total area was divided into Fields 1 & 2 for planning purposes. A relatively small portion of field 1 is in use as residential area. An estimated 27 acres is kept wooded – about a quarter of that is in established pine trees. An unnamed tributary meanders along the south-eastern boundary of the property and directly feeds the Occoquan River. This tributary has 1,500 linear feet of RPA that falls within the wooded area of this property. The Property is pending renewal of its Agricultural and Forestal District status. A soil and water quality conservation plan is part of the requirement for the renewal process. The RPA seems adequately protected with dense vegetated buffer provided by the stand of trees and shrubs. The hay production area seems well managed. The wooded area and perennial tributary supports an abundance of wildlife by providing shelter, food and water. This was evident by droppings, animal tracks, and sight and sounds of birds.

Practices:

1) Nutrient Management:

Nutrients will be applied based on soil test results for expected yield goals. The rate, timing and method of application are shown on the attached Nutrient Management Plan. This plan was developed and signed by a Nutrient Management Planner, certified by the Commonwealth of Virginia's Nutrient Management Program.

Fields	Planned Amount	Month	Year	Applied Amount	Date
Field 1	4.0 ac.	10	2010		
Field 2	9.0 ac.	10	2010		
Total	8.5 ac.				

2) Chesapeake Bay Resource Protection Area (RPA) management

The yellow shaded area on your site map is the county delineated Chesapeake Bay Resource Protection Area (RPA). The RPA is the final barrier through which a required percentage of pollutants contained in runoff from adjacent land areas are filtered. RPAs are required to be kept vegetated to enhance surface filtration and soil infiltration. All of your RPA is within your wooded area. Frequent inspection of this area is necessary to maintain a diverse vegetation stand, fallen or infested trees. Pesticide use within this area is not encouraged. Otherwise it should be used only under highly discretionary conditions.

Fields	Planned Amount	Month	Year	Applied Amount	Date
Wooded Area	1,500 ft.	10	2010	10	2010
Total	1,500 ft.				

3) Pest Management (595)

Pest Management will be carried out to control agricultural pest infestation (weeds, insects, diseases) according to current recommendations from the Cooperative Extension Service. The Pest Management Guide is updated annually.

Frequent mowing, and over-seeding with hay mix of your choice will allow more grass to grow and subdue weed growth.

Fields	Planned Amount	Month	Year	Applied Amount	Date
F1	4.0 ac.	10	2010		
F2	9.0 ac.	10	2010		
Wooded Area	27.0 ac.	10	2010		
Total	40.0 ac.				

6) Stream Bank Protection

Inspect banks for areas of active erosion. Technical advice can be provided if requested. Any tree that had fallen over that will potentially cause bank erosion should be cut-up and removed. Tree that may be precariously leaning due to under cutting of the bank should be pruned to make it less heavy at the top. In worse case scenario, the tree(s) should be cut down at waste height. Maintain vegetation stand in buffer areas to improve filtration of pollutants within the established RPA before runoff enters the water body. Additional management information can be provided upon request.

Fields	Planned Amount	Month	Year	Applied Amount	Date
Wooded Area	27.0 ac.	10	2010		

7) Record Keeping

A system of records indicating the dates and applications of nutrients, or pesticides should be developed and maintained. A specimen record sheet is included.

Fields	Planned Amount	Month	Year	Applied Amount	Date
F1	4.0 ac.	10	2010		
F2	9.0 ac.	10	2010		
Wooded Area	27.0 ac.	10	2010		
Total	40.0 ac.				

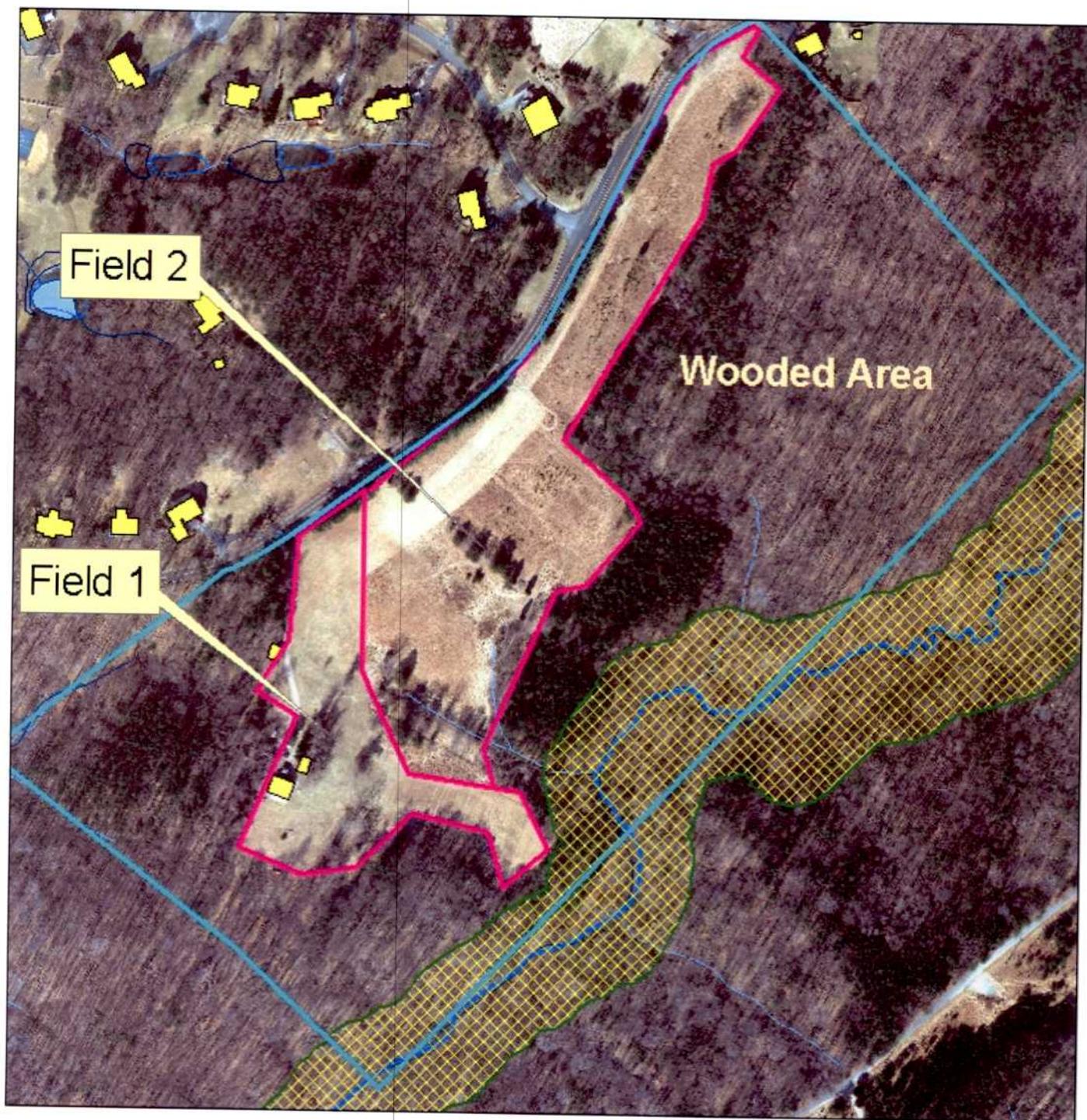
SIGNATURES OF PARTICIPANTS –The Armstrong - A&F Dist.

Charles Armstrong _____	Date _____
Part Owner & Contact	

Wilfred Woode _____	Date _____
Planner	

Chairman _____	Date _____
District Authority	

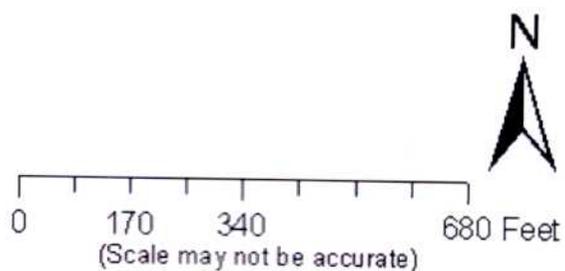
Armstrong A&F Dist - 11921 Henderson Road Clifton



Legend

-  1993 RPAs
-  2003 RPAs
-  2003 (Rev) RPAs
-  Resource Management Areas (RMAs)
-  Property Limits
-  Field Limits

Prepared by Willie Woode - NVSWCD
Using Fairfax County's 2009 ortho-photo and GIS data layers



FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

DATE: November 2, 2010

TO: Members, Planning Commission
Members, Board of Supervisors

FROM: Agricultural and Forestal Districts Advisory Committee

SUBJECT: Recommendations on the Armstrong Local Agricultural and Forestal District; Application AF 2010-SP-001

The Agricultural and Forestal Districts Advisory Committee met on November 2, 2010, to review the application to establish the Armstrong Local Agricultural and Forestal District (Application AF 2010-SP-001), and made the following findings:

- The Armstrong Local Agricultural and Forestal District meets the minimum district size contained in Section 115-3-2;
- The Armstrong Local Agricultural and Forestal District conforms with the Policy and Purpose of Chapter 115 of the Fairfax County Code;
- The Armstrong Local Agricultural and Forestal District fulfills all of the applicable criteria in Group A, and two (2) 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 amended to establish the Armstrong 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.

§ 58.1-3233. 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; except that for real estate used for purposes of engaging in aquaculture as defined in § 3.2-2600 or for the purposes of raising specialty crops as defined by local ordinance, the governing body may by ordinance prescribe that these uses consist of a minimum acreage of less than five acres, (ii) forest use consists of a minimum of 20 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 one quarter of an acre.

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. However, for purposes of adding together such total area of contiguous real estate, any noncontiguous parcel of real property included in an agricultural, forestal, or an agricultural and forestal district of local significance pursuant to subsection B of § 15.2-4405 shall be deemed to be contiguous to any other real property that is located in such district. 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 10 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 § 15.2-4314 for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.

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

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

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

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

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

The minimum acreage requirements for special classifications of real estate shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots recorded after July 1, 1983, titled in the same ownership. *However, for purposes of adding together such total area of contiguous real estate, any noncontiguous parcel of real property included in an agricultural, forestal, or an agricultural and forestal district of local significance pursuant to subsection B of § 15.2-4405 shall be deemed to be contiguous to any other real property that is located in such district.* For purposes of this section, properties separated only by a public right-of-way are considered contiguous; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The governing body may exclude land lying in planned development, industrial or commercial zoning districts from assessment under the provisions of this article. This provision applies only to zoning districts established prior to January 1, 1981.
2. The governing body may provide that when the zoning of the property taxed under the provisions of this article is changed to allow a more intensive nonagricultural use at the request of the owner or his agent, such property shall not be eligible for assessment and taxation under this article. This shall not apply, however, to property which is zoned agricultural and is subsequently rezoned to a more intensive use which is complementary to agricultural use, provided such property continues to be owned by the same owner who owned the property prior to rezoning and continues to operate the agricultural activity on the property. Notwithstanding any other provision of law, such property shall be subject to and liable for roll-back taxes at the time the zoning is changed to allow any use more intensive than the use for which it qualifies for special assessment. The roll-back tax, plus interest, shall be calculated, levied and collected from the owner of the real estate in accordance with § 58.1-3237 at the time the property is rezoned.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Separation or split-off of lots, pieces or parcels of land from the real estate which is being valued, assessed and taxed under an ordinance adopted pursuant to this article, either by conveyance or other action of the owner of such real estate, shall subject the real estate so separated to liability for the roll-back taxes applicable thereto, but shall not impair the right of each subdivided parcel of such real estate to qualify for such valuation, assessment and taxation in any and all future years, provided it meets the minimum acreage requirements and such other conditions of this article as may be applicable. Such separation or split-off of lots shall not impair the right of the remaining real estate to continuance of such valuation,

assessment and taxation without liability for roll-back taxes, provided it meets the minimum acreage requirements and other applicable conditions of this article.

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

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

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

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

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

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

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

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

GLOSSARY

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

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

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

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

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

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

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

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

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

CLEARING - Any intentional or negligent act to cut down, remove all or a substantial part of or damage a tree or other vegetation which will cause the tree or other vegetation to decline and/or die.

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

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

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

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

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

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

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

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

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

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

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

Code of Virginia, Sections 10.1-1700.

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

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

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