



APPLICATION ACCEPTED: April 10, 2013
PLANNING COMMISSION: September 19, 2013
BOARD OF SUPERVISORS: September 24, 2013 @ 3:30 p.m.

County of Fairfax, Virginia

August 28, 2013

WS

STAFF REPORT

COX AGRICULTURAL AND FORESTAL DISTRICT

APPLICATION AR 87-S-003-03

SULLY DISTRICT

APPLICANTS: Cox-Richard Family Farm, LLLP; Aaron Cox-Richard and Maria Leow-Wilcher

ZONING: RC, WS

PARCEL(S): 43-1 ((1)) 13Z, 17Z, 18Z, 19Z;

ACREAGE: 115.68 acres

PLAN MAP: Residential @ 0.1-0.2 du/ac

PROPOSAL: The renewal of a Local Agricultural and Forestal District

STAFF RECOMMENDATIONS:

Staff recommends that the request to amend Appendix F of the Fairfax County Code to renew the Cox Local Agricultural and Forestal District be approved, subject to the Ordinance Provisions listed in Appendix 1.

It should be noted that approval of an agricultural and forestal district application does not automatically qualify a property for land use value assessment. Upon application to the Department of Tax Administration (DTA) for taxation on the basis of land use assessment, DTA must independently determine if the subject property meets the definition of either agricultural and/or forestal use, as well as the appropriate guidelines, including minimum acreage, for either use, as required by Title 58.1 of the Code of Virginia, which is found in Appendix 7.

Brent Krasner, AICP

It should also be noted that it is not the intent of staff to recommend that the Board, in adopting any Ordinance Provisions, 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, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290 or TTY 711 (Virginia Relay Center).

O:\bkrasner\ZED\Ag & Forest\Districts\2013-3 Cox\Final Materials\Cox - Staff Report 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 Renewal

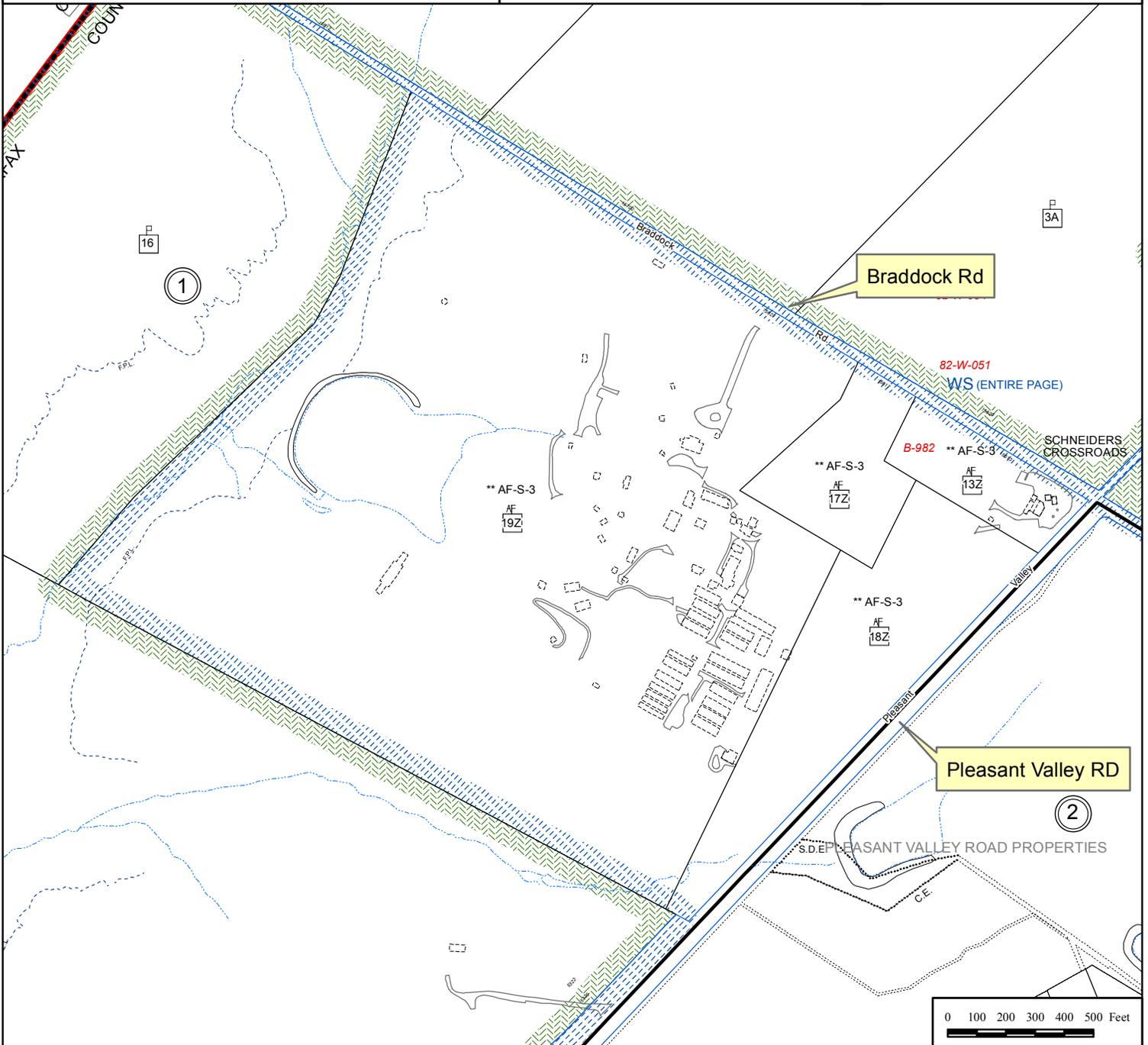
AR 87-S -003-03



Applicant: COX-RICHARDS FAMILY FARM LLLP
Accepted: 04/10/2013
Proposed: AGRICULTURAL AND FORESTAL DISTRICT RENEWAL

Area: 115.68 AC OF LAND; DISTRICT - SULLY
Zoning Dist Sect:
Located: 15621 BRADDOCK ROAD, CENTREVILLE, VA 20120

Zoning: R- C
Overlay Dist: WS
Map Ref Num: 043-1- /01/ /0013Z /01/ /0017Z
/01/ /0018Z /01/ /0019Z



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

DESCRIPTION OF APPLICATION

AR 87-S-003-03

The applicants seek to renew the Cox Local Agricultural and Forestal (A&F) District for an eight year term under the provisions of Chapter 115 of the Fairfax County Code. A & F Districts encourage the preservation of significant tracts of agricultural and forested land throughout the County by providing a reduced real estate tax assessment in exchange for a commitment to preserve the land for the length of the term. While certain exceptions are permitted, the land is expected to remain at its present use and development intensity. Removal of the district before the conclusion of the eight year term is subject to a penalty and payment of roll back taxes, subject to the terms in Article 6 of Chapter 115. The subject property consists of 115.68¹ acres located in the southwest quadrant of the intersection of Braddock Road and Pleasant Valley Road in the Sully 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.



Figure 1. Aerial View of District

¹ The previous renewals for the Cox Local Agricultural and Forestal District listed the district acreage at 116.9 acres. In 2010 the applicant had the property re-surveyed and subdivided into four parcels in order to provide a new five acre lot for his son. That survey correctly removed land within the right-of-way of Braddock Road that had previously been included in the parcel land area. The revised total of 115.68 acres is consistent with the Department of Tax Administration assessment records and does not reflect an actual reduction in the land area of the district. (See map in Appendix 2)

LOCATION AND CHARACTER

District Location

The subject property is located just east of the Loudoun County border, at the southwest corner of the intersection of Braddock Road and Pleasant Valley Road.

Existing Conditions/Character of the District:

Approximately 37 acres of the 115.68 property is cleared and in active agricultural uses. This includes 18 acres reserved for grazing, six and one-half acres in Sudan grass, four acres dedicated to feed corn, three acres kept in hay, and a total of about six acres utilized for greenhouse activities. In addition, about two and one-half acres are utilized for a retail sales operation at the northeast corner of the site (including a way-side stand and produce cooler along with a gravel parking area). The stand is open year round and sells primarily produce grown in the greenhouses, as well as flowering and bedding plants along with Christmas trees that are sold in December. An area of new growth cedar forest is located in the south-central portion of the site. Additional woodlands are located along the western property line, west of a small pond, and are associated with the Elklick Run stream valley. Together the woodlands and pond comprise about 25 acres.

A large portion of the center of the property, containing about 48 acres, is open cleared land that contains numerous small structures which are utilized as part of the Cox's annual fall festival. The Cox family utilizes the fall festival, held from September through November, to showcase the agricultural activities on the property, as well as to provide entertainment and an opportunity for the public to experience and participate in typical harvest-time activities. Finally, about five acres of land is devoted to residential uses for the two single family dwellings on the property. The following chart lists the different structures present on the site along with the year built and parcel locations. See the map attached to the applicant's statement in Appendix 2 for the general locations of each building:

Structures in District			
Number	Structure	Year Built	Parcel Location
1	Animal Barn	1930	19Z
2	Storage Shed	1930	19Z
3	Hay Barn (used for storage)	1940	19Z
4	Chicken House (used for office/storage)	1940	19Z
5	Shop and Machine Shed	1950	19Z
6	Green House Complex (20 houses)	1979-2000	19Z
7	Cox Residence #1	1981	19Z

Structures in District			
8	Fall Festival Kitchen #1	1992	19Z
9	Wayside Stand	1992	13Z
10	Produce Cooler	1998	13Z
11	Fall Festival Retail bldg.	2000	19Z
12	Employee Break Room	2000	19Z
13	Art Studio	2002	19Z
14	Drive-through Hay Barn	2002	19Z
15	Cow Milking Barn	2002	19Z
16	Walk-in Cooler	2003	19Z
17	Fall Festival Kitchen #2*	2005	19Z
18	Goat Shed*	2006	19Z
19	Shade Structure #1*	2006	19Z
20	Shade Structure #2*	2006	19Z
21	Office*	2009	19Z
21	Cox Residence #2*	2010	17Z

*Constructed since last renewal in 2005

Surrounding Area Description:

The subject property is completely surrounded by public land, primarily owned by the Fairfax County Park Authority, though the parcel to the east is owned by the State of Virginia and is under a conservation easement. The area is zoned R-C and located in the Water Supply Protection Overlay District. The surrounding areas are planned for residential uses at 0.1 to 0.2 dwelling units per acre, Public Park, and Private Open Space.



Figure 2 – View of Surrounding Area

BACKGROUND

The Cox Local Agricultural and Forestal District was originally established for an eight year period on June 6, 1988. The District was first renewed on the original property for an additional eight year period on August 5, 1996 and then again on February 28, 2005. (See Appendix 3). During the life of this district, the use of the property has not been substantially altered, and the current application is for the same land area as the original application and the subsequent renewals.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Area III

Planning District: Bull Run

Planning Sector: Stone Bridge (BR5)

Plan Map: 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 and continuation of agricultural and forestal districts is in conformance with the Plan goals of preserving the rural and scenic character of the surrounding area. Approximately 37 acres of the subject property is cleared for active agricultural purposes, with two areas (totaling approximately 75 acres) of forested/open space areas. An area of regenerative cedar is located in the southeast corner of the site. A second area of riparian buffer is located along the stream valley of Elklick Run along the western border of the site. This area is also designated as Environmental Quality Corridor (EQC) and Resource Protection Area (RPA). A delineation of EQC and RPA may be found in the Attachment to Appendix 3 of the staff report. Ordinance provisions are proposed which require the applicant to consider the boundary of the EQC as the limits of clearing and grading for the life of the district.

Transportation Analysis (Appendix 4)

The subject site is not affected by the recommendations of the Transportation Plan Map.

Soil/Forest Analysis (Appendices 5-6)

A Forest Assessment from the Virginia Department of Forestry is included as Appendix 5 (this letter is an update to the current plan from 2004, also contained in Appendix 5); The updated Soil and Water Quality Conservation Plan including a soil

analysis is attached as Appendix 6. The forest assessment recommends that both areas of forest growth be left undisturbed. In addition, it is recommended that the non-native invasive species observed on-site (autumn olive and callery pear) be removed. The State forester also observed that some of the existing trees had been over-mulched, which can lead to the development of fungus which would weaken the trees and leave them vulnerable to disease. It is recommended that mulch be limited to half a bale of straw, three to four inches deep around the base of the tree.

The updated Soil and Water Conservation Plan includes a series of recommendations to improve the health and operation of the subject land. Most notable among these include monitoring the mature trees planted on the dam and stabilizing erosion along the road within the RPA. The previous Soil and Water Conservation Plan included a recommendation to maintain a 100 foot wide riparian buffer along the RPA and the updated report carries this recommendation forward. Staff has included ordinance provisions requiring continued compliance with the updated recommendations of the Soil Plan and Forestry Assessment. In addition, the applicant has signed the NVSWCD plan indicating acceptance of the recommendations.

Agricultural and Forestal District Criteria Analysis

Article 5 of Chapter 115 of the Fairfax County Code contains two sets of criteria which are designed to serve as a guide in the evaluation of proposed Local Agricultural and Forestal Districts. All of the applicable criteria in Group A, and least two criteria from Group B should be satisfied by the proposed district. It is important to note that these criteria are a guide to be applied when establishing, renewing or amending a District; they are not prerequisites. The following is an evaluation of the proposed district's conformance with these criteria:

Criteria Group A:

1. All district acreage should be currently devoted to agricultural use or forestal use or should be undeveloped and suitable for such uses, except that a reasonable amount of residential or other use, related to the agricultural or forestal use and generally not more than five acres per district, may be included.

The subject property is 115.68 acres in size, and is in agricultural and forested/open space uses, with the exception of approximately 5 acres used for residential purposes. This criterion has been satisfied.

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

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

3. In general, the district should be consistent with the Comprehensive Plan. The following land uses identified in the Plan are appropriate for a district: .1-.2

dwelling unit per acre; .2-.5 dwelling unit per acre; .5-1 dwelling units per acre; Private Recreation; Private Open Space; Public Park; Agriculture; Environmental Quality Corridor. Lands not planned as such may be considered for a district if they meet at least 3 of Criteria Group B.

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

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

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

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

The district consists of 115.68 acres; At least 37 acres are in active agricultural use. All of the parcels which comprise the District are owned by the Cox family, and are contiguous. Therefore this criterion is satisfied.

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

This property qualifies as a farm; therefore this criterion is not applicable.

7. Approximately 2/3 of the land (66%) 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.

Approximately 96% of the soils in the district are in Class I, III, and IV; and the remaining 4% of the soils are Class V. This criterion has been satisfied.

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

An updated Soil and Water Conservation Plan was prepared for the district and the applicant has agreed to abide by the recommendations contained therein. An ordinance provision similarly requires conformance with the Soil and Water Conservation Plan for the life of the A&F District, as amended (if deemed necessary) by the Soil and Water Conservation District. Therefore, staff believes this criterion is satisfied.

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

An updated forest assessment letter has been included in the appendices; however, as very little of the site is forested, no formal Plan is required. Staff has proposed an ordinance provision that would require the applicant to maintain the boundaries of the EQC as the permanent limits of clearing and grading for the life of the District. Staff believes this criterion is satisfied.

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

The subject property has been continually farmed since the early part of the 20th century. The applicants acquired the majority of the land in 1981, and the remainder in 1983. They have continually farmed the site since 1979. In the past ten years,

investment has included the construction of an additional farm building, goat shed, and festival kitchen. Six acres have been improved with French drains and 4,000 linear feet of fencing was installed in 2011. The applicant is committed to maintaining the agricultural and open space on the property for the life of the district; staff believes that this criterion has been satisfied.

Criteria Group B:

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

This criterion has been satisfied. In the last five years, the following products have been produced:

- Flowering Plants (\$300,000 retail value last year)
 - Tomatoes (200 bushels last year)
 - Peppers (50 bushels last year)
 - Summer Squash (50 bushels last year)
 - Corn (300 bushels per year)
2. The land provides scenic vistas, improves the aesthetic quality of views from County roads or contributes to maintaining the existing rural character of an area.

The agricultural lands of the subject property help maintain the rural character of the western portion of the County. Therefore, staff believes this criterion has been satisfied.

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

There are no known archaeologically or historically significant sites on the subject property. Therefore this criterion is not applicable.

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

There are no unique water pollution control measures on this site.

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

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

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

The subject property is not located within a permanent open space easement.

As previously noted, these criteria serve as a guide in determining whether or not an agricultural district should be established; they are not a prerequisite for establishing a district. As previously stated, all of the applicable criteria in Group A and at least two criteria in Group B should be satisfied. It is staff's opinion that this all of the applicable criteria in Group A and three of the applicable criteria in Group B (farm products, scenic vistas, R-C zoning) have been satisfied.

AFDAC RECOMMENDATION (Appendix 7)

[Awaiting results of AFDAC meeting on September 10, 2013.]

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

Staff believes that the application for the renewal of the Cox Local Agricultural and Forestal District satisfies all of the applicable criteria in Group A and three of the criteria in Group B, thus meeting the guidelines outlined in Sect. 115 of the County Code. The property exceeds the minimum acreage requirement, and is in conformance with the Comprehensive Plan.

Staff Recommendations

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

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

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

APPENDICES

1. Proposed Ordinance Provisions
2. Application Materials and Statement of Justification
3. Environmental Analysis
4. Transportation Analysis
5. VA Department of Forestry Letter
6. Soil and Water Quality Conservation Plan
7. Title 58.1 Article 4 *Special Assessment for Land Preservation*
8. Glossary of Terms

PROPOSED ORDINANCE PROVISIONS

August 28, 2013

AR 87-S-003-3

If it is the intent of the Board of Supervisors to renew the Cox Local Agricultural and Forestal District as proposed in Application AR 87-S-003-3 pursuant to Chapter 44 of Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code on Tax Map 43-1 ((1)) 13Z, 17Z, 18Z, and 19Z, staff recommends that the approval be subject to the following Ordinance Provisions:

Standard Provisions (From Chapter 115)

- (1) That no parcel included within the district shall be developed to a more intensive use than its existing use at the time of adoption of the ordinance establishing such district for eight years from the date of adoption of such ordinance. This provision shall not be construed to restrict expansion of or improvements to the agricultural or forestal use of the land, or to prevent the construction of one (1) additional house within the district, where otherwise permitted by applicable law, for either an owner, a member of an owner's family, or for a tenant who farms the land.
- (2) That no parcel added to an already established district shall be developed to a more intensive use than its existing use at the time of addition to the district for eight years from the date of adoption of the original ordinance.
- (3) That land used in agricultural and forestal production within the agricultural and forestal district of local significance shall automatically qualify for an agricultural and forestal value assessment on such land pursuant to Chapter 4, Article 19 of the Fairfax County Code and to Section 58.1-3230 et seq. of the Code of Virginia, if the requirements for such assessment contained therein are satisfied.
- (4) That the district shall be reviewed by the Board of Supervisors at the end of the eight-year period and that it may by ordinance renew the district or a modification thereof for another eight-year period. No owner(s) of land shall be included in any agricultural and forestal district of local significance without such owner's written approval.

Additional Provisions

- (5) The applicants shall implement and abide by the recommendations of the Soil and Water Conservation Plan dated June 8, 2013, for the life of the Cox Local Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to time as determined necessary by the Soil and Water Conservation District.
- (6) 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 as approved by the Urban Forest Management Branch of Fairfax County. The boundaries of the EQC shall be the permanent limits of clearing and grading for the life of the Cox Local Agricultural and Forestal District (see attached map).

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

Application No. AR 87-S-003-03

9 Parcels Total

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

FAIRFAX COUNTY

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

Owner's Name & Address	Tax Map Number	Year Acquired	Zoning District	Acres
<u>COX - Richard Family Farm LLLP</u>				
<u>15621 Braddock Rd</u>				
<u>Centreville VA 20120</u>				
	<u>0431-01-00132</u>	<u>1984</u>	<u>RC</u>	<u>3.67</u> Ac.
	<u>0431-01-00182</u>	<u>1984</u>	<u>RC</u>	<u>13.81</u> Ac.
	<u>0431-01-00192</u>	<u>1981</u>	<u>RC</u>	<u>93.2</u> Ac.
<u>Aaron COX - Richard + Maria Leow - Wilcher</u>			<u>RC</u>	
	<u>0431 01 00172</u>	<u>2011</u>		<u>5</u> Ac.

3. Total acreage in the proposed district: 115.68 acres.
4. Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm 4 forest .

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MAR 18 2013
Zoning Evaluation Division

AR 2013-0071

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

Name: Eric COX
Address: 15621 Bradlock Rd
Centreville VA 20120
Telephone: 703 401 0473

6. Signature of all property owners:

[Signature] General Partners COX Richard Family Farm
LLLP
[Signature]
[Signature]

TO BE COMPLETED BY THE COUNTY \$50⁰⁰ paid

Date application accepted: April 10, 2013 Virginia Ruffin
4/10/13

Date of action by Board of Supervisors: _____

- Approved as submitted Denied
- Approved with modifications

ALL APPLICANTS

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

Structure	Year built	Use
See # Map & Description on Separate Sheet		

use additional page(s) if necessary

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

None

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

6 Acres Improved with French Drains, 4000 Feet of Animal Fence, one Farm Office Built, Additional Farm Building Built, including one Goat Shed, one Fall Festival kitchen, 2 Shade Structures, one single Family Home built & occupied by a family member
75 trees Planted

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: 1996

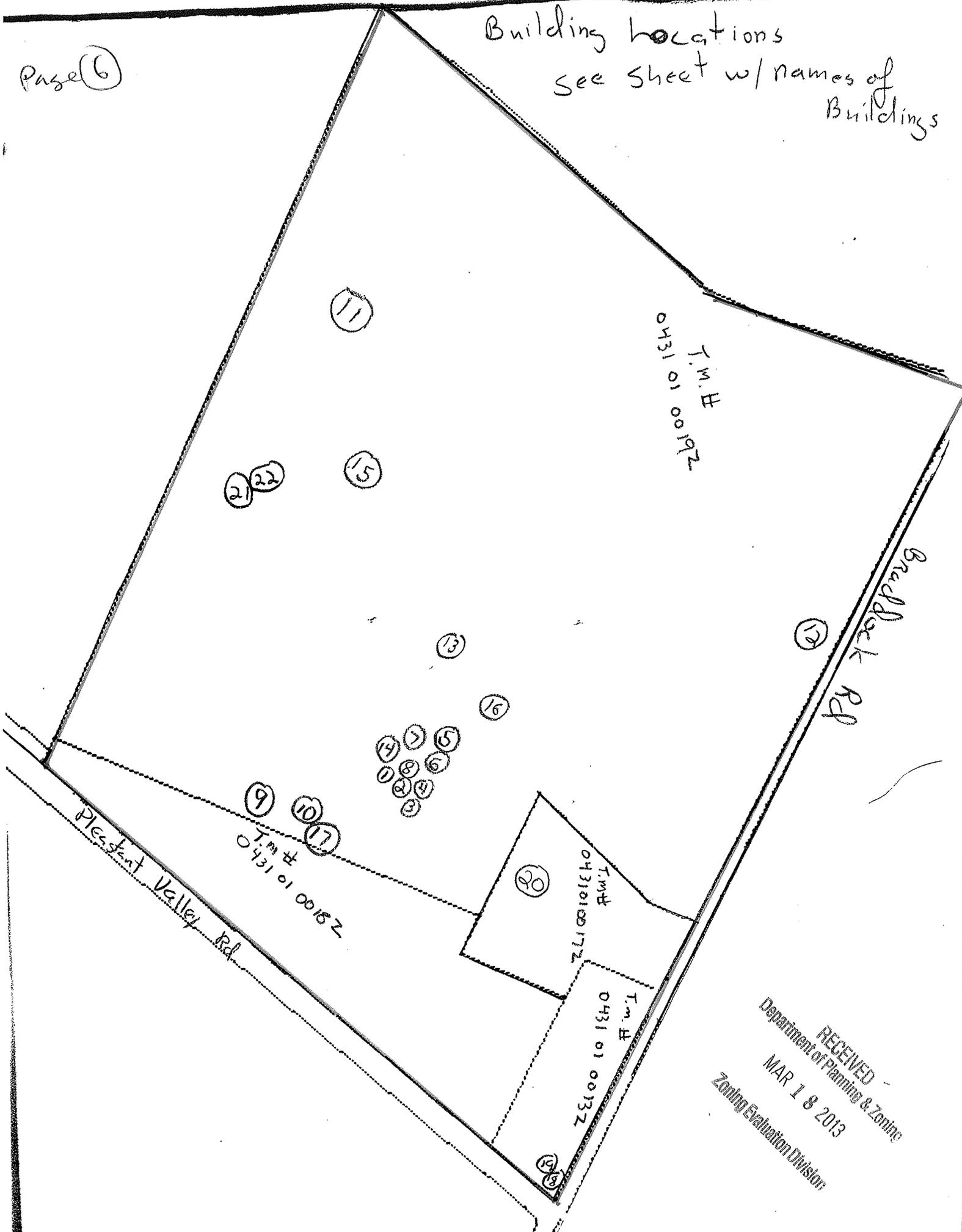
If no, has an application been filed with NVSWCD: yes no

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
Flowering Spring Plants	\$300,000 Retail Value	\$400,000 Retail
Tomatoes	200 bu.	200 bu.
Peppers	50 bu.	50 bu.
Summer Squash	50 bu.	50 bu.
Field Corn	300 bu.	300 bu.

Building locations
see sheet w/ names of
Buildings



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★ Building Name Sheet

year build Building Location numbers

1981	①	Eric COX/Gina Richard Residence -
1940	②	old chicken House used as storage/office -
2002	③	Art studio -
2009	④	Office -
1950	⑤	Shop & Machinery Shed -
2003	⑥	Walkin Cooler -
1930	⑦	Animal Barn -
1930	⑧	Storage Shed -
1979-2000	⑨	Green House Complex (20 House Total) -
1940	⑩	old Hay Barn used for storage & Art work -
2002	⑪	Drive Thru Hay Ride Barn / storage -
2006	⑫	Goat Shed -
2002	⑬	cow milking Demonstration Barn -
1992	⑭	Fall Festival Kitchen #1 -
2005	⑮	Fall Festival Kitchen #2 -
2000	⑯	Fall Festival Retail Building -
2000	⑰	Employee Break Room -
1992	⑱	Way Side Stand -
1998	19	Produce Cooler -
2010	20	Aaron COX-Richard Residence -
2006	21	Shade Structure for Festival -
2006	22	Shade Structure for Festival -

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 Zoning Evaluation Division

Property Entrances
& Crop Areas



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Statement of Justification

Cox A&F District Renewal Application

March 12, 2013

Criteria Group A

1. The Cox District of 115.68 acres is currently divided as follows:
 - a. Approx. 32 acres in cropland and pasture
 - b. Approx. 5 acres in residential
 - c. Approx. 3 acres in horticultural greenhouse production
 - d. Balance is open space
2. The district is zoned RC
3. The district is zoned for .1-.2 dwelling units per acre.
4. The district is surrounded by Fairfax County parkland and/or permanent opens space easement.
5. The district is over 115 acres.
6. All properties within the district are part of the farm, and owned by members of the Cox-Richard family.
7. At least two thirds of the district land in agricultural use contains class 1,2,3 or 4 soil types.
8. A soil conservation plan is on file with the Northern Virginia Soil and Water Conservation District.
9. Undeveloped land in the district is kept in a mostly undisturbed state to prevent soil erosion and to reduce non-point source pollution.
10. The property owners derive most of their income from the farm-based business and have invested ever-increasing dollar amounts into the farm property.

Criteria Group B

All properties within the district meet the following Group B criteria:

1. Horticultural and vegetable products have been regularly produced and sold from the property for the last 34 years.
2. The land provides scenic vistas, improves the aesthetic quality of views from County roads (specifically Braddock Rd. and Pleasant Valley Road) and contributes to maintaining the existing (and endangered) rural character of western Fairfax County.
3. The land is zoned RC.

Eric D. Cox ^{date} 3/12/2013 General Partner
 COX-RICHARD Family FARM L.L.P.

[Signature] ^{date} Gen. Partner
 COX-RICHARD Family Farm L.L.P.

Gina T. Richard ^{date} 3/13/13

Aaron Cox-Richard ^{date} 03/13/13

Maria Leow-Wilcher ^{date}



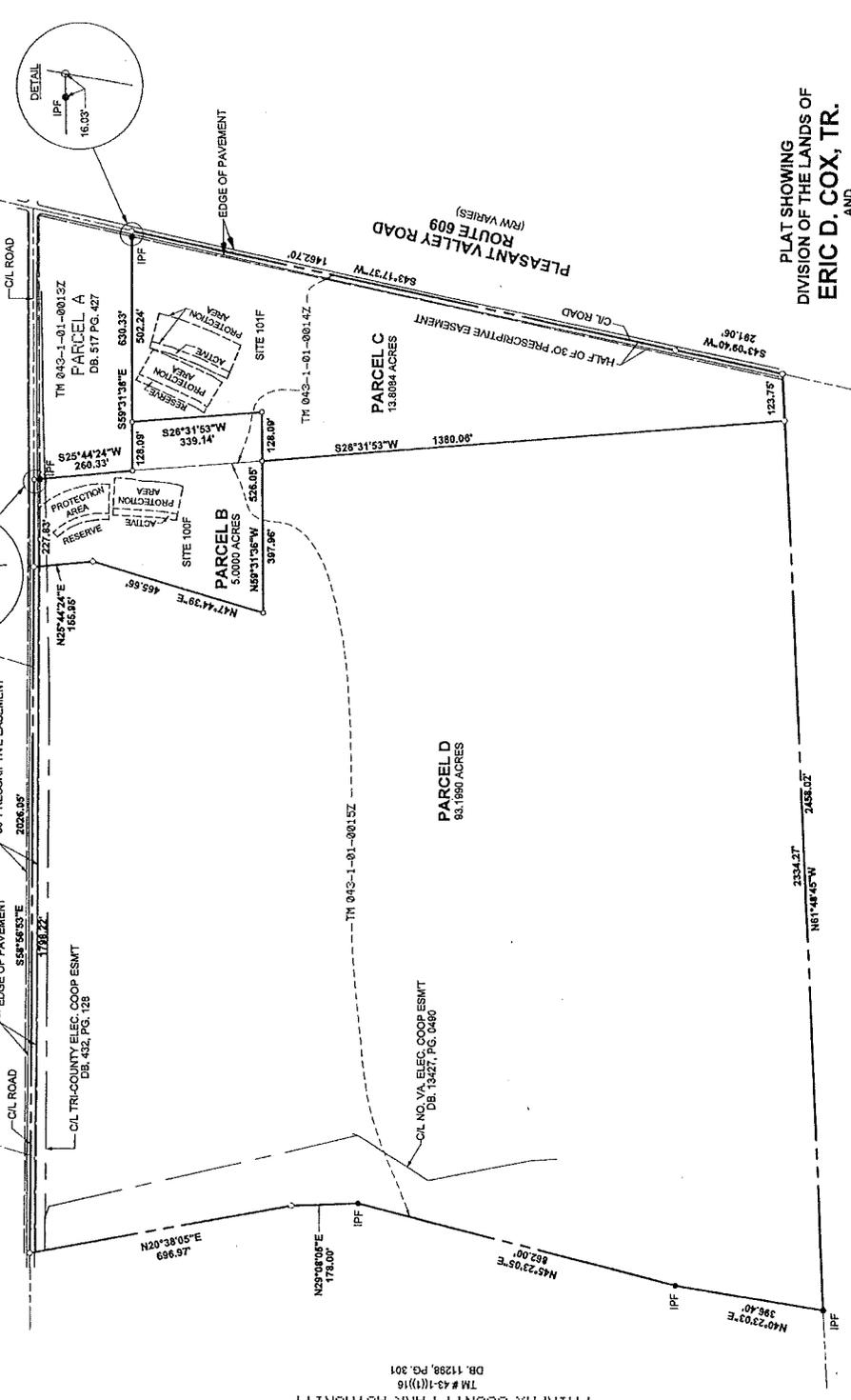
FAIRFAX COUNTY PARK AUTHORITY
TM # 43-1(0)7
DB. 11298, PG. 301

FAIRFAX COUNTY PARK AUTHORITY
TM # 43-1(0)12
DB. 11298, PG. 301

FAIRFAX COUNTY PARK AUTHORITY
TM # 43-1(0)13A
DB. 12654, PG. 550

**BRADDOCK ROAD
ROUTE 620**
30' PRESCRIPTIVE EASEMENT

**PLEASANT VALLEY ROAD
ROUTE 609**
HALF OF 30' PRESCRIPTIVE EASEMENT
(RW VARIES)



FAIRFAX COUNTY PARK AUTHORITY
TM # 43-1(1)16
DB. 11298, PG. 301

PLAT SHOWING
DIVISION OF THE LANDS OF
ERIC D. COX, TR.
AND
GINA T. RICHARD, TR.
DEED BOOK 15784, PAGE 183
SULLY DISTRICT
FAIRFAX COUNTY, VIRGINIA
SCALE: 1"=200' DATE: 03-24-2010

FAIRFAX COUNTY PARK AUTHORITY
TM # 43-1(0)17
DB. 11298, PG. 301

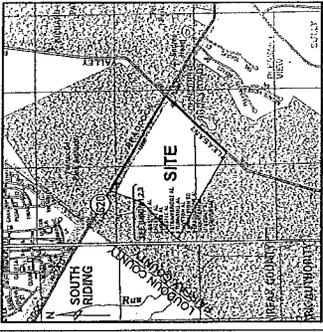


SHEET
2 OF 2
RP 2011

HAROLD A. LOGAN ASSOCIATES P.C.
LAND SURVEYING - SITE PLANNING - SUBDIVISION DESIGN
9114 INDUSTRY DRIVE
MANASSAS PARK, VA. 20111 (703) 330-1888 FAX 660-8132

AREA TABULATION

TOTAL AREA OF SUBDIVISION = 112.0074 ACRES
PARCEL B 5.0000 ACRES
PARCEL C 13.8084 ACRES
PARCEL D 93.1990 ACRES



VICINITY MAP
SCALE: 1" = 2000'

NOTES:

1. THE PROPERTIES SHOWN HEREON ARE LOCATED ON TAX MAP NUMBER 049-1-01-0014Z AND 049-1-01-0015Z.
2. THE PROPERTY SHOWN HEREON IS CURRENTLY ZONED RC.
3. THE BOUNDARY SHOWN HEREON IS BASED ON A CURRENT FIELD RUN SURVEY BY HAROLD A. LOGAN ASSOCIATES, P.C. NOT ALL IMPROVEMENTS ON THE PROPERTY ARE SHOWN ON THIS PLAT.

OWNER'S DEDICATION

WE, ERIC D. COX AND GINA T. RICHARD, TRUSTEES, BEING OWNERS OF THE LAND SHOWN HEREON AND DESCRIBED IN THE SURVEYOR'S CERTIFICATE, HEREBY ADOPT THIS PLAT AND GRANT ANY EASEMENTS INDICATED AND AGREE THAT IRON PIPES WILL BE SET AS INDICATED THIS - O - - AT ALL LOT CORNERS UNDER THE SUPERVISION OF A LICENSED LAND SURVEYOR.

Eric D. Cox Trustee May 3, 2010 DATE
ERIC D. COX, TRUSTEE

Gina T. Richard Trustee May 3, 2010 DATE
GINA T. RICHARD, TRUSTEE

Harold A. Logan Witness Signature
WITNESS SIGNATURE MAY 3, 2010 DATE

SURVEYOR'S CERTIFICATE

I, HAROLD A. LOGAN, A CERTIFIED LAND SURVEYOR IN THE COMMONWEALTH OF VIRGINIA DO HEREBY CERTIFY THAT I HAVE CAREFULLY SURVEYED THE PROPERTIES DELINEATED ON THIS PLAT AND THAT IT IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT IT IS ALL OF THE PROPERTIES ACQUIRED BY ERIC D. COX, TR. AND GINA T. RICHARD, TR. BY DEED RECORDED IN DEED BOOK 13784 AT THE PAGE 183 ALL AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.

GIVEN UNDER MY HAND THIS 24th DAY OF MARCH, 2010.

Harold A. Logan
HAROLD A. LOGAN, C.L.S. VA #1111



**PLAT SHOWING
DIVISION OF THE LANDS OF
ERIC D. COX, TR.
AND
GINA T. RICHARD, TR.**
DEED BOOK 13784, PAGE 183
SULLY DISTRICT
FAIRFAX COUNTY, VIRGINIA
DATE: 03-24-2010

HAROLD A. LOGAN ASSOCIATES P.C.
LAND SURVEYING - SITE PLANNING - SUBDIVISION DESIGN
8114 INDUSTRY DRIVE
MANASSAS PARK, VA 20111 (703) 330-1888 FAX 660-8132





County of Fairfax, Virginia

MEMORANDUM

Date: August 16, 2013

TO: Barbara Berlin, Director
Zoning Evaluation Division, DPZ

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

SUBJECT: Land Use Analysis & Environmental Assessment for: AR 87-S-003-02
Eric Cox, Gina Richard, Aaron Cox-Richard, Maria Leow-Wilcher

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

DESCRIPTION OF THE APPLICATION

The applicant seeks approval to renew an approximately 115-acre Agricultural and Forestal (A & F) District. This district is comprised of four parcels of land managed by Eric Cox, Gina Richard, Aaron Cox-Richard, and Maria Leow-Wilcher, and it is located in the Stone Bridge Community Planning Sector (BR5) of the Bull Run Planning District of Area III volume within the Sully Magisterial District.

The parcels are owned and operated by members of the Cox-Richard family, and the land has been used for agricultural and residential purposes by family members, and most of their income is derived from farm-based business and have continued to invest heavily in the farm property. There is a farm house, main residential house and a barn on the property. Within the past 10 years the Cox-Richard family has improved six acres with a French drain system; constructed one single-family home occupied by a family member; installed 4,000 feet of animal fencing; built one farm office; made an addition to a farms building including one goat shed, one festival kitchen, two shade structures; and have planted 75 trees on site.

The proposed district has 35 acres in agricultural use. Approximately 75 acres are kept as forested or undeveloped land, and the remainder of the properties is composed of five acres for residential uses.

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/



Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

DEPARTMENT OF
**PLANNING
& ZONING**

LOCATION AND CHARACTER

The subject property is located in western Fairfax County within the Cub Run Watershed, and is planned for residential use at .1-.2 dwelling unit per acre (5-10 acre lots), private open space and public park. The four parcels comprising this district are located at the southwest corner of the intersection of Braddock Road and Pleasant Valley Road. The district is surrounded by land which is planned for public parks and private open space. Elklick Run is located along the western boundary of the A&F district, and Fairfax County parkland borders to the north, south and west, and private open space is to the east.

Much of the planning sector is undeveloped and includes forest and farmland, large portions of which are preserved as public parkland. A majority of the planning sector is outside of the county's Approved Sewer Service Area and existing single-family residential units in this portion of the planning sector are widely scattered at very low densities. Pleasant Valley Road between Lee Highway and Blue Spring Drive has been designated a Virginia Byway. This road passes through the state's largest known stand of a rare oak-hickory forest and associated plant species on diabase soil.

COMPREHENSIVE PLAN MAP

Residential use at .1-.2 dwelling unit per acre, private open space and public park

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 Volume, Bull Run Planning District, as amended through April 9, 2013, BR5-Stone Bridge Community Planning Sector, Recommendations, on page 74:

“Land Use

Infill development in these neighborhoods should be of a compatible use, type and intensity... Where substantial parcel consolidation is specified, it is intended that such consolidations will provide for projects that function in a well-designed, efficient manner and provide for the development of unconsolidated parcels in conformance with the Area Plan.

1. The land on the southwest perimeter of the County, adjacent to Loudoun County and Prince William County, lying generally along Bull Run and the public parkland

associated with Bull Run has remained for the most part open and undeveloped and has a rural character. It is planned for residential development at .1-.2 dwelling unit per acre and public parkland. This is in conformance with the findings of the Occoquan Basin Study. The present very low density development which characterizes this area should remain intact to protect its natural wildlife and water quality. . . .

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 Volume, Environment, as amended through February 12, 2013, on pages 7-9:

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

Development proposals should implement best management practices to reduce runoff pollution and other impacts. Preferred practices include: those which

recharge groundwater when such recharge will not degrade groundwater quality; those which preserve as much undisturbed open space as possible; and, those which contribute to ecological diversity by the creation of wetlands or other habitat enhancing BMPs, consistent with State guidelines and regulations.”

In the Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan Volume, Environment, as amended through February 12, 2013, on page 10:

“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 Volume, Environment, as amended through February 12, 2013, on pages 14 and 15:

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

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

- Habitat Quality: The land has a desirable or scarce habitat type, or one could be readily restored, or the land hosts a species of special interest. This may include: habitat for species that have been identified by state or federal agencies as being rare, threatened or endangered; rare vegetative communities; unfragmented vegetated areas that are large enough to support interior forest dwelling species; and aquatic and wetland breeding habitats (i.e., seeps, vernal pools) that are connected to and in close proximity to other EQC areas.
- Connectivity: This segment of open space could become a part of a corridor to facilitate the movement of wildlife and/or conserve biodiversity. This may include natural corridors that are wide enough to facilitate wildlife movement and/or the transfer of genetic material between core habitat areas.
- Hydrology/Stream Buffering/Stream Protection: The land provides, or could provide, protection to one or more streams through: the provision of shade; vegetative stabilization of stream banks; moderation of

sheet flow stormwater runoff velocities and volumes; trapping of pollutants from stormwater runoff and/or flood waters; flood control through temporary storage of flood waters and dissipation of stream energy; separation of potential pollution sources from streams; accommodation of stream channel evolution/migration; and protection of steeply sloping areas near streams from denudation.

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

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

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

In the Fairfax County Comprehensive Plan, 2011 Edition, Policy Plan Volume, Environment, as amended through February 12, 2013, on page 18:

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

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

LAND USE ANALYSIS

The proposed renewal of this Agricultural and Forestal District is compatible with the existing and planned very low density residential character of this site and the surrounding area.

ENVIRONMENTAL ANALYSIS

The Cox Agricultural and Forestal District is a 115.68-acre tract of land. The property falls within the Cub Run Watershed. Elklick Run and an associated Environmental Quality Corridor (EQC), traverses the entire western boundary of the district. A Resource Protection Area (RPA) also traverses across the entire western part as well. The extent of the EQC and RPA are identified on the attached map. In accordance with the Policy Plan, there should not be any new encroachments into the EQC.

Much of the property is undeveloped open space and forested at 75 acres, while 35 acres of the southern section of the property is used for agricultural uses. The remaining five acres are used for residential purposes by the owners. The district also hosts an agricultural festival every year in the fall.

The proposed continuation of this established Agricultural and Forestal District is consistent with environmental recommendations of the Comprehensive Plan.

COUNTYWIDE TRAILS MAP:

The Countywide Trails Plan depicts three trails that are planned immediately adjacent to the subject property. The Plan identifies a major paved trail along the northern and eastern boundary of the district. A stream valley trail is planned along the property's western boundary.

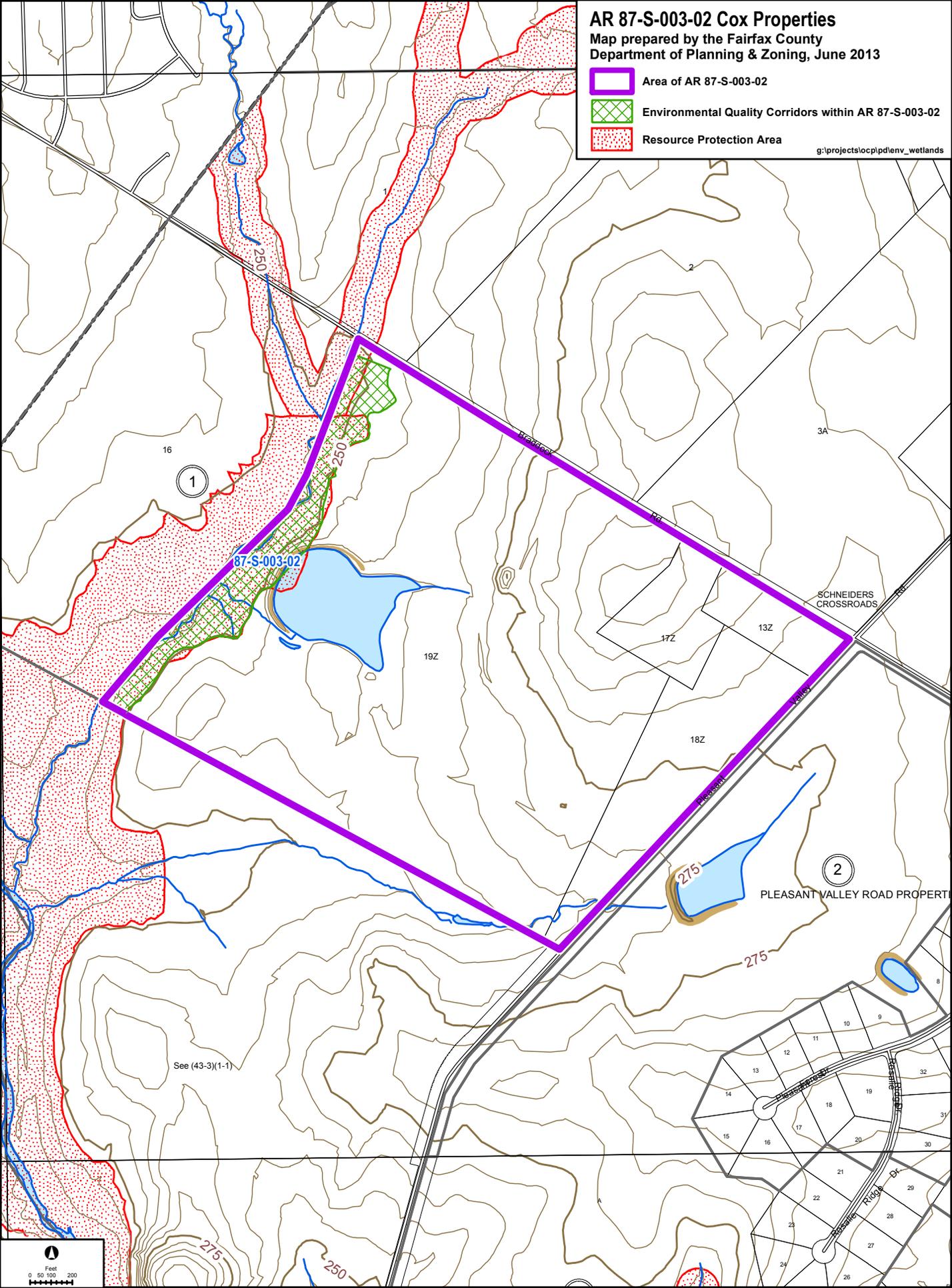
PGN: BSS

Attachment

AR 87-S-003-02 Cox Properties

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

-  Area of AR 87-S-003-02
 -  Environmental Quality Corridors within AR 87-S-003-02
 -  Resource Protection Area
- g:\projects\locpl\pdenv_wetlands





County of Fairfax, Virginia

MEMORANDUM

DATE: June 10, 2013

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

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

FILE: 3-4 (AF 87-S-003)

SUBJECT: Transportation Impact

REFERENCE: AR 87-S-003-03; Cox-Richards Family Farm LLLP
Land Identification Map: 43-1 ((1)) 13Z, 17Z, 18Z, 19Z

VDOT has established project No. 0620-029-017, P101-UPC 103318, to improve the intersection of Braddock Road and Pleasant Valley Road with a signalized intersection or perhaps with a roundabout, either of which would have an impact upon the subject property. However, the rights-of-way and easements for this project have not yet been established. The approval of the renewal of this agricultural and forestal district should not inhibit the ability of the County and/or VDOT to obtain rights-of-way for the needed and projected transportation improvements.

AKR/lah

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 22, 2013

Mr. Eric Cox
15621 Braddock Rd.
Centerville VA 20120

Dear Mr. Cox,

It was a pleasure visiting your farm and meeting your son yesterday. As we discussed on the phone there is very little in the way of forest on your property. The 6 acres of cedars (*Juniperus virginiana*) which began growing about 2000 are doing well. This stand provides excellent habitat for birds; unfortunately it also provides excellent cover for deer. I saw many tracks in the stand, so you might want to consider deer management on the property.

I did notice two non-native invasive species in the cedar stand: autumn olive (*Elaeagnus umbellata*) and callery pear (*Pyrus calleryana*). Autumn olive is a threat to your fields and can be removed mechanically or with an approved herbicide. If it is cut and live roots are left in the ground, it will vigorously resprout from the roots. The callery pear has fire blight, a bacterial infection that may ultimately kill the trees. Fire blight will attack all woody plants in the rose family, except the genus *Prunus*; among crop trees, apples, pears and quince are at risk, but cherries, peaches and plums are not.

I noticed that you have planted several trees near the western edge of the property, south of the pond dam. These trees have been 'volcano' mulched with straw. A half bale of straw spread in 4 foot circle, 3 to 4 inches deep around the base of the tree is sufficient. When too much mulch is piled up at the base of the tree it can provide nesting space for rodents that will gnaw the bark; fungal mats that prevent water and oxygen from infiltrating into the soil can develop; and the mulch creates a warm, moist environment that promotes fungal pathogens and weakens the bark, making the tree more susceptible to disease.

The trees growing on the dam also looked very healthy, but it is my understanding that trees should not be allowed to grow on dams. Mr. Willie Woode of the Northern Virginia Soil and Water Conservation District has more expertise in this, and you should be guided by his recommendations regarding these trees.

If I can be of any further assistance, please do not hesitate to contact me.

Respectfully,

James McGlone
Urban Forest Conservationist

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



AR 87-S-003-02
FAX 04 005

REPORT OF TREE COVER
FOR
Mr. E. Cox and Ms. Gina T. Richard Trust
15621 Braddock Rd.
Centreville, VA 22020

Location: Southwest Quadrant of the Intersections of Braddock Road and Pleasant Valley Rd.

Examined By: Judith A. Okay, Natural Resource Specialist

Landowner's Objectives: To maintain the property for agricultural crops.

INTRODUCTION: The acreage examined for forestry purposes was approximately 6.6 acres and the forested buffer along the stream. There is an aerial photo attached to this report and printed photos representing what was observed at the time of visit. Other attachments include an Resource Protection Area map and a soils map.

Cedar Regeneration Area
N 38° 52' 46" W 77° 29' 36"

Acres: Approximately 6.6

This area is covered with cedars of various ages (seedlings - 6 years) Photo 1. Cedars are considered to be early successional species that seed naturally in non-tilled open fields in the piedmont area of Virginia. They are a native species and their role in the ecosystem is the conditioning of soil, prevention of erosion, provide habitat for wildlife, and in certain situations serve as a screen/wind break. In this field at this time the cedar stand is providing all of the above services.

It is recommended that this acreage of cedar remain undisturbed. The soil in this area is primarily Readington (273 B1). This soil is described as moderate to well drained, but very acidic. This is ideal for growth of cedar. Eventually if left untilled, this area will become forested. There is a potential seed bank of deciduous trees along the road and the South property line, Photo 2. The Readington soil has a slow internal drainage characteristic which is the reason this area of the property remains wet for long periods of time.

Riparian Forest Buffer
N 38° 53' 00" W 77°29' 42"

As mentioned in the introduction, there is a Resource Protection Area (RPA) on the property along the West property border. This area should remain uncut and allowed to grow. The RPA falls under the Chesapeake Bay Act regulations. There are limited activities that can take place in this area. Check Fairfax County Chesapeake Bay ordinances for further information. There are also floodplain ordinances that apply to this area. It is recommended that the RPA remain intact and if desired, additional width could be added in this area to improve protection of the stream. This is only a suggestion, the current buffer is adequate (Photo 3).

CONCLUSION: Although this property is almost entirely devoted to crops and crop related activities, there is potential on the two areas reviewed for forest to develop. The soil on this property is appropriate for forest crops and this is an alternative to current agricultural practices.



AR 87-S-003-02 COX FARM A

MAP BY:
JUDITH OKAY

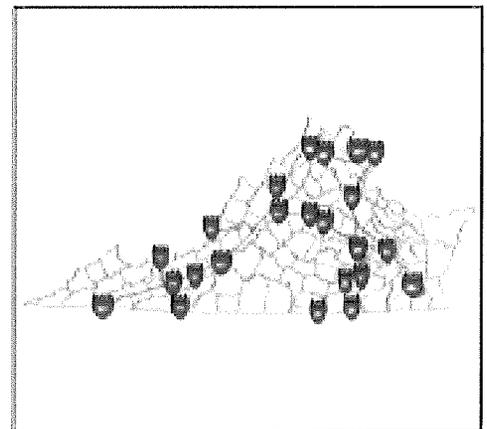
Dec. 08, 2004



LEGEND

- Interstate VDOT
- US Highway VDOT
- County Connecting
- Neighborhood Roads
TIGER
- County Boundary

Cedar Regeneration



Cox A&F 2004



Photo 1. Cedar stand developing on 6.5 acres



Photo 2. Deciduous trees along property line, potential seed bank.



Photo 3. Stream with riparian buffer located on West property line.



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

Property Owners/Operators:

Cox-Richard Family Farm, LLP
15621 Braddock Road
Centreville, VA 20120
Tel: 703-401-0473
Contact: Eric Cox

Plan Prepared by:

Willie Woode, Senior Conservation Specialist, NVSWCD

Date:

June 8, 2013

Summary of operation:

This plan addresses an approximately 116-acre property pending renewal of its Agricultural and Forestal (A&F) District status (AR 87-S-003-03).

This property consists of 4 parcels, and is located at the south west corner of Braddock and Pleasant Valley Roads in the Cub Run Watershed (PL45). Multiple small scale agriculture related activities are conducted on site. These include an acre dedicated to growing vegetables (Peppers, Squash and Tomatoes); 18 acres reserved for grazing by 80 goats, two llamas, two sheep and two alpacas; 4 acres dedicated to growing corn (silage), 3 acres kept in hay; 6.5 acres in Sudangrass; and a total of about six acres reserved for green house activities.

Other activities that are either directly or indirectly supported by the agricultural activities mentioned above, include a vegetable, plant and flower sale on about 2.5 acres. The most dominant activity onsite is the traditional late summer to fall festival that is more than anything else supported by all of the other agriculture related landuse mentioned above. This takes up a total acreage of about 48 acres.

Besides the use of traditional agriculture (disking of soil before planting) that exposes chunks of areas to erosion and de-structuring of soil layers, other heavily used areas show to be exposed to erosion, such as the internal road network frequently travelled by service vehicles and wagons used during festival rides.

A five-acre pond exists in the north-western side of the property. This also shows signs of erosion in specific areas of the dam. The pond drains into a nearby Elklick Run that flows in a general north-south direction, long the north-western boundary of the property. This creek is buffered with 2,400 linear feet of Chesapeake Bay Resource Protection Area (RPA) that is within the property.

The vegetated buffer area and the preserved natural growth area, make up about 13 acres. They contain mature trees and cedar trees planted about 12 – 14 years ago.

Observations and Recommendations:

- 1) Soil type is loose and silty on shaley bed rock. No-till crop rotation should be considered, especially in the corn fields. With this improved best management practice, nutrient will be added, biological activities will be increased and organic residue will help keep the soil in place.
- 2) The pond has mature trees already established on its dam. Mature trees on dam jeopardize the dam’s integrity. However, because they are now mature in growth and clustered together, it’s best to keep them in place. Frequent monitoring to determine if there is any that needs to be cut-down/pruned is necessary before it topples over and take
- 3) Eroding sections of the road within the RPA that is mainly used as part of the festival ride trail should be stabilized with rocks.

Practices:

1) Nutrient Management (590):

All commercial fertilizer 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	3.0 ac.	6	2013		
Sudangrass Field #1	5.5 ac.	6	2013		
Sudangrass Field # 2	1.0 ac.	6	2013		
Corn Field #1	3.0 ac.	6	2013		
Corn Field #2	1.3 ac.	6	2013		
Total	13.8ac.				

2) Animal Waste Management:

Your farm animals (goats, llamas, alpacas) are all free range. Should you ever accumulate waste it is best to collect and kept cover in a pile to compost. Composted material can be added to your fields in a rotational manner. The piling and composting location should be outside of the RPA or a drainage path

3) Pest Management (595):

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

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Hay Field	3.0 ac.	6	2013		
Sudangrass Field #1	5.5 ac.	6	2013		
Sudangrass Field #2	1.0 ac.	6	2013		
Corn Field #1	3.0 ac.	6	2013		
Corn Field #2	1.3 ac.	6	2013		
Sales Area	2.5 ac.	6	2013		
Vegetable Plot	1.0 ac.	6	2013		
Green House	6.0 ac.	6	2013		
Goat Grazing Area 1	12.5 ac.	6	2013		
Goat Grazing Area 2	6.5 ac.	6	2013		
Pond	5.0 ac.	6	2013		
Vegetable Plot	1.0 ac.	6	2013		
Residential Area 1	3.5 ac.	6	2013		
Residential Area 2	5.0 ac.	6	2013		
Natural Growth Area	13.2 ac.	6	2013		
Festival Arena	45.68	6	2013		
Total	115.68 ac.				

4) Pond Maintenance:

Existing 5-ac. pond should be inspected regularly to keep potential aquatic weeds under control. Any weed of concern should be address in an environmentally safe manner. NVSWCD can provide technical advice to you regarding weed control. Frequent inspection of your dam is necessary, especially regarding the make-shift water level regulator you installed.

Monitor for excessive erosion control and tree manage on and around the dam of the pond.

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Pond	5.0 acs.	6	2013		
Total	5.0 acs.				

5) 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 been proven to 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 that show signs of erosion should be stabilized as best as possible with the appropriate native vegetation. In cases where trails/festival roads traverse the RPA, those roads should be stabilized from erosion layers of protective stone/rip-rap.

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) 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
Sudangrass Field #1	500 ft.	6	2013	500 ft.	6/13/13
Goat Grazing Area #2	150 ft.	6	2013	150 ft.	6/13/13
Festival Area	1,760 ft.	6	2013	1,760 ft.	6/13/13
Total	2,410 ft.			2,410 ft.	

6) Crop Rotation:

It is clear that your Vegetable beds are to subsidize your sales stand. Therefore your growing pattern is scheduled to target your peak selling season.

Also, your corn fields are planted to meet two goals: i) to provide “MAZE” effect for you annual festival activities, and to harvest as silage when the events are over. Leaving the fields unprotected (unused) between growth causes erosion, loss of topsoil and deterioration of your soil structure. Consider implementing a crop rotation system, wherein you can do Late Corn for silage (May – Oct) and put in some winter cover of say, Vetch (Oct – March).

Rotating corn with vetch does not only provide over winter ground cover, but it also adds nitrogen to the soil for the corn growing season, considering the fact that vetch has the ability to convert atmospheric nitrogen to plant available nitrogen.

When the corn is harvested leave debris (corn stalk, etc.) on the ground as soil protection, nutrient recycling, biological activity enhancement and carbon sequestration.

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Corn Field #1/Vetch	3.0 ac.	6	2013		
Corn Field #2/Vetch	1.3 ac.	6	2013		
Total	4.3 ac.				

7) Record Keeping

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

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Hay Field	3.0 ac.	6	2013		
Sudangrass Field #1	5.5 ac.	6	2013		
Sudangrass Field #2	1.0 ac.	6	2013		
Corn Field #1	3.0 ac.	6	2013		
Corn Field #2	1.3 ac.	6	2013		
Sales Area	2.5 ac.	6	2013		
Vegetable Plot	1.0 ac.	6	2013		
Green House	6.0 ac.	6	2013		
Goat Grazing Area 1	12.5 ac.	6	2013		
Goat Grazing Area 2	6.5 ac.	6	2013		
Pond	5.0 ac.	6	2013		
Vegetable Plot	1.0 ac.	6	2013		
Residential Area 1	3.5 ac.	6	2013		
Residential Area 2	5.0 ac.	6	2013		
Natural Growth Area	13.2 ac.	6	2013		
Festival Arena	45.68	6	2013		
Total	115.68 ac.				

SIGNATURES OF PARTICIPANTS – COX-RICHARD FAMILY FARM, LLP
Agricultural and Forestal District – AR 87-S-003-03

Landowners'/Operators' Representative:

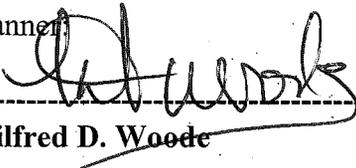


Eric Cox



Date

Planner:



Wilfred D. Woode



Date

District Authority:



Chairman



Date

§ 58.1-3230. Special classifications of real estate established and defined.

For the purposes of this article the following special classifications of real estate are established and defined:

"Real estate devoted to agricultural use" shall mean real estate devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ [9-6.14:1](#) et seq.), or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for a profit or otherwise, shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner.

"Real estate devoted to horticultural use" shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ [9-6.14:1](#) et seq.); or real estate devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Real estate upon which recreational activities are conducted for profit or otherwise, shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner.

"Real estate devoted to forest use" shall mean land including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in § [58.1-3240](#) and in accordance with the Administrative Process Act (§ [9-6.14:1](#) et seq.). Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § [58.1-3240](#).

"Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or recreational purposes, (ii) conservation of land or other natural resources, (iii) floodways, (iv) wetlands as defined in § [58.1-3666](#), (v) riparian buffers as defined in § [58.1-3666](#), (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § [58.1-3240](#), and in accordance with the Administrative Process Act (§ [9-6.14:1](#) et seq.) and the local ordinance.

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

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

1. Determine that the real estate meets the criteria set forth in § [58.1-3230](#) and the standards prescribed thereunder to qualify for one of the classifications set forth therein, and he may request an opinion from the Director of the Department of Conservation and Recreation, the State Forester or the Commissioner of Agriculture and Consumer Services;
2. Determine further that real estate devoted solely to (i) agricultural or horticultural use consists of a minimum of five acres; except that for real estate used for purposes of engaging in aquaculture as defined in § [3.2-2600](#) or for the purposes of raising specialty crops as defined by local ordinance, the governing body may by ordinance prescribe that these uses consist of a minimum acreage of less than five acres, (ii) forest use consists of a minimum of 20 acres and (iii) open-space use consists of a minimum of five acres or such greater minimum acreage as may be prescribed by local ordinance; except that for real estate adjacent to a scenic river, a scenic highway, a Virginia Byway or public property in the Virginia Outdoors Plan or for any real estate in any city, county or town having a density of population greater than 5,000 per square mile, for any real estate in any county operating under the urban county executive form of government, or the unincorporated Town of Yorktown chartered in 1691, the governing body may by ordinance prescribe that land devoted to open-space uses consist of a minimum of one quarter of an acre.

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

3. Determine further that real estate devoted to open-space use is (i) within an agricultural, a forestal, or an agricultural and forestal district entered into pursuant to Chapter 43 (§ [15.2-4300](#) et seq.) of Title 15.2, or (ii) subject to a recorded perpetual easement that is held by a public body, and promotes the open-space use classification, as defined in § [58.1-3230](#), or (iii) subject to a recorded commitment entered into by the landowners with the local governing body, or its authorized designee, not to change the use to a nonqualifying use for a time period stated in the commitment of not less than four years nor more than 10 years. Such commitment shall be subject to uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § [58.1-3240](#). Such commitment shall run with the land for the applicable period, and may be terminated in the manner provided in § [15.2-4314](#) for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GLOSSARY

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

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

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

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

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

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

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

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

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

CLEARING - Any intentional or negligent act to cut down, remove all or a substantial part of or

damage a tree or other vegetation which will cause the tree or other vegetation to decline and/or die.

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

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

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

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

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

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

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

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

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

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

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

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

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

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