



APPLICATION ACCEPTED: February 13, 2013  
PLANNING COMMISSION: June 27, 2013  
BOARD OF SUPERVISORS: July 9, 2013 @3:30 p.m.

## County of Fairfax, Virginia

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June 13, 2013

**WS**

### STAFF REPORT

#### KINCHELOE STATEWIDE AGRICULTURAL AND FORESTAL DISTRICT

#### APPLICATION AF 2013-SP-001

#### SPRINGFIELD DISTRICT

**APPLICANTS:** John T. Kincheloe; Mary T. Kincheloe, Trustee;  
John T. Kincheloe, Trustee; Jean Nelson  
Kincheloe Swim; 13219 Yates Ford Road, LLC

**ZONING:** R-C, WS

**PARCEL(S):** 85-1 ((6)) 1, 2Z, 4;  
85-3 ((1)) 5Z, 6Z, 7Z;  
85-3 ((2)) 18Z, 19Z, 20Z, 48Z, 49Z, 50Z, 51Z, 52Z, 53Z,  
85-4 ((1)) 1Z, 10Z, 20Z, 21Z, 22Z, 23Z;  
85-4 ((6)) 2Z, 3Z

**ACREAGE:** 374.29 acres

**PLAN MAP:** Residential, 0.1-0.2 du/ac and private  
open space

**PROPOSAL:** Establishment of a Statewide Agricultural and  
Forestal District

#### STAFF RECOMMENDATIONS:

Staff recommends that the request to amend Appendix E of the Fairfax County Code to establish the Kincheloe Statewide Agricultural and Forestal District be approved subject to the Ordinance Provisions listed in Appendix 1.

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Brent Krasner, AICP

Department of Planning and Zoning  
Zoning Evaluation Division  
12055 Government Center Parkway, Suite 801  
Fairfax, Virginia 22035-5509  
Phone 703-324-1290 FAX 703-324-3924  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)



It should be noted that 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.

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

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

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

O:\bkrasner\ZED\Ag & Forest\Districts\2013-1 Kincheloe\Final Materials\Kincheloe -Statewide - Cover.doc



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

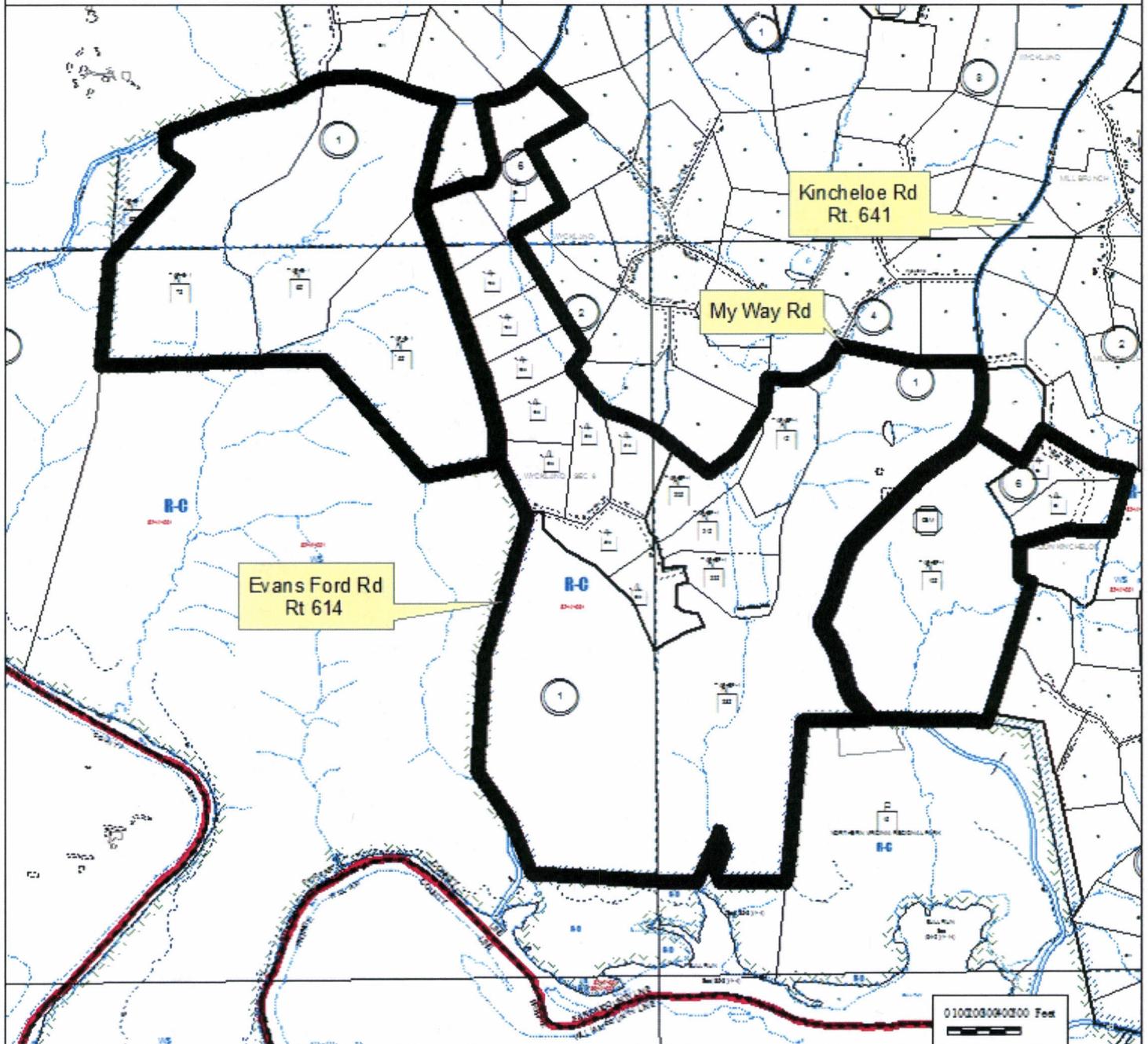
**A&F District**  
**AF 2013-SP-001**

**Applicant:** JOHN T. KINCHELOE; MARY T. KINCHELOE, TRUSTEE; JOHN T. KINCHELOE, TRUSTEE; 13219 YATES FORD ROAD  
**Accepted:** 02/13/2013  
**Proposed:** AGRICULTURAL AND FORESTAL DISTRICT  
**Area:** 374.29 AC OF LAND; DISTRICT - SPRINGFIELD



**Zoning Dist Sect:** 7821 KINCHELOE ROAD, 7900 MY WAY AND 12650 WHITE FOX LANE, CLIFTON, VA 20124  
**Located:**

**Zoning:** R- C  
**Overlay Dist:** WS  
**Map Ref Num:** 085-1-/06/ /0001 /06/ /0002Z /06/ /0004 085-3- /01/ /0005Z /01/ /0006Z /01/ /0007Z /02/ /0018Z /02/ /0019Z /02/ /0020Z /02/ /0048Z /02/ /0049Z /02/ /0050Z /02/ /0051Z /02/ /0052Z /02/ /0053Z 085-4- /01/ /0001Z /01/ /0010Z /01/ /0020Z /01/ /0021Z /01/ /0022Z /01/ /0023Z /06/ /0002Z /06/ /0003Z



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

**DESCRIPTION OF APPLICATION**

AF 2013-SP-001 is a request to merge and convert the existing Kincheloe and Podolnick Local Agricultural and Forestal Districts into the Kincheloe Statewide Agricultural and Forestal District under the provisions of Chapter 114 of the Fairfax County Code for a ten year term. In addition, the applicants wish to amend the District to reflect a recent subdivision that created several new parcels as well as changes in ownership. The subject property is a 374.29 acre assemblage located generally along Yates Ford Road, Kincheloe Road, and Evans Ford Road, in the Clifton area of the Springfield District. Copies of the applicant's Statement of Justification and related application materials are contained in Appendix 2. Staff's Proposed Ordinance Provisions are contained in Appendix 1.

**LOCATION AND CHARACTER**

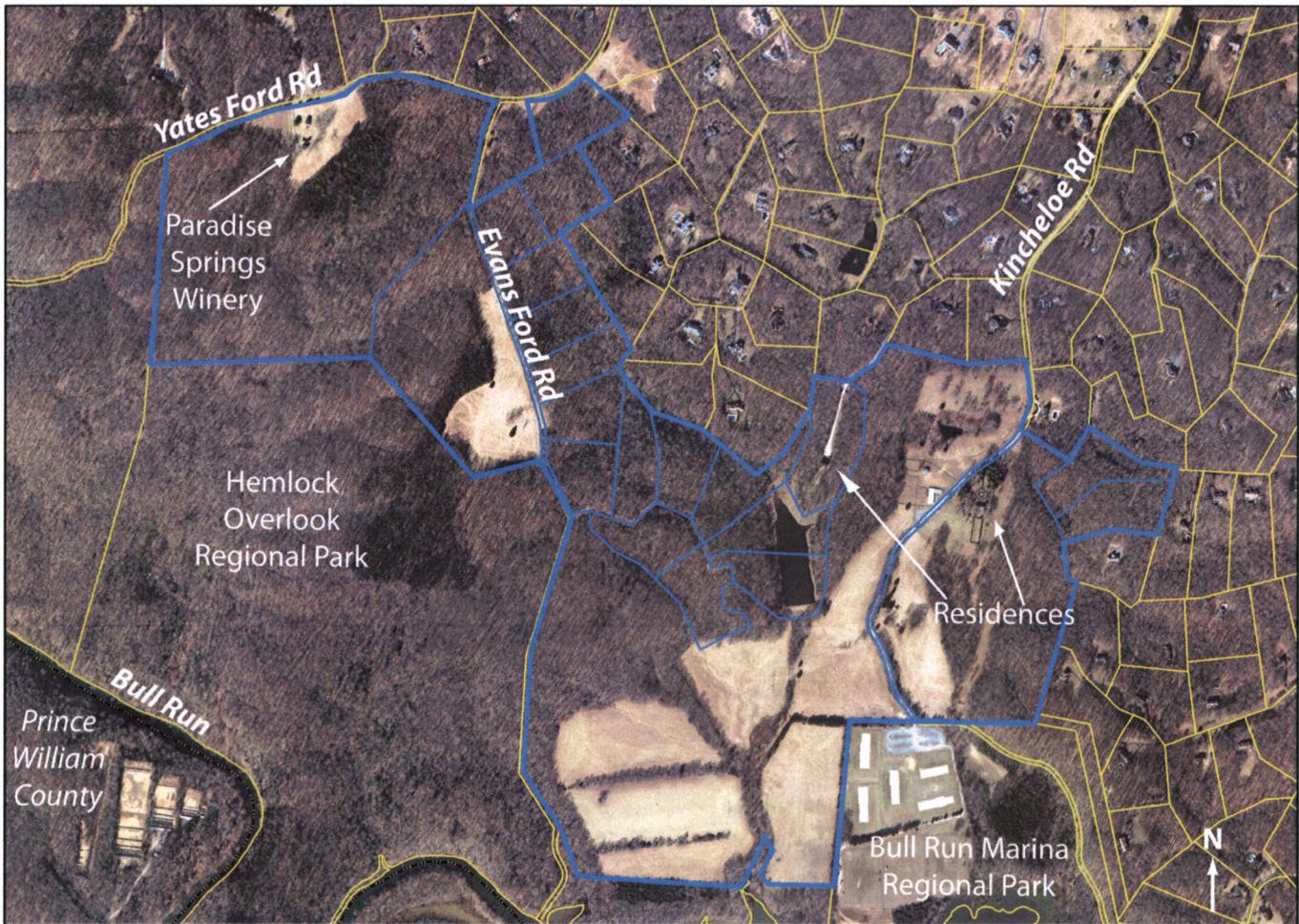
**Surrounding Area Description:**

The subject properties are located southwest of the Town of Clifton, in an area dominated by low intensity residential, park and public uses, near the Bull Run Reservoir. The subject property is surrounded by a large lot subdivision (5+ acres) to the north and northeast and the Bull Run Park (Northern Virginia Regional Park Authority land) to the south. The Hemlock Overlook Regional Park borders the subject property to the southwest; approximately 150 acres of this park was previously acquired from the applicants. George Mason University owns a large parcel of land to the north of this property, which is used for university functions. The remainder of the area is a mixture of large lot residential development and forested, undeveloped parcels.

**Location and Character of the District:**

The subject property and surrounding area are zoned R-C and WS, and are planned for low density residential uses at 0.1 to 0.2 dwelling units per acre and private open space. The property is located in the Johnny Moore Community Planning Sector (P3) of the Pohick Planning District. The land is characterized by rolling terrain with significant topographic relief that is traversed by extensive stream valleys associated with Old Mill Branch and other unnamed tributaries.

The property that makes up the existing Kincheloe A & F District (262 acres) lies along both sides of Kincheloe Road, with a family cemetery plot lying to the east and barns/pasture lying to the west. Approximately 35 acres of the site in this area are utilized for agricultural purposes (horse barns and pasture grazing), approximately 2 acres are in residential use, and the remainder are forested open space, including a large pond.



**Figure 1. – Aerial View of District**

The area that is presently within the Podolnick Agricultural and Forestal District (112.29 acres) is located at the southwest corner of intersection of Yates Ford Road and Evans Ford Road and contains a residence, barn, and tasting room associated with the Paradise Springs Winery, which is operated by members of the applicant's family. The majority of this area is forested; there is a smaller cleared area in the southeast corner of the subject site which is currently open meadow. Approximately 1 acre is planted with grape vines adjacent to Yates Ford Road.

There is also a log cabin currently on the site, the original portion of which dates to the early 1800s. An addition to the log cabin was constructed in the 1950s. The owner relocated the existing barn on the site from property owned elsewhere in the county; its age is uncertain and it is currently maintained in excellent condition. A carport constructed primarily of logs has been constructed over the existing parking spaces near the log cabin. The following table summarizes the structures currently existing on the land :

Structure	Year Built	Use
Dwelling	1955	Residential
Barns	1940, 1960	Storage/Farm Use
Dwelling	1985	Residential
Log Cabin	1825-1850	Farm
Barn	Moved to site 1956-57	Farm
Barn/Storage Shed	2010-2011	Farm
Open Shed	1956	Farm

## BACKGROUND:

The subject property is a part of an original land grant from 1716 and has been in the Kincheloe family for generations. Over the years, the applicants have raised cattle and horses, grown hay, and engaged in a variety of agricultural activities. Today, the agricultural activity is primarily devoted to horse care and pasture, while the majority of the property is maintained as forested open space, providing scenic vistas for the Clifton area. In 2010, the applicants established the Paradise Springs Winery and now produce limited quantities of wines and regularly host visitors for tastings.

The establishment of the new Kincheloe Statewide Agricultural and Forestal District represents a continuation of many years of participation in the A & F program by the Kincheloe family. The Podolnick A & F District (AF 88-S-001) was first established in February 1989 and was subsequently renewed in 1997 and 2005. Additional parcels were added to that district resulting in the present size of 107 acres. The existing Kincheloe A & F District was established 2009 from a merger of the prior Kincheloe and Kincheloe II Local Agricultural and Forestal Districts (AF 95-S-001 and AF 01-S-002, respectively). At the time of the merger in 2009, the district had grown to include an area of almost 262 acres.

Similar to what was done in 2009, the intent of the current application is to create one larger consolidated district with unified Ordinance Provisions. As the district easily exceeds the 200 acre minimum requirement for a Statewide District, the applicant has indicated they would like to convert to Statewide status to take advantage of the 10 year renewal cycle and more accommodating tax provisions.

The current application includes the same land as the most recent approval of the Kincheloe Local district in 2009 and the Podolnick Local District in 2005, with the exception of one property (Tax Map Parcel 85-3 ((1)) 8Z) that is being removed and three parcels that are being added (Tax Map Parcels 85-3 ((1)) 5Z, 6Z, and 7Z). These parcels now comprise the Podolnick District property and were created by deed in 2010 out of former parcel 85-3((1)) 10Z and 2Z following the death of Mrs. Podolnick (a relative of the applicants) . Parcel 8Z is

a wooded 5 acre parcel just to the west of the winery on Yates Ford Road. Parcels 5Z, 6Z, and 7Z contain the remainder of the Podolnick District property including the Paradise Springs Winery.

## **COMPREHENSIVE PLAN PROVISIONS**

<b>Plan Area:</b>	Area III
<b>Planning District:</b>	Pohick
<b>Planning Sector:</b>	Johnny Moore (P3)
<b>Plan Map:</b>	Residential use at a density of 0.1 to 0.2 dwelling units per acre/Private Open Space.

## **ANALYSIS**

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

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

The subject property is located in the Old Mill Branch Watershed and within the County's Water Supply Overlay Protection District as part of the Occoquan Watershed. A Resource Protection Area (RPA) and Environmental Quality Corridor (EQC) associated with Old Mill Branch stream valley and other unnamed tributaries traverse the proposed district in a predominantly north-south direction and, in total, cover between 40% and 50% of the land area. These tributaries have carry a total of 18,708 linear feet of Chesapeake Bay Resource Protection Area (RPA).

The RPA buffer restoration recommended on the NVSWCD report should be implemented. The applicants should augment the RPA/EQC buffers in areas where hay production is occurring by allowing some of those areas to revert to a natural state. Areas where maintained lawn encroach into the buffers should also be allowed to revert to a natural state. Such areas should be enhanced with appropriate native tree and shrub species.

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

The current application does not represent any conflict with the Countywide Plan or transportation recommendations, and would not have an adverse traffic impact.

**Park Authority Analysis (Appendix 5)**

The Park Authority generally supports the establishment of A & F Districts as they further FCPA objectives to protect and preserve the natural heritage of the County.

**Urban Forestry Analysis (Appendix 6)**

There are no urban forestry issues associated with the application. Management of the wooded areas of the district are evaluated and discussed in the Forest Management Plan prepared by the Virginia Department of Forestry, contained in Appendix 8.

**Soil and Water Conservation District Analysis/ (Appendix 7)**

An updated Soil and Water Quality Conservation Plan was prepared for the property in April 2013. The plan notes that maintenance work is needed to safely discharge out-flow from both the principle and emergency spillways of the larger pond located west of Kincheloe Road down into the stream bed. In the case of the emergency spillway the discharge point is disconnected from the creek bottom. Both situations may cause extensive damage to the existing stream channel under prolonged discharge. This problem can be resolved by building a 'transition' between the channel beds and the discharge points of both structures. In addition, the banks of the channel closest to the discharged areas should be reinforced using rip-rap.

In the hay fields located at the southern end of the property the delineated RPA extends over very steep slopes that are 25% or greater in many areas. This area is also classified as an Environmental Quality Corridor (EQC) by the Fairfax County's Planning and Zoning Division. The effective vegetated buffer in some areas of this field is only about 10 feet wide. With the very steep slopes and less than minimum buffer width, pollutants from horse waste are not adequately filtered out of the runoff. Enhanced mixed-vegetated buffers (including trees) are recommended that will encompass the full extent of the RPA as well as the EQC (steep slopes). In addition, the applicant should consider providing the full 100-foot wide mixed vegetated buffer for this segment of the RPA. It was evident that multiple pockets of standing water and seepages suggest the presence of hydric soil supporting colonies of rushes (wetland type vegetation). These features strongly suggest the possibility of wetlands within the RPA limits.

Lastly, the 12 acre former hay field on the west side of Evans Ford Road is intended to be left to grow into a naturally vegetated area. However, users of ATV's have ruined most of the protective vegetated groundcover, leaving a significant area prone to erosion. This parcel consists of mainly Glenelg soils of "C" slope category – Glenelg soil is classified as a highly erodible soil if left

unprotected. Immediate stabilization/conservation of this critical area is highly recommended. Additionally, protection of the area from ATV users should be implemented. Conservation measures can include growing native grasses, conservation groundcover seeds, deer resistant shrubs and trees. Protection measures should include: "NO TRESSPASSING" warning signs; Frequent patrols to catch perpetrators; Perimeter fencing, etc.

Ordinance provisions have been proposed requiring conformance with the recommendations in the NVSWCD report.

### **Virginia Department of Forestry Analysis (Appendix 8)**

Approximately 2/3 of the property is forested. A full Forest Management Plan was last prepared for the property in 2009; a recent review found that no updates are needed to the plan at this time. The forest is a typical acidic oak-hickory mix in two age classes, mature and mid-successional. The wooded area at the southern end of the district is approximately 155 acres, and the forest is about 90 years old; there is approximately 3.3 acres of wooded land closer to main residence and that is about 50-60 years in age. As of 2009, no evidence of epidemic disease was observed in the forest, and the trees seem generally healthy. There is ample evidence of deer browse in the forest, and there is little to no regeneration. Therefore, although the trees are healthy, the forest is unhealthy due to poor age distribution. The Virginia Department of Forestry recommends deer management techniques to help achieve more of the landowner's goals by allowing the establishment of the missing herbaceous plants and shrubs and allowing regeneration of the existing canopy tree species.

The field areas of the property contain approximately 88 acres, and there were no invasive species observed in fencerows or riparian areas. This area is potentially very beneficial to wildlife; allowing grass and wildflowers to grow in the field and mowing once a year in late winter will provide forage and cover for birds and other animals. One recommendation for water quality in this area is to increase the width of the forested riparian buffer to a minimum of 35 feet on either side of the stream, which can be achieved by not mowing this area (establishing a "no-mow zone") and allowing native trees to seed themselves.

### **Establishment of Agricultural and Forestal Districts of Statewide Significance**

Sect. 114-1-3 of the Fairfax County Code permits the Board to establish agricultural and forestal districts of statewide significance which shall be a minimum of two-hundred (200) acres in size. The proposed district contains a total of 374.29 contiguous acres, and thus satisfies the minimum area required to be eligible for a statewide district.

**Statewide Agricultural and Forestal District Criteria Analysis (Appendix 10)**

Article 1 of Chapter 114 of the Fairfax County Code contains a set of criteria which is designed to serve as a guide in the evaluation of proposed Statewide Agricultural and Forestal Districts. It is important to note that these criteria are a guide to be applied when determining whether to establish, renew, or amend a District; they are not prerequisites. The following is an evaluation of the proposed district's conformance with these criteria:

- A. *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 374.29 acres in size and is almost entirely in forest and agricultural uses. This criterion has been satisfied.

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

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

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

The property is planned for residential use at a density of 0.1 to 0.2 dwelling units per acre (du/ac) and private open space. Therefore, this criterion has been satisfied.

- D. *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 C above.*

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 parks. Therefore, this criterion has been satisfied.

- E. *A majority of the existing surrounding land uses within one-quarter mile of the district should be agricultural, forestal, outdoor recreational, conservation, or low density residential (0.5 du/ac or less).*

A majority of the land within one-quarter mile of the district is agricultural, low density residential, forested land, or public parkland. Therefore, this criterion has been satisfied.

- F. *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 as a majority of the site is in forestal use.

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

The applicants' family has owned this property for generations dating back to the eighteenth century and made various investments in the land over that time. In recent years the applicants have planted grape vines and developed a winery operation complete with a large tasting barn off Yates Ford Road. They have also built a new barn near Kincheloe Road. A total of 200 bales of hay were harvested in 2011 and 2012. The applicant is committed to maintaining the forestal and open space uses on this property for the life of the district, and to following the suggestions of the State Forester and the Soil and Water Conservation District. Staff believes that this criterion has been satisfied.

- H. *The district should not unreasonably hinder acquisition and construction of public roads, utilities, and facilities needed to serve other areas of planned growth.*

This application does not conflict with planned improvements to public roads, utilities, or facilities in the area.

- I. *The district's core acreage should be reasonably compact in shape and should not contain within its perimeter a large number of parcels not included in the district.*

There are no outlots in the proposed district; therefore, this criterion is satisfied.

- J. *All non-contiguous parcels in the district should contain at least five acres of agricultural use or 20 acres in forestal use.*

All parcels of land within the proposed Kincheloe District are considered contiguous, under the definition of that term in State Code; therefore, this criterion does not apply.

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. Based upon staff analysis, the application for the establishment of the Kincheloe Statewide Agricultural and Forestal District meets all of the applicable criteria established in Chapter 114 of the Fairfax County Code.

#### **AFDAC RECOMMENDATION (Appendix 11)**

On May 7, 2013 the Agricultural and Forestal Districts Advisory Committee unanimously recommended approval of the application subject to Ordinance Provisions consistent with those contained in Appendix 1.

#### **CONCLUSIONS AND RECOMMENDATIONS**

##### **Staff Conclusions**

Staff believes that the application for the establishment of the Kincheloe Statewide Agricultural and Forestal District satisfies the criteria contained in Sect. 114-1-4 of the County Code, and that commitments made by the applicant for continued agricultural and forestal activities on the property are consistent with the intent of the program. In addition, the property exceeds the minimum acreage requirement and is in conformance with the Comprehensive Plan.

##### **Staff Recommendations**

Staff recommends application AF 2013-SP-001, to amend Appendix E of the Fairfax County Code to establish the Kincheloe Statewide Agricultural and Forestal District be approved, subject to the proposed Ordinance Provisions contained in Appendix 1.

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

## **APPENDICES**

1. Proposed Ordinance Provisions
2. Statement of Justification and Application Material
3. Land Use and Environmental Analysis
4. Transportation Analysis
5. Park Authority Analysis
6. Urban Forestry Analysis
7. Soil and Water Conservation Plan
8. Forest Management Plan
9. Virginia State Tax Code Provisions
10. County Code Provisions
11. AFDAC Recommendation
12. Glossary

**PROPOSED ORDINANCE PROVISIONS****May 15, 2013****AF 2013-SP-001**

If it is the intent of the Board of Supervisors to establish the Kincheloe Statewide Agricultural and Forestal District as proposed in Application AF 2013-SP-001 pursuant to Chapter 43 of Title 15.2 of the Code of Virginia and Chapter 114 of the Fairfax County Code on Tax Map Parcels 85-1 ((6)) 1, 2Z, 4; 85-3 ((1)) 5Z, 6Z, 7Z; 85-3 ((2)) 18Z, 19Z, 20Z, 48Z, 49Z, 50Z, 51Z, 52Z, 53Z; 85-4 ((1)) 1Z, 10Z, 20Z, 21Z, 22Z, 23Z; and 85-4 ((6)) 2Z, 3Z, consisting of 374.29 acres, staff recommends that the approval be subject to the following Ordinance Provisions:

1. The Kincheloe Statewide Agricultural and Forestal District shall be reviewed after a period of ten (10) years from the date of establishment by the Board of Supervisors. The Board may by ordinance renew the district or a modification thereof for another ten-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.
2. No parcel included within the district shall be developed to a more intensive use than its existing use at the time of the adoption of the ordinance for ten years from the date of adoption of the district. This provision shall not be construed to restrict expansion of, or improvements to, the agricultural or forestal use of this land, or prevent the construction of additional houses within the district, where otherwise permitted by applicable law, for either land owner, a member of the owner's family or for a tenant who farms the land.
3. 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 ten (10) years from the date of adoption of the original ordinance.
4. Land used in agricultural and forestal production within the agricultural and forestal district of statewide 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.
5. The applicants shall implement and abide by the recommendations of the Soil and Water Conservation Plan dated April 8, 2013 for the life of the Kincheloe Statewide 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 Plans dated February 26, 2009 and August 5, 1988, for

the life of the Kincheloe Statewide 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 Kincheloe Statewide Agricultural and Forestal District.
8. The Cultural Resource Management Division of the Fairfax County Park Authority shall be permitted to survey the property and to recover artifacts from the property. Surveys and other similar activities of the Resource Management Division shall be conducted only with prior permission of the property owner and at terms mutually acceptable to both parties and establishment before each occurrence.
9. The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if warranted in the discretion of the Board of Supervisors upon determination by a court or any declaration or enactment by the General Assembly that renders any provisions illegal or unenforceable. The reconsideration shall be in accordance with procedures established by the Board of Supervisors and communicated to the property owner(s) to demonstrate that the determination by a court or the declaration or enactment by the General Assembly does not apply to the conditions of this district.



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

Name: John T. Kincheloe  
Address: 7900 My Way  
Clifton, Virginia  
20124  
Telephone: 703-830-0312

6. Signature of all property owners:

John T. Kincheloe  
John T. Kincheloe, Trustee  
Mary J. Kincheloe  
Mary J. Kincheloe, Trustee  
13219 Gatesford Rd LLC  
by Jane K. Wiles  
Jean Nelson Kincheloe Swinn

TO BE COMPLETED BY THE COUNTY

Date application accepted:

2/13/13 Virginia Ruffin

Date of action by Board of Supervisors:

\_\_\_\_\_

- Approved as submitted       Denied  
 Approved with modifications

**ALL APPLICANTS**

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

Structure	Year built	Use
House-dwelling	1955	residence
BARNs	1940, 1960	FARM
House-dwelling	1985	residence
Log CABIN	1825-1850	FARM
BARN	moved to site 1956-1957	FARM
BARN/storage	2010-2011	FARM
OPEN shed	1956	FARM

use additional page(s) if necessary

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

N/A

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

fencing replaced

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BARN built for agricultural use with new septic system

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VINEYARD planted AND agricultural fence built to enclose

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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: 2005 AND 2009

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
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<u>Hay production</u>		
<u>grape production</u>		

	<u>2012 - 200 plus round bales of hay</u>	
<u>TK</u>	<u>2012 - 4000 pounds of grapes</u>	

FARM PROPERTY

1. Please check the appropriate description of the farm:

- Owner-operated, full-time.
- Owner-operated, part-time.
- Farm manager operated.
- Rented to another farmer
- Portion of farm rented:      all      acres.
- Other. Please describe:

2. List the acreage of the property which is in the following uses:

Active agricultural uses	<u>  35  </u>	acres.
Forested or undeveloped	<u>    </u>	acres.
Residential uses	<u>    </u>	acres.
Total acreage	<u>  35  </u>	acres.

3. Does the farm operation require that tractors or other slow moving vehicles use public roads:  yes  no

If yes, which roads will be used:

Kincheloe Road, Yates Ford Road  
EVANS Ford Road

4. Please estimate the number of vehicles entering or leaving your farm each day:  
     cars, vans and pickup trucks      heavy trucks.

FOREST PROPERTY

1. List the acreage of the property which is in the following uses:

Future timber or pulpwood harvesting <input checked="" type="checkbox"/>	<u>  237  </u>	acres
Christmas tree production and harvesting	<u>    </u>	acres
Firewood production and harvesting	<u>    </u>	acres
Conservation	<u>    </u>	acres
Residential uses	<u>    </u>	acres
Other: <u>includes some open</u>	<u>  2  </u>	acres
<u>land and pasture</u>	<u>    </u>	acres
Total acreage	<u>  239  </u>	acres

2. If tree harvesting is planned, what roads or rights-of-way will be used for access:

No tree harvest is currently planned

ATTACHED SCHEDULE OF PARCELS –APPLICATION FOR THE  
ESTABLISHMENT OF AN AGRICULTURAL AND FORESTAL DISTRICT

Owner's Names & Addresses	Tax Map Number	Year Aquired	Zoning District	Acres
Mary T. Kincheloe, Trustee & John T. Kincheloe, Trustee 7821 Kincheloe Road Clifton, Va. 20124	0854-01-0010Z	2012	RC/WS	43.8584
Mary T. Kincheloe, Trustee & John T. Kincheloe, Trustee	0854-01-0023Z	2012	RC/WS	132.6126
Mary T. Kincheloe, Trustee 7821 Kincheloe Road Clifton, Va. 20124	0854-06-0002Z	2012	RC/WS	5.0002
Mary T. Kincheloe, Trustee	0854-06-0003Z	2012	RC/WS	5.4914
Mary T. Kincheloe, Trustee	0853-02-0018Z	2012	RC/WS	5.0002
Mary T. Kincheloe, Trustee	0853-02-0019Z	2012	RC/WS	5.0002
Mary T. Kincheloe, Trustee	0853-02-0020Z	2012	RC/WS	5.0002
Mary T. Kincheloe, Trustee	0853-02-0048Z	2012	RC/WS	5.0002
Mary T. Kincheloe, Trustee	0853-02-0049Z	2012	RC/WS	5.0002
Mary T. Kincheloe, Trustee	0853-02-0050Z	2012	RC/WS	5.0003
Mary T. Kincheloe, Trustee	0853-02-0051Z	2012	RC/WS	5.0003
Mary T. Kincheloe, Trustee	0853-02-0052Z	2012	RC/WS	5.0002
Mary T. Kincheloe, Trustee	0853-02-0053Z	2012	RC/WS	5.0003
Mary T. Kincheloe, Trustee	0851-06-0001	2012	RC/WS	5.0001
Mary T. Kincheloe, Trustee	0851-06-0004	2012	RC/WS	5.0002
John T. Kincheloe 7900 My Way Clifton, Virginia 20124	0854-01-0001Z	1985	RC/WS	7.7174

## Attached schedule of parcels- Application for the establishment of an Agricultural and Forestal District

John T. Kincheloe	0854-01-0020Z	1990	RC/WS	5.547
John T. Kincheloe	0854-01-0021Z	1990	RC/WS	5.806
John T. Kincheloe	0854-01-0022Z	1990	RC/WS	5.806
John T. Kincheloe, Trustee 7900 My Way Clifton, Virginia 20124	0851-06-0002Z	2000	RC/WS	5.0003
John T. Kincheloe	0853-01-0006Z	2008	RC/WS	36.0117
13219 Yates Ford Road, LLC 7801 Kincheloe Road Clifton, Va. 20124	0853-01-0007Z	2010	RC/WS	35.5969
Jean Nelson Kincheloe Swim 12650 White Fox Lane Clifton, Va. 20124	0853-01-0005Z	2008	RC/WS	30.8375
TOTAL ACREAGE				374.2878

RECEIVED  
Department of Planning & Zoning  
DEC 20 2012  
Zoning Evaluation Division

December 20, 2012

Letter of Justification for Establishment of an  
Agricultural and Forestal District

The establishment of this Agricultural and Forestal District will represent a combination of Podolnick Local Agricultural and Forestal District (AR 88-S-001-02-previously approved) and the Kincheloe Local Agricultural and Forestal District (AF 2009-SP-001-previously approved), together with two additional, adjacent, adjoining, contiguous parcels owned by the undersigned. This is a combination of two existing districts with the addition of two other properties and the deletion of one property. The intention hereby is to create one consolidated district.

CRITERIA GROUP A

1. All acreage, except a reasonable amount for residential use, is currently devoted primarily to agricultural and forestal use. There is some open space, some pasture use and some livestock use.
2. All acreage in the proposed district is now zoned R-C. The district lies within the Old Mill Branch Watershed and is, we believe, entirely within the Water Supply Protection Overlay District.
3. The land use is consistent with the Comprehensive Plan.
4. A majority of the surrounding land within ¼ mile of the proposed district is planned according to the Comprehensive Plan for uses identified in Fairfax County Code Article 5, Section 115-5.1(A)(3).
5. and 6. The land included is well in excess of 20 acres and all parcels are owned within the same family.
7. and 8. Some of the land is currently in agricultural use in the proposed District. There is “agriculturally significant land” in that some parts have historically produced agricultural products and some of it is good agricultural land. This is based on factors such as soil quality, topography, climate, prior agricultural production, farm improvements made and farm improvements maintained. Much of the land is kept mowed in order to preserve, maintain and improve the soil, the watershed and the natural beauty. Two saddle horses are currently kept on the property. A vineyard has been planted.

(7. and 8. continued) A significant area has been harvested in hay. In excess of 200 round bales of hay were produced each year in 2011 and 2012. A full effort has been made over a long period of time to keep the properties in the district maintained and attractive, both internally and externally.

9. The forest land and undeveloped land will 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 will be intended to reduce or prevent soil erosion, maintain soil nutrients and reduce nonpoint source pollution.

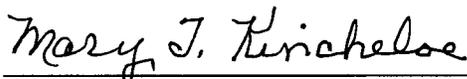
10. The land has for many years contained a forest. This shows a history of investment in and commitment to forest use.

CRITERIA GROUP B

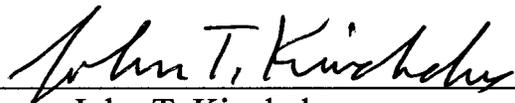
2. The land provides scenic vistas, improves the aesthetic quality of views from County roads and contributes to maintaining the existing rural character of the area.

5. The land is zoned R-C.

The Kincheloe Family Cemetery is located on the property, as are the remains of a couple of old houses. Also on the property, on Mill Branch, are the remains of a mill dam used to back water up for an early, now non-existent grist mill.



Mary T. Kincheloe



John T. Kincheloe

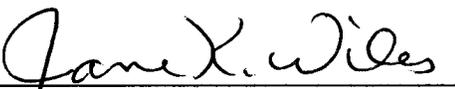


Mary T. Kincheloe, Trustee



John T. Kincheloe, Trustee

13219 Yates Ford Road, LLC

BY:   
Jane K. Wiles, Owner

  
Jean Nelson Kincheloe Swim



# County of Fairfax, Virginia

## MEMORANDUM

May 2, 2013

**TO:** Barbara Berlin, Director  
Zoning Evaluation Division, DPZ

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

**SUBJECT:** LAND USE ANALYSIS & ENVIRONMENTAL ASSESSMENT for:  
AF 2013-SP-001 Kincheloe

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

### DESCRIPTION OF THE APPLICATION

The applicant seeks approval to establish a 374.29-acre Agricultural and Forestal (A & F) District which is comprised of two former districts as well as other parcel additions and deletions to create this current district owned by the Kincheloe family located in the Springfield Magisterial District. The proposed A & F District is located in the Johnny Moore Community Planning Sector (P3) of the Pohick Planning District. The proposed district is characterized by terrain with significant topographic relief which is traversed by extensive stream valleys associated with Old Mill Branch and other unnamed tributaries.

### LOCATION AND CHARACTER

The subject property is located in southwestern Fairfax County within the Old Mill Branch Watershed as well as within the Occoquan Reservoir Watershed. The proposed district is bounded to the south and to the west by land which is planned for public park and owned by the Northern Virginia Regional Park Authority. To the east of the proposed district is land planned for private open space and residential use at .1-.2 dwelling unit per acre (du/ac) or 5-10 acre lots.

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

Department of Planning and Zoning  
Planning Division  
12055 Government Center Parkway, Suite 730  
Fairfax, Virginia 22035-5509  
Phone 703-324-1380  
Fax 703-324-3056  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)



## COMPREHENSIVE PLAN CITATIONS

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

### Land Use

In the Fairfax County Comprehensive Plan, 2011 Edition, Area III, Pohick Planning District, as amended through June 19, 2012, P3-Johnny Moore Community Planning Sector on page 48, the Plan states:

- “1. The entire P3 Planning Sector is located within the watershed of the Occoquan Reservoir. Protection of the Occoquan Reservoir water quality is the primary objective for this area. Land in this sector 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.”

### Environment

In the Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan, Environment, as amended through July 27, 2010, on pages 7-9, the Plan states:

- “Objective 2:            Prevent and reduce pollution of surface and groundwater resources. Protect and restore the ecological integrity of streams in Fairfax County.**
- Policy a.            Maintain a best management practices (BMP) program for Fairfax County and ensure that new development and redevelopment complies with the County’s best management practice (BMP) requirements. . . .
- Policy d.            Preserve the integrity and the scenic and recreational value of stream valley EQCs. . . .

- 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. . . .

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

In the Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan, Environment, as amended through July 27, 2010, on page 10, the Plan states:

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

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

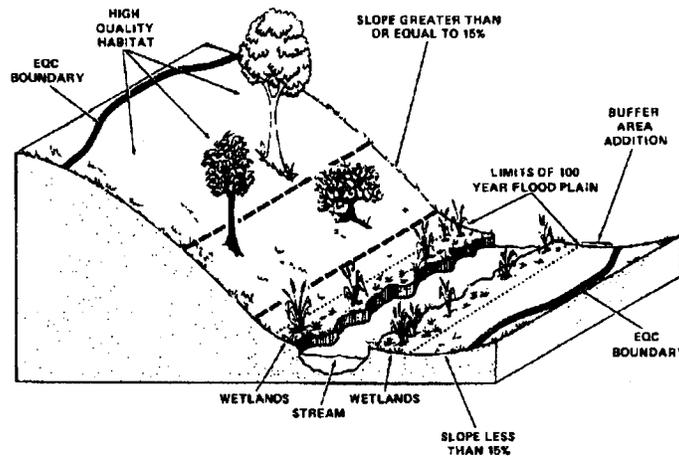
In the Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan, Environment, as amended through July 27, 2010, on pages 14-16, the Plan states:

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

- Policy a: Identify, protect and restore an Environmental Quality Corridor system (EQC). (See Figure 4.) 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 (See Figure 4):



A TYPICAL  
ENVIRONMENTAL QUALITY CORRIDOR

Source: Fairfax County Office of Comprehensive Planning

FIGURE 4

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

Modifications to the boundaries so delineated may be appropriate if the area designated does not benefit any of the EQC purposes as described above. In addition, some disturbances that serve a public purpose such as unavoidable public infrastructure easements and rights of way may be appropriate. Disturbances for access roads should not be supported unless there are no viable alternatives to providing access to a buildable portion of a site or adjacent parcel. The above disturbances should be minimized and occur perpendicular to the corridor's alignment, if practical, and disturbed areas should be restored to the greatest extent possible. . . .”

Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan, Environment, as amended through July 27, 2010, on page 18, the Plan states:

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

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

Policy b: Require new tree plantings on developing sites which were not forested prior to development and on public rights of way.”

## **LAND USE ANALYSIS**

Approval of this Agricultural and Forestal District would be compatible with the existing and planned very low density residential character for the site and the surrounding area.

## **ENVIRONMENTAL ANALYSIS**

### **Water Quality Protection**

This request seeks approval for a reconfigured Agricultural and Forestal District which encompasses approximately 374.3 acres of land located in southwestern Fairfax County immediately adjacent to Northern Virginia Regional Park Authority property and the Occoquan River. The subject site is located in the Old Mill Branch watershed. Stream valleys and very steeply sloping terrain along the stream valleys traverse the property in a predominately north south direction. Resource Protection Area (RPA) as defined by the Chesapeake Bay Preservation Ordinance (CBPO) and Environmental Quality Corridor (EQC) per Policy Plan guidance characterizes much of this proposed district. Approximately 40% to 50% of the subject property is characterized by RPA and EQC. The extent of the EQC and RPA are identified on the attached map.

The Northern Virginia Soil and Water Conservation District (NVSWCD) has prepared a current Water Quality Management (WQM) Plan for this expanded district. The WQM Plan estimates that the proposed district encompasses 18,708 linear feet of RPA/EQC stream valley corridor within the proposed district. The WQM Plan has identified some very important areas of the property which require attention and reconstruction to maintain good water quality. Some of issues which require attention include the following:

- RPA/EQC buffers are deficient;
- A severely eroded twelve acre area which has been damaged by all-terrain vehicle (ATV) use;

- Outfall improvements on the largest of the two farm ponds which, if implemented, would prevent significant damage during sustained extreme weather;
- The headwater area of smaller pond #2 is eroding significantly.

The WQM Plan proposes very detailed recommendations for restoration for each of the problem areas which have been identified above. Those recommendations include buffer re-vegetation and restoration with native species; outfall, stream and stream bank restoration; measures to enhance jurisdictional wetlands; and creation of a wildlife habitat where the 12 acre ATV area currently exists. The WQM Plan also includes recommendations for appropriate application of nutrients and pesticides. To be consistent with the Comprehensive Plan guidance which recommends the use of “agricultural and forestal techniques . . . supportive of water quality goals for the Occoquan Reservoir watershed,” the property owners should augment RPA/EQC buffers in areas where hay production is occurring and allow some amount of those areas to revert to a natural state. Areas where manicured lawn encroaches into the RPA/EQC buffer should also be allowed to revert to a natural state. Such areas should be enhanced with appropriate native tree and shrub species, as recommended by NVSWCD.

Approximately 144 acres of the district are wooded. The applicant has not indicated an interest in timber harvesting at this time. However, because much of the district is forestland, the applicant is encouraged to work with the Virginia Department of Forestry (VDOP) to complete a Forestry Management Plan as prescribed by the VDOP’s Best Management Practices Handbook for Forestry Operations. In an effort to enhance water quality, as noted above, the applicant is encouraged to selectively reforest the tributary RPA/EQC stream valley buffers where hay or grass currently exist in conjunction with a Forestry Management Plan.

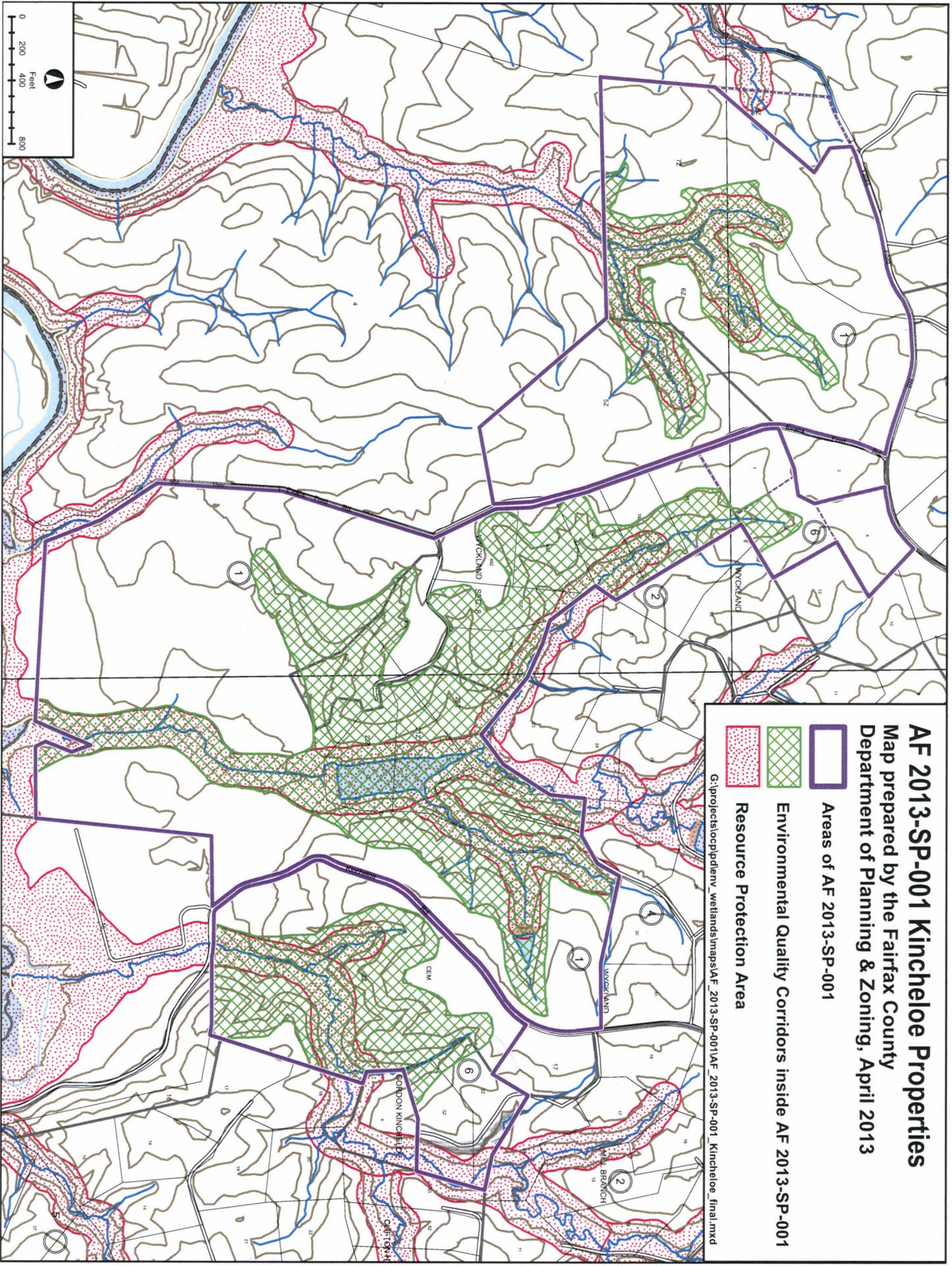
Approval of this Agricultural Forestal District would be compatible with the goals of the Comprehensive Plan to preserve this environmentally sensitive area of Fairfax County, if the applicant implements the recommendations made by NVSWCD to enhance water quality of the district.

#### **COUNTYWIDE TRAILS MAP:**

The Countywide Trails Plan depicts a major regional trail on the north side of the Occoquan River along a very small portion of the southern boundary of the proposed district.

PGN: MAW

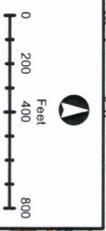
Attachment



# AF 2013-SP-001 Kincheloe Properties

Map prepared by the Fairfax County  
Department of Planning & Zoning, April 2013

-  Areas of AF 2013-SP-001
  -  Environmental Quality Corridors inside AF 2013-SP-001
  -  Resource Protection Area
- G:\projects\locpldenrv\_wetlands\maps\AF\_2013-SP-001\AF\_2013-SP-001\_Kincheloe\_final.mxd



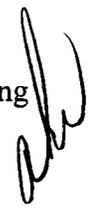


## County of Fairfax, Virginia

**MEMORANDUM**

DATE: March 13, 2013

**TO:** Barbara Berlin, Director  
Zoning Evaluation Division  
Department of Planning and Zoning

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

**FILE:** 3-4 (AF 2013-SP-001)

**SUBJECT:** Transportation Impact

**REFERENCE:** AF 2013-SP-001; John T. and Mary T. Kincheloe, Trustee  
Land Identification Map: 85-1(96)) 1 & 4, 85-3((2))18Z – 20Z & 48Z –  
53Z, 85-4((1))1Z & 10Z

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

AKR/mdg



## FAIRFAX COUNTY PARK AUTHORITY



## M E M O R A N D U M

**TO:** Barbara Berlin, AICP, Director  
Zoning Evaluation Division  
Department of Planning and Zoning

**FROM:** Sandy Stallman, AICP, Manager  
Park Planning Branch, PDD

**DATE:** April 1, 2013

**SUBJECT:** AF 2013-SP-001, John T. & Mary T. Kincheloe  
Tax Map Number(s): 85-1((6))2Z; 85-3((2))18Z-20Z, 48Z-53Z; 85-4((1))1Z, 10Z,  
20Z-23Z; 85-4((6))2Z-3Z

The Fairfax County Park Authority generally supports Agricultural and Forestal Districts as they further objective 100 of the Park Authority's Policy Manual:

“To protect and preserve the physical, cultural and natural heritage of Fairfax County for the enjoyment and education of the citizenry.”

The Park Authority staff has reviewed the above referenced plan. Based on that review, staff has determined that this application bears no adverse impact on the land, resources or service levels of the Park Authority.

FCPA Reviewer: Andy Galusha  
DPZ Coordinator: Brent Krasner

Copy: Cindy Walsh, Director, Resource Management Division  
Chron Binder  
File Copy

\\s1b204\planning\Park Planning\Development Plan Review\DPZ Applications\AR-AF\AF 2013-SP-001\AF 2013-SP-001-FCPA.doc



## County of Fairfax, Virginia

## MEMORANDUM

**DATE:** March 19, 2013

**TO:** Brent Krasner, Staff Coordinator  
Zoning Evaluation Division, DPZ

**FROM:** Hugh Whitehead, Urban Forester II  
Forest Conservation Branch, DPWES *HUN*

**SUBJECT:** John T. Kincheloe Trustee & Mary T. Kincheloe, Trustee  
SR 2013-SP-001

I have reviewed the above referenced amended Agricultural and Forestal District renewal application. Forest Conservation Branch staff has no comments regarding this application.

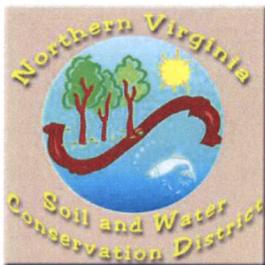
Forest Conservation Branch staff will defer to VA Department of Forestry staff regarding comments on this application.

If further assistance is desired, please contact me at (703)324-1770.

HCW/  
UFMDID #: 179081

cc: DPZ File





**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: 703-324-1421

## **Soil and Water Quality Conservation Plan- PART I**

**Property Owner/Operator:**

<p>Kincheloe Trust A&amp;F District C/o 7900 My Way Clifton, VA 20124 Tel: 703-830-0312 John T. Kincheloe - Trustee</p>
---

**Plan Prepared by:**

Willie Woode, Senior Conservation Specialist, NVSWCD

**Date:**

April 8, 2013

**Summary of operation:**

This plan addresses a total of 374-acre property, portions of which are already in Fairfax County's Agricultural and Forestal (A&F) District status. The intent is to establish a unit of A&F District that constitutes a combination of the Podolnick A&F District (AR 88-S-001-02 - previously approved), the Kincheloe A&F District (AF 2009-SP-001 - previously approved), and two additional contiguous parcels owned by the Kincheloes. Basically, this is a combination of two existing A&F Districts with the addition of two other properties to form a consolidated district.

Due to contrasting land use practice, this plan will be divided into two parts:

Part I – Pasture and Hay production and woodland management

Part II – Vineyard and Wine Production Operation and an “Open Field” to be converted from Hayland into natural wildlife habitat and wood land management.

This property consists of multiple parcels on My Way, Yates Ford, Evans Ford and Kincheloe Roads in Clifton. It is located in the Old Mill Branch Watershed (PL46). The total acreage in agricultural use consists of approximately 86 acres in hay production, and 18 acres of pasture dedicated to a two-horse operation, and one acre kept as a Vineyard. Two in-line ponds (P1 & P2, 3.5 ac. and 0.5 ac. respectively) and two residential areas (R1 & R2, 8 acs. and 7 acs. respectively) exist onsite. There is a twelve-acre parcel left with hope that through natural succession it will revert to a wild life habitat. This parcel

is in poor condition and needs immediate attention to arrest severe erosion taking place due to misuse by All Terrain Vehicle (ATV) users. The remaining 228 acres are mostly wooded. Old Mill Branch and another unnamed tributary flow through the property in a general north-south direction. These tributaries have with them, a total of 18,708 linear feet of Chesapeake Bay Resource Protection Area (RPA).

**Observations and Recommendations:**

- 1) Maintenance work is needed to safely discharge out-flow from both the principle and emergency spillways of the larger pond (P2) down into the stream bed. In the case of the emergency spillway the discharge point is disconnected from the creek bottom. Both situations may cause extensive damage to the existing stream channel under prolonged discharge, should we have a prolonged storm-event of significant magnitude. Resulting erosion may even cause tree loss, and even the integrity of the extensive work already done may be ruined. This problem can be resolved by building a 'transition' between the channel beds and the discharge points of both structures. This transition can be achieved by using appropriately sized rip-rap at the channel bed elevation, and building it up to the elevation of the outfalls. Also, appropriately sized rock should be used to fill cavities under trees at the emergency spillway area to keep trees from toppling over. Like wise, the banks of the channel closest to the discharged areas should be reinforced using similar sized rock.
- 2) During my site visit, the natural channel in field 6, draining into Pond (P1) was observed to be undergoing two stages of "head-cutting." Head-cutting is an erosive trend that migrates in an upstream direction. Sudden significant change in Channel-bed elevations initiate this erosive trend, because of channel flows under-going sudden 'drop' from the higher to the lower elevations within the channel. In this case the sudden change in elevation of the channel bottom was estimated to be about 2 -3 feet deep at the lower eroding site, and about a foot deep in the upper eroding site. This problem can be fixed by re-shaping the banks and channel into more gradual slopes, and then using adequately sized rock create a 'step-down' flow-path within the channel. This will eliminate the sudden drop. The use of a geotextile fabric between the graded soil and the rock material is highly recommended.
- 3) It was observed in field #6 that the delineated RPA extends over very steep slopes that are 25% or greater in many areas. This area is also classified as an Environmental Quality Corridor (EQC) by the Fairfax County's Planning and Zoning Division. The effective vegetated buffer in some areas of this field is only about 10 feet wide. With the very steep slopes and less than minimum buffer width, pollutants from horse waste are not adequately filtered out of the runoff. Enhanced mixed-vegetated buffers (including trees) that will encompass the full extent of the RPA as well as the EQC (steep slopes) will provide significant water quality and wildlife benefits. In the area between fields 3 & 4, new vegetative buffer is being established. Consider providing the full 100-foot wide mixed vegetated buffer for this segment of the RPA. It was evident that multiple pockets

of standing water and seepages suggest the presence of hydric soil supporting colonies of rushes (wetland type vegetation). These features strongly suggest the possibility of wetland within the RPA limits. These areas may qualify as jurisdictional wetland, in which case they should be preserved. Ideal native plants that can be considered in converting this area into an improved established buffer are provided in your package.

- 4) To reduce management cost and increase conservation of natural resources, you may wish to consider enrolling in some of the Farm Bill 2002 land conservation programs available through USDA-NRCS. One such program is the Wildlife Habitat Incentive Program (WHIP). Through the technical advice of available staff, you can grow the appropriate type of vegetation along these stream buffers and within some of your fields that can provide habitats for wildlife, such as, bobwhite quail, swift fox and greater sage grouse.

**Practices:**

**1) Nutrient Management (590):**

If commercial fertilizer is to be applied, such application must be based on soil test results for expected yield goals. All sources of available nutrients will be credited. 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			Applied	
	Amount	Month	Year	Amount	Date
Hay Field #1 & 1A	11.0 ac.	4	2013		
Hay Field #2	13.5 ac.	4	2013		
Hay Field #3	14.5 ac.	4	2013		
Hay Field #4	8.5 ac.	4	2013		
Hay Field #5	15.5 ac.	4	2013		
Pasture Field #6	15.0 ac.	4	2013		
Pasture Field #6A	2.5 ac.	4	2013		
Hay Field #7	15.5 ac.	4	2013		
Hay Field #8	8.0 ac.	4	2013		
Total	104.0ac.				

**2) 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.

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Hay Field #1 & 1A	11.0 ac.	4	2013		
Hay Field #2	13.5 ac.	4	2013		
Hay Field #3	14.5 ac.	4	2013		
Hay Field #4	8.5 ac.	4	2013		
Hay Field #5	15.5 ac.	4	2013		
Hay Field #6	15.0 ac.	4	2031		
Hay Field #6A	2.5 ac.	4	2013		
Hay Field #7	15.5 ac.	4	2013		
Hay Field #8	8.0 ac.	4	2013		
Pond (P1)	0.5ac.	4	2013		
Pond (P2)	3.5 ac.	4	2013		
Residential Area (R1)	8.0 ac.	4	2013		
Residential Area (R2)	7.0 ac.	4	2013		
Wooded Areas (W)	144.0 ac.	4	2013		
Total	267.0ac.				

**3) Buffer Management - Chesapeake Bay Resource Protection Area (RPA)**

The shaded area on your site map is the County delineated Chesapeake Bay Resource Protection Area (RPA) - it is a 100-ft. wide buffer (wider in some areas where it encounters other environmentally sensitive features such as wetland or major flood plains). This is the last area that provides opportunity for filtration/infiltration of pollutants in runoff from adjacent land before such polluted runoff enters state waters. This area is required to be kept vegetated. The best vegetated buffer has proved to be a forested buffer.

These areas need special attention. Pesticide and fertilizer use within these areas should be used discretionally. The NVSWCD Technical Advisory Committee recommends that those areas that are RPA and within your hay fields be taken out of hay production, and allowed to grown into naturally vegetated areas. Trees and shrubs can be planted in this zone to enhance its buffer filtration/infiltration potential.

Permitted modifications to the vegetated buffer areas include those that will aid in maintaining the core functional values of the buffer area, such as, i) creating

access paths to provide general woodlot management as provided by the VA Department of Forestry, ii) pruning or removal of **approved** potentially destructive or deceased trees to provide sight line and vistas, on condition that where tree are removed, they will be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Hay Field #1 & 1A	360 ft.	4	2013		
Hay Field #2	1,195 ft.	4	2013	1,195 ft.	Feb 2009
Hay Field #3	940 ft.	4	2013	<b>940 ft.</b>	Apr 2013
Hay Field #4	1,050 ft.	4	2013	<b>1,050 ft.</b>	Apr 2013
Pasture Field #6	1,300 ft.	4	2013		
Hay Field #7	491 ft.	4	2013		
Hay Field #8	360 ft.	4	2013		
Wooded Areas (W)	12,458 ft.	4	2013	12,458 ft.	Feb 2009
Total	18,154 ft.			13,653 ft.	
<b>New 2013 Buffer Total</b>				<b>1,990 ft.</b>	

#### 4) 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			Applied	
	Amount	Month	Year	Amount	Date
Hay Field #1	11.0 ac.	3	2009		
Hay Field #2	13.5 ac.	3	2009		
Hay Field #3	14.5 ac.	3	2009		
Hay Field #4	8.5 ac.	3	2009		
Hay Field #5	15.5 ac.	3	2009		
Pasture Field #6	15.5 ac.	3	2009		
Pasture Field #6A	2.5 ac.	3	2009		
Hay Field #7	15.5 ac.	3	2009		
Hay Field #8	8.0 ac.	3	2009		
Pond (P1)	3.5ac.	3	2009		
Pond (P2)	0.5 ac.	3	2009		
Residential Area (R1)	8.0 ac.	3	2009		
Residential Area (R2)	7.0 ac.	3	2009		
Wooded Areas (W)	144.0 ac.	3	2009		
Total	267.0ac.				

# **Soil and Water Quality Conservation PART II**

Property Owner: Jane K. Wiles  
Vineyard and Winery Operation and Wildlife Enhancement  
Operator: Kirk Wiles  
13129 Yates Ford Road  
Clifton, VA 20124  
Tel: 305-725-5390

**Plan Prepared by:**

Willie Woode, Senior Conservation Specialist, NVSWCD

**Date:**

April 8, 2013

**Summary of operation:**

Part II of this Soil and Water Conservation Plan consists of approximately 107 acres. It is located in Old Mill Branch Watershed, at 13129 Yates Ford Road in Clifton. About six acres is in mix use -Vineyard (one acre), winery and residential use. Eighty-nine acres are kept wooded and as wild-life preserve with plans for periodic timber harvesting according to best management practices provided. The remaining 12 acres was in hay product, but the current plan is for the parcel to transition through natural successions into forest land. This is the area mentioned earlier in this plan that is undergoing significant damage due to misuse by ATVs. Significant portion of the parcel has exposed soil that will undergo significant erosion each time there is a storm event.

Approximately, 6,250 linear feet of Chesapeake Bay Resource Protection Area (RPA) exist within this section of the property. Vegetated buffers are mature and well established. Certain areas with critical slopes have also been delineated as Environmental Quality Corridor (EQC).

**Practices:**

**1)Nutrient Management (590) :**

Nutrients will be applied based on soil test results for expected yield goals. All sources of available nutrients will be credited. 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
Vineyard	1 ac.	4	2013		
Total	1ac.				

**2) 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.

Fields	Planned Amount	Month	Year	Applied Amount	Date
Vineyard	1 ac.	4	2013		
Winery	1 ac.	4	2013		
Outdoor seating areas	2 ac.	4	2013		
Residential Area	1 ac.	4	2013		
Open Field	12 ac.	4	2013		
Wooded Area	90 ac.	4	2013		
Total	107 ac.				

**3) Critical Area Protection and planting:**

The “Open Field is a 12 ac. parcel that was once in hay production. The current plan is to allow the entire parcel to grow into a naturally vegetated area. However, users of ATV’s have ruined most of the protective vegetated groundcover, leaving a significant area prone to erosion. This parcel consists of mainly Glenelg soils of “C” slope category – Glenelg soil is classified as a highly erodible soil if left unprotected.

Immediate stabilization/conservation of this critical area is highly recommended.

Additionally, protection of the area from AVT users should be implemented.

Conservation measures include growing native grasses, conservation groundcover seeds, deer resistant shrubs and trees.

Protection measures should include: “NO TRESSPASSING” warning signs; Frequent patrols to catch perpetrators; Perimeter fencing, etc.

Fields	Planned Amount	Month	Year	Applied Amount	Date
“Open Field”	12 ac.	4	2013		
Total	12 ac.				

**4) Buffer Management - Chesapeake Bay Resource Protection Area (RPA)**

The shaded area on your site map is the County delineated Chesapeake Bay Resource Protection Area (RPA) - it is a 100-ft. wide buffer. It may appear wider in some areas where it encounters other environmentally sensitive features, such as connected wetland or major flood plain. This area is regarded as the last area/barrier that provides opportunity for filtration of pollutants contained in runoff from adjacent land, before such polluted water enters state waters. This area is required to be kept vegetated.

Permitted modifications to the vegetated buffer areas include those that will aid in maintaining the core functional values of the buffer area, such as, i) creating access paths to provide general woodlot management as may be provided by the VA Department of Forestry, ii) pruning or removal of **approved** potentially destructive or deceased trees or to provide sight line and vistas, on condition that where tree are removed, they will be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Forested Areas	6,250 ft.	9	2008	9	2008
Total	6,250 ft.				

**5) 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			Applied	
	Amount	Month	Year	Amount	Date
Vineyard	1 ac.	4	2013		
Winery	1 ac.	4	2013		
Outdoor seating areas	2 ac.	4	2013		
Residential Area	1 ac.	4	2013		
Open Field	12 ac.	4	2013		
Wooded Area	90 ac.	4	2013		
Total	107 ac.				

**SIGNATURES OF PARTICIPANTS –Kincheloe Trust A&F District**

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Trustee:	
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<b>John T. Kincheloe</b>	<b>Date</b>

Planner:	
-----	-----
<b>Wilfred D. Woode</b>	<b>Date</b>

District Authority:	
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<b>Chairman</b>	<b>Date</b>

**KINCHELOE A&F DISTRICT**

Vineyard and Winery

12-acs. impacted by ATV activities

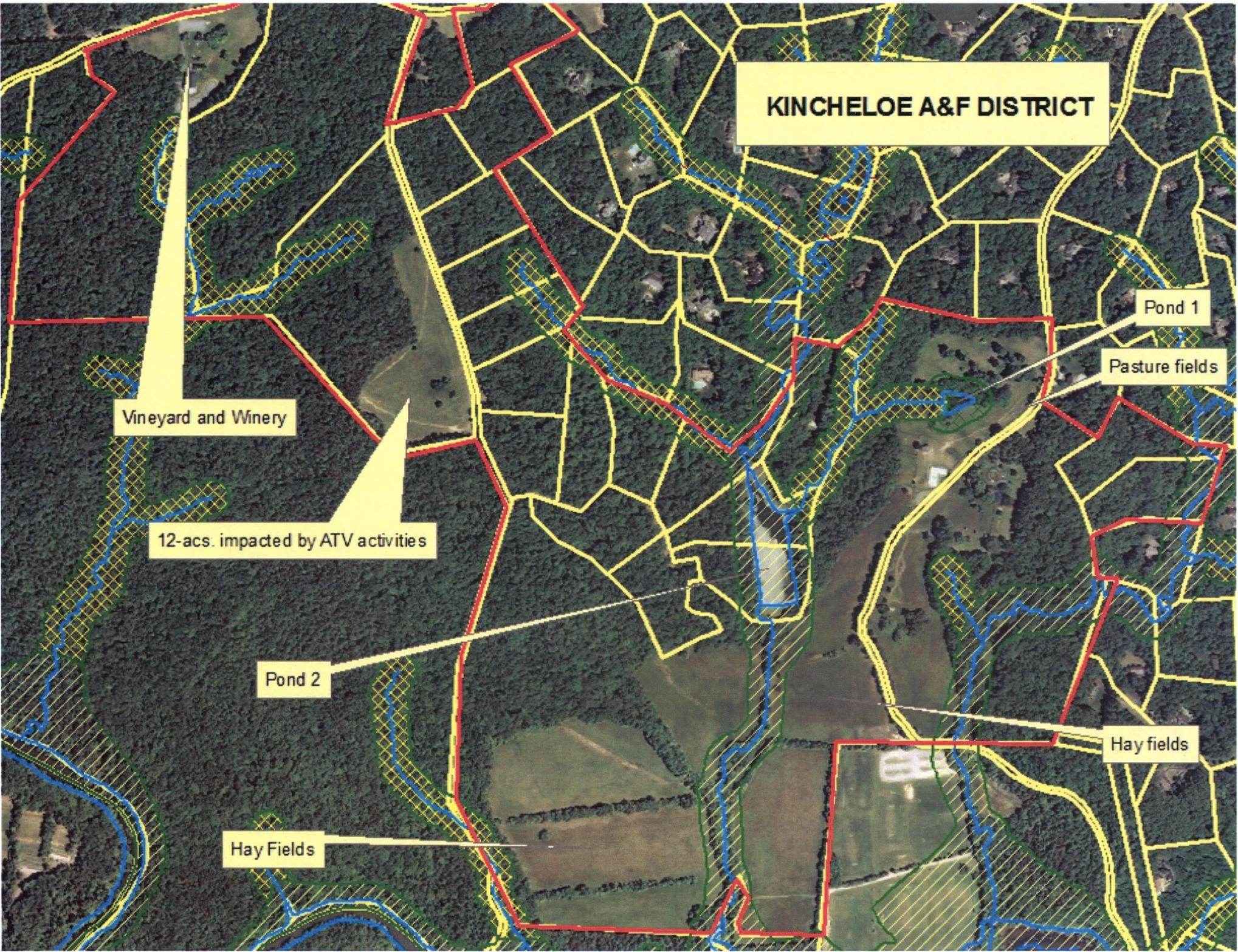
Pond 2

Hay Fields

Pond 1

Pasture fields

Hay fields



Carl E. Garrison III  
State Forester



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF FORESTRY  
12055 Government Center Parkway  
Suite 904  
Fairfax VA 22035  
703-324-1489

May 8, 2013

AF 2013 SP-001  
FAX95001

Mr. John T. Kinchloe  
7900 MyWay Lane  
Clifton VA 20124

Dear Mr. Kinchloe,

It was a pleasure meeting you yesterday and viewing your property. The forest looks as I remembered it: a good mix of oaks with beech understory; few if any invasive plants; and very little regeneration. As I expected based on surveys of nearby properties and a review of the soils map, the forest on the new properties adjoined to the old AF 2009-SP-001 are the same as the forest in parcel 1 of the plan I wrote for you in 2009. The only change is that parcel 1 in that plan is now some 208 acres instead of 116 and I have enclosed a new map to reflect that change. My recommendation for the new additions is still to control the deer population and to monitor for and remove non-native invasive species. Monitoring for invasive species will be particularly important in the area I have labeled Field 2, which you intend to let reforest naturally.

I have also included a fact sheet on Japanese stilt grass, which I suggested you treat along the roads before it invaded the forest; and wisteria, which you are already attacking. As you will notice, stilt grass is an annual plant and preventing seed production is the most critical action in controlling it. This can be done by mowing in late July or early August.

You asked about planting densities for pine. I do not recall if I mentioned that the Department of Forestry has a cost share program for reforestation using pine. If you wish to plant on this other property in Virginia, contact my office and I can help enroll you in the program.

If I can be of any further assistance please feel free to contact me.

Respectfully,

James McGlone  
Urban Forest Conservationist



## Kinchloe State A&F District

AF 2013 Sp-001



Boundaries and acreage approximate.

Map By: James M. McGlone

Report Date: Wednesday, May 08, 2013

**§ 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.

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

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

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

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

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

The minimum acreage requirements for special classifications of real estate shall be determined by adding together the total area of contiguous real estate excluding recorded subdivision lots recorded after July 1, 1983, titled in the same ownership. *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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the treasurer within thirty days of the assessment. If the amount due is not paid by the due date, the treasurer shall impose a penalty and interest on the amount of the roll-back tax, including interest for prior years. Such penalty and interest shall be imposed in accordance with §§ 58.1-3915 and 58.1-3916.

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

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

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

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

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

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

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

Any person failing to report properly any change in use of property for which an application for use value taxation had been filed shall be liable for all such taxes, in such amounts and at such times as if he had complied herewith and assessments had been properly made, and he shall be liable for such penalties and interest thereon as may be provided by ordinance. Any person making a material misstatement of fact in any such application shall be liable for all such taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real

estate in the taxing jurisdiction, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud the locality, he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

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

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

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

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

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

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

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

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

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

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

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

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

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

years, provided it meets the minimum acreage requirements and such other conditions of this article as may be applicable. Such separation or split-off of lots shall not impair the right of the remaining real estate to continuance of such valuation, assessment and taxation without liability for roll-back taxes, provided it meets the minimum acreage requirements and other applicable conditions of this article.

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

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

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

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

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

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

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

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

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§ 114-1-1

## AGRICULTURAL AND FORESTAL DISTRICTS

§ 114-1-4

## CHAPTER 114.

Agricultural and Forestal Districts of Statewide Significance<sup>1</sup>

## Article 1. In General

- § 114-1-1. Short title.
- § 114-1-2. Policy and purpose.
- § 114-1-3. Establishment of districts.
- § 114-1-4. Criteria for the establishment, modification, renewal, continuation or termination of a district.
- § 114-1-5. Requirements for agricultural and forestal value assessment.

## Article 2. Districts Established Under This Chapter.

- § 114-2-1. District ordinances.

## ARTICLE 1.

## In General

## Section 114-1-1. Short title.

This chapter may be referred to as the "Agricultural and Forestal Districts of Statewide Significance Ordinance" of the County of Fairfax and is to become effective June 30, 1983. (12-83-114.)

## Section 114-1-2. Policy and purpose.

It is the policy of Fairfax County to conserve and protect and to encourage the development and improvement of its important agricultural and forestal lands for the production of food and other agricultural and forestal products. It is also Fairfax County policy to conserve and protect agricultural and forestal lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, watershed protection, wildlife habitat, as well as for aesthetic purposes. It is the purpose of this chapter to provide a means by which agricultural and forestal lands of statewide significance may be protected and enhanced as a viable segment of the State and local economy as an economic and environmental resource of major importance.

## Section 114-1-3. Establishment of districts.

The Fairfax County Board of Supervisors may establish, modify, renew, continue and terminate agricultural, forestal or agricultural and forestal districts of statewide significance, which shall be at a minimum two hundred (200) acres in size, in accordance with the provisions of Chapter 36 of Title 15.1 of the Code of Virginia. (12-83-114; 42-88-114.)

## Section 114-1-4. Criteria for the Establishment, Modification, Renewal, Continuation or Termination of a District.

The following criteria shall be used as a guide in recommendations and decisions on whether to establish, modify, renew, continue or terminate agricultural and forestal districts.

<sup>1</sup>Prior to its complete revision by Ord. No. 12-83-114, Chapter 114 consisted of §§ 114-1-1, 114-1-2 and was derived from Ord. No. 9-81-114 and Ord. No. 1-82-114.

(a) 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 may be included.

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

(c) 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 dwelling unit per acre, .2-.5 dwelling unit per acre, Private Recreation, Private Open Space, Public Park, Agriculture, Environmental Quality Corridor.

(d) A majority of the surrounding land within one-quarter mile or the district should be planned according to the Comprehensive Plan for uses identified in (c) above.

(e) A majority of the existing surrounding land uses within one-quarter mile of the district should be agricultural, forestal, outdoor recreational, conservation or low density residential (.5 dwelling unit per acre or less).

(f) Approximately two-thirds 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 one-third 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 nonpoint source pollution.

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

(h) The district should not unreasonably hinder acquisition and construction of public roads, utilities and facilities needed to serve other areas of planned growth.

(i) The district's core acreage should be reasonably compact in shape and should not contain within its perimeter a large number of parcels not included in the district.

(j) All noncontiguous parcels in the district should contain at least five (5) acres of land in agricultural use or twenty (20) acres in forestal use. (12-83-114.)

#### **Section 114-1-5. Requirements for agricultural and forestal value assessment.**

Land used in agricultural and forestal production within an agricultural and forestal district of statewide significance shall automatically qualify for an agricultural and forestal use value assessment on such land pursuant to Chapter 4, Article 19, of the Fairfax County Code and Section 58-769.4 et seq. of the Code of Virginia, if the requirements for such assessment contained therein are satisfied. (12-83-114.)

### **ARTICLE 2.**

#### **Districts Established Under this Chapter.**

##### **Section 114-2-1. District ordinances.**

Ordinances establishing specific agricultural and forestal districts of statewide significance are listed in Appendix E. (12-83-114.)

## Statewide Agricultural and Forestal District Criteria Analysis

Article 1 of Chapter 114 of the Fairfax County Code contains a set of criteria which is designed to serve as a guide in the evaluation of proposed State Agricultural and Forestal Districts. It is important to note that these criteria are a guide to establishing a District, they are not prerequisites.

- (a) 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 may be included.
  - (b) All lands in the district should be zoned to the R-P, R-C, R-A, or the R-E District.
  - (c) 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 units per acre, .2 dwelling unit per acre, .2-.5 dwelling units per acre, .5-1 dwelling unit per acre, Private Recreation, Private Open Space, Public Park; Agriculture, Environmental Quality Corridor.
  - (d) 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 (c) above.
  - (e) A majority of the existing surrounding land uses within one-quarter mile of the district should be agricultural, forestal, outdoor recreational, conservation or low density residential (.5 dwelling unit per acre or less).
  - (f) Approximately two-thirds 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 one-third 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.
  - (g) There should be evidence of a history of investment in farm or forest improvements or other commitments to continuing agricultural or forestal use 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 use for at least the life of the district.
  - (h) The district should not unreasonably hinder acquisition and construction of public roads, utilities, and facilities needed to serve other areas of planned growth.
  - (i) The district's core acreage should be reasonably compact in shape and should not contain within its perimeter a large number of parcels not included in the district.
  - (j) All noncontiguous parcels in the district should contain at least five (5) acres of land in agricultural use or twenty (20) acres in forestal use.
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## FAIRFAX COUNTY, VIRGINIA

## MEMORANDUM

**DATE:** May 8, 2013

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

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

**SUBJECT:** Recommendations on the Kincheloe Statewide Agricultural and Forestal District; Application AF 2013-SP-001

The Agricultural and Forestal Districts Advisory Committee met on May 7, 2013, to review the application to establish the Kincheloe Statewide Agricultural and Forestal District (Application AF 2013-SP-001). The Committee found the following:

- The Kincheloe Statewide Agricultural and Forestal District meets the minimum district size contained in Section 114-1-3;
- The Kincheloe Statewide Agricultural and Forestal District conforms with the Policy and Purpose of Chapter 114 of the Fairfax County Code;
- The Kincheloe Statewide Agricultural and Forestal District fulfills the applicable criteria found in Chapter 114 of the Fairfax County Code.

The Agricultural and Forestal Districts Advisory Committee unanimously\* recommends that Appendix E of the Fairfax County Code be revised to establish the Kincheloe Statewide 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.

\*Five Members Present

**BY EMAIL**

**TO:** Brent M. Krasner  
Senior Staff Coordinator (Planner III)

**FROM:** Stanley M. Franklin 

**CC:** Board Members

**DATE:** May 14, 2013

**RE:** Kincheloe Statewide Agricultural and Forestal Districts Application  
AF 2013-SP-001  
Koster's Agricultural and Forestal Districts Application AR 2004-SP-001

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While I was unable to attend the May 7, 2013 meeting, I actively participated in the staff review and coordination for the meeting. I am familiar with both of the Applications, having served as Chair of the Agricultural & Forestal Districts Advisory Committee when several properties were established as local districts and later merged to create a statewide district. Likewise, I participated as Chairman in the creation of the Koster's Local District now being renewed.

The purpose of this memorandum is to state formally and in writing my vote in favor of renewal and creation of these two districts and to endorse staff recommendation for approval of these two districts.

## GLOSSARY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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