



APPLICATION ACCEPTED: April 30, 2013
PLANNING COMMISSION: October 24, 2013
BOARD OF SUPERVISORS: October 29, 2013 @3:30 p.m.

County of Fairfax, Virginia

October 9, 2013

WS

STAFF REPORT

CASTRO LOCAL AGRICULTURAL AND FORESTAL DISTRICT RENEWAL

APPLICATION AR 96-S-002-02

SPRINGFIELD DISTRICT

APPLICANTS: Nila M. Castro Trust,
Castro Colchester Farms, LLC

ZONING: R-C

PARCEL(S): 76-3 ((1)) 13Z;
76-4 ((1)) 15Z

ACREAGE: 118.25 acres

PLAN MAP: Residential, 0.1-0.2 dwelling units/acre

PROPOSAL: Renewal of a Local Agricultural and Forestal District

STAFF RECOMMENDATIONS:

Staff recommends that the Board amend Appendix F of the Fairfax County Code to renew the Castro Agricultural and Forestal District, 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 11.

Michael H. Lynskey, ASLA

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

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

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

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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).

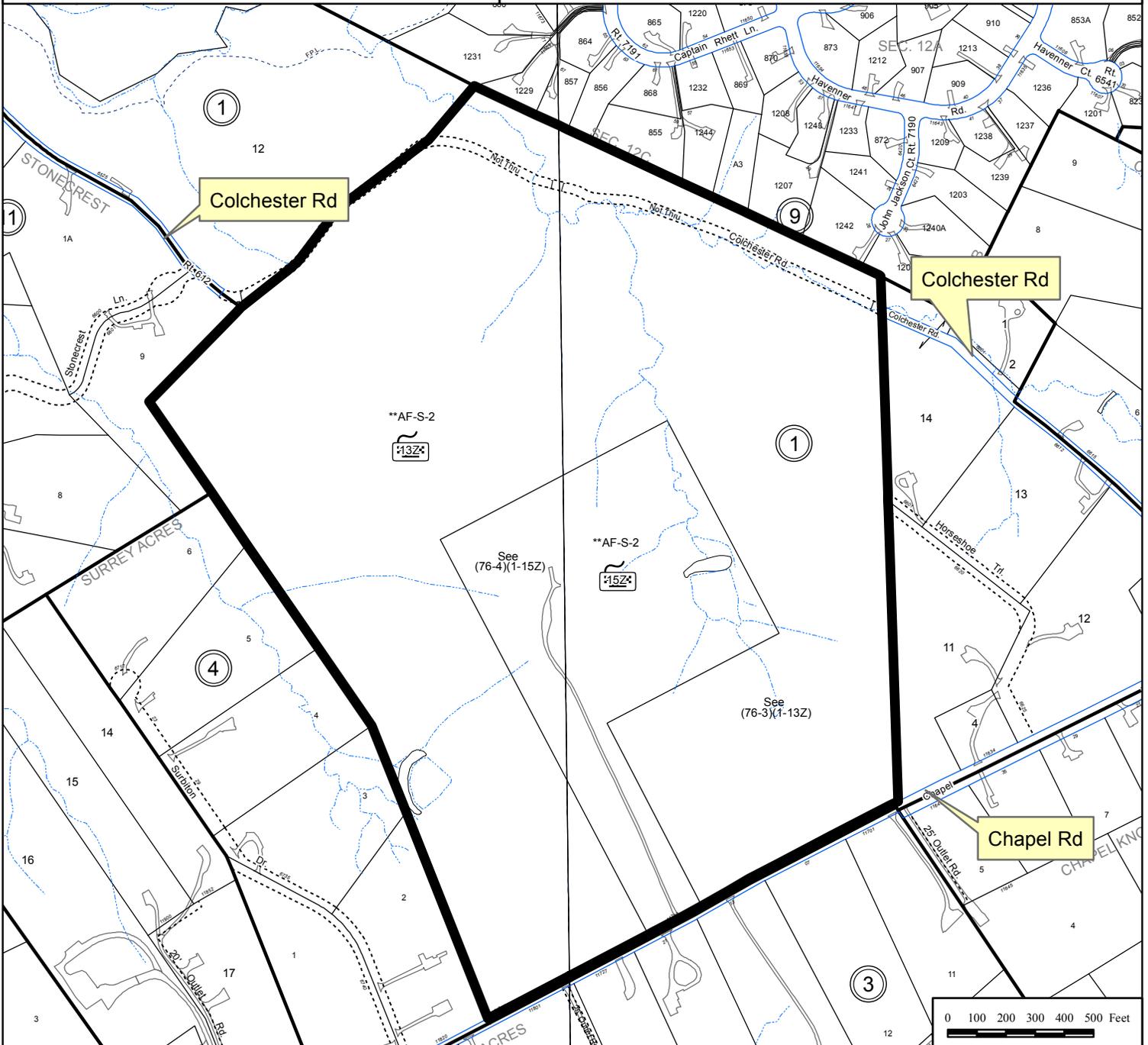
A&F District Renewal

AR 96-S -002-02



Applicant: NILA M. CASTRO TRUST , CASTRO COLCHESTER FARMS, LLC
Accepted: 04/30/2013
Proposed: AGRICULTURAL/FORESTAL DISTRICT RENEWAL
Area: 118.25 AC OF LAND; DISTRICT - SPRINGFIELD

Zoning Dist Sect: Located: 11720 CHAPEL ROAD, CLIFTON, VA 22024
Zoning: R- C
Overlay Dist: WS
Map Ref Num: 076-3- /01/ /0013Z 076-4- /01/ /0015Z



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

DESCRIPTION OF APPLICATION

Proposal: AR 96-S-002-02 is a request to renew the Castro Local Agricultural and Forestal District under the provisions of Chapter 115 of the Fairfax County Code. The subject property consists of 118.25 acres located on the north side of Chapel Road, generally south of unconnected Colchester Road.

A copy of the applicant's application is contained in Appendix 2; Staff's Proposed Ordinance Provisions are contained in Appendix 1.

Applicant: Nila M. Castro Trust,
Castro Colchester Farms, LLC

Acreage: 118.25 acres

Use: Active agriculture – 56.2 acres (pasture for approximately 13 head of cattle)
Forested or undeveloped – 60 acres
Residential – 2 acres

BACKGROUND

The Castro Local Agricultural and Forestal District Application (AF 96-S-002), was originally established by the Board of Supervisors for an eight year period on July 21, 1997, and was renewed on December 5, 2005 as application AR 96-S-002. The current application is for the same 118.25-acre land area as the previous renewals, though a recent subdivision has divided the one previous parcel into two separate tax parcels, for the purpose of estate-planning; one 20-acre parcel (15Z), containing the residence and other structures, is owned by a trust set up in the name of Nila M. Castro, and the remaining 98.25-acres (13Z), containing the agricultural and forested portions of the property, is now owned by Nila Castro through Castro Colchester Farms, LLC.

LOCATION AND CHARACTER

Surrounding Area Description:

The subject property and surrounding area are zoned R-C (Residential Conservation) and WS (Water Supply Protection Overlay District) and are planned for Residential Use at 0.1-0.2 dwelling units per acre. The application site is surrounded by large lot residential development on land which is wooded and hilly.

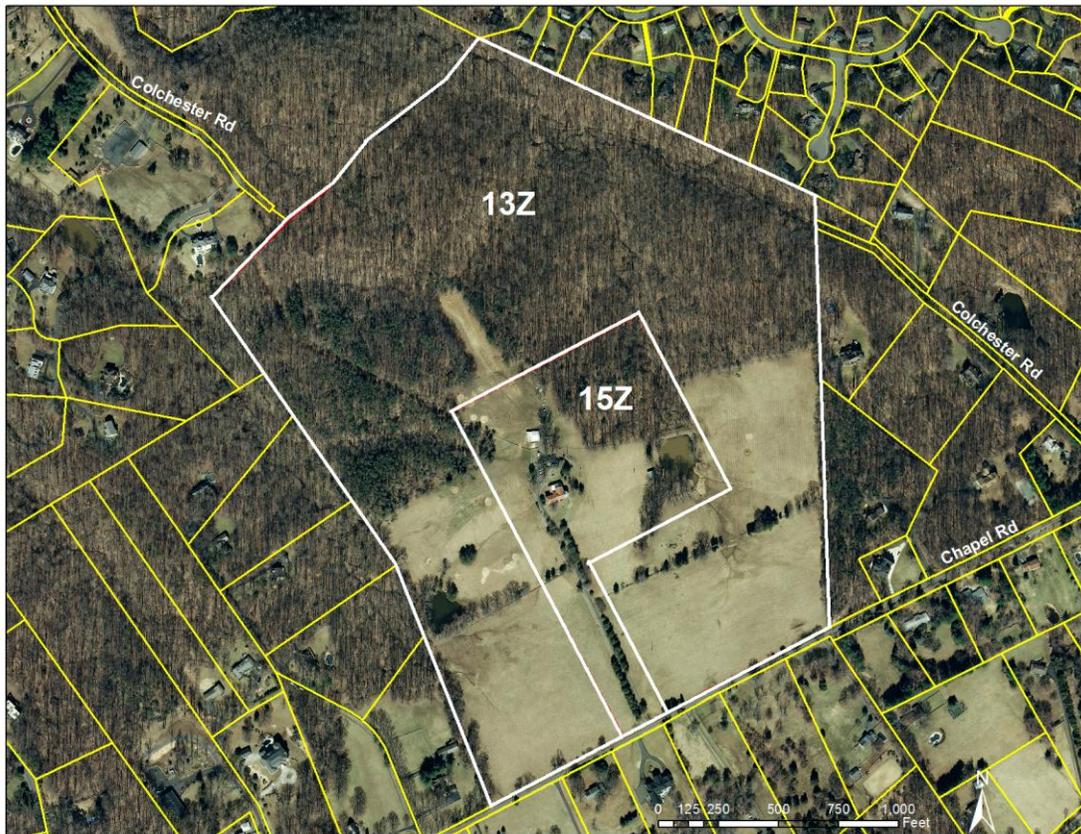


Image 1: Aerial view of the district.

Location and Character of the District:

The application site is comprised of a two parcels located on the north side of Chapel Road, east of the Town of Clifton and within the Occoquan Basin. All structures are located on Parcel 15Z. The main residence is centrally located on the parcel, and an older guest cottage exists just to the north of the main residence structure. A barn and machinery shed are located to the northwest of the guest cottage. The southern half of the property is fenced meadow and pasture land. The terrain of the site is rolling, dropping steeply in portions of the rear property, which is thickly wooded. Two spring-fed ponds exist within the front meadow portion of the property.

Structure	Year Built	Use
Main House	1975	Residential
Guest House	Unknown	Guest House
Barn/Machine Storage Shed	Unknown	Storage

Figure 1: Structures on the property.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Area III
Planning District: Pohick Planning District
Planning Sector: Dominion Community (P5)
Plan Map: Residential use at a density of 0.1 to 0.2 dwelling units per acre (du/ac).



Image 2: Typical pasture land on the property.



Image 3: Driveway leading to main house.



Image 4: Limited livestock grazing taking place on the property.

ANALYSIS

Land Use Analysis (Appendix 8)

Protection of the water quality of the Occoquan Reservoir is the primary Plan objective for this area and is the basis of the recommended density of 0.1-0.2 du/ac. Agricultural and forestal uses are considered valid alternative uses to help preserve the existing, well-established rural character. The proposed renewal of this Agricultural and Forestal District is compatible with the existing and planned low-density residential character of the site and surrounding area.

Environmental Analysis (Appendix 8)

Approximately half of the subject property is cleared for agricultural purposes, with forested areas located along the stream bank in the center of the site, as well as along the Difficult Run Stream Valley along the southern boundary. This area is also designated as Environmental Quality Corridor (EQC) and Resource Protection Area (RPA). A delineation of EQC and RPA areas may be found in the attachment to Appendix 1 of this staff report. Comprehensive Plan guidance for this area suggests that attention should be paid to ensure that agricultural and forestal techniques are supportive of water quality goals of the Occoquan Reservoir watershed and that Environmental Quality Corridors (EQC) are protected and restored. Ordinance provisions are proposed which would require the applicant to consider the boundary of the EQC as the limits of clearing and grading for the life of the district, and staff feels that the proposed continuation of this established Agricultural and Forestal District is consistent with environmental recommendations of the Comprehensive Plan

Transportation Analysis

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

Forestry Analysis (Appendix 5)

The Area Forester inspected the property and noticed some evolution in the forest compared to the previous review, and also noted the effects of excessive deer browse and recommended further action to control the deer population on the property. Otherwise, the Area Forester recognized the overall good health of the forest and recommended that the Applicant continue to follow the recommendations of the previous Forest Management Plan, prepared on July 22, 2005 (Appendix 6).

Soil and Water Conservation Analysis (Appendix 4)

A Soil and Water Conservation Plan was prepared by the Northern Virginia Soil and Water Conservation District for the subject property on June 7, 2013, and

reflects little change since the previous report. The plan does provide recommendations regarding Resource Protection Area (RPA) management, nutrient management, erosion control measures, and integrated pest control. Staff proposes to carry forward the condition requiring that the applicant continue to follow the recommendations of the Plan, which may be amended if deemed necessary by the Soil and Water Conservation District.

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.

Approximately fifty-six (56) acres of the 118.25-acre site are used for active agricultural uses, including livestock grazing and hay production. The remainder, excluding the two (2) acre portion used for residential, is established forest/open space. Therefore, staff believes that 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). 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.

All the land located within one-quarter mile of the proposed district is planned for residential use at 0.1 to 0.2 du/ac. Therefore, this criterion has been satisfied.

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

As noted earlier, the total application parcel is 118.25 acres, consisting of two contiguous parcels. The parcels are currently owned solely by Nila Castro, through both a family trust and a family corporation, for estate-planning purposes. Approximately fifty-six (56) acres are in agricultural use. Therefore, this criterion has been 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.

The district 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.

A soils evaluation report, completed in 1997 with a previous renewal, states that more than 2/3 of the property in agricultural use has soil types within soil capability classes I-IV. Therefore, 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 are 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.

A Soil and Water Conservation Plan was prepared by the Northern Virginia Soil and Water Conservation District for the subject property on June 7, 2013. A copy of the plan is contained in Appendix 4 and provides recommendations regarding Resource Protection Area (RPA) management, nutrient management, erosion control measures, and integrated pest control. The applicant has been advised that the Soil and Water Conservation Plan should be implemented for at least the life of the A&F District. With implementation of the Proposed Ordinance Provision in Appendix 1 which addresses this issue, this criterion is adequately addressed.

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

The Area Forester recognized the overall good health of the forest and recommended that the Applicant continue to follow the recommendations of the Forest Management Plan prepared on July 22, 2005 (Appendix 5), in conjunction with the previous district renewal. The applicant has been advised that the Forest Management Plan should be implemented for at least the life of the A&F District. A Proposed Ordinance Provision in Appendix 1 addresses this issue.

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

The applicants have resided on the property since 1970. Since purchasing the property, the main house was constructed in 1975 and the machine storage shed was also constructed. The fields are utilized for grazing/hay production, to support a limited number of beef cattle on the property, and have been maintained with mowing and the application of the lime and fertilizers. Two spring-fed ponds on site have been actively treated to mitigate water chestnut bloom, and forest areas have recently been cleared of excess deadfall to minimize fire hazards. Fencing has also been installed and maintained as required. Therefore, 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.

The applicant has stated that hay production and the raising of cattle have been performed on the site for more than twenty years. Hay harvested from the fields is currently being used to feed the beef cattle that are kept on the property, though some have also been sold in the past. Therefore, this criterion has been satisfied.

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

The land provides scenic vistas and helps to maintain the rural character of surrounding area. Therefore, 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 is a County file containing a historic survey of the older guest house on the property (Appendix 7), which contains somewhat conflicting information but identifies the structure as having some historical interest, if not official significance. The property is not listed on the County Inventory of Historic Sites. There are no other known archaeologically or historically significant sites on the subject property. This criterion is not being considered met at this time.

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

There are no unique or water pollution control measures on this site. Therefore, this criterion is not met.

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

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

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

There is no open space easement located on this property. Therefore, this criterion has not been satisfied.

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

AFDAC RECOMMENDATION (Appendix 9)

On September 10, 2013, The Agriculture and Forestal District Advisory Committee (AFDAC) voted unanimously to recommend that the Board of Supervisors approve this renewal application.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

Staff believes that the application for the renewal of the Castro 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 application exceeds the minimum acreage requirement, and is in conformance with the Comprehensive Plan.

Staff Recommendations

Staff recommends that the Board amend Appendix F of the Fairfax County Code to renew the Castro 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 Form
3. AR 96-S-002 Approved Ordinance (previous renewal)
4. Soil and Water Quality Conservation Plan
5. VA Department of Forestry Memo
6. Forest Management Plan (2005)
7. Historic Survey (1988)
8. Land-Use/Environmental Analysis
9. Agricultural and Forestal District Advisory Committee Recommendation
10. Fairfax County Code, Chapter 115 – *“Local Agricultural and Forestal Districts”*
11. State of Virginia Code, Title 15.2-4400 - *“Local Agricultural and Forestal Districts Act”*
12. Glossary of Terms

PROPOSED ORDINANCE PROVISIONS**October 9, 2013****AR 96-S-002-02**

If it is the intent of the Board of Supervisors to renew the Castro Local Agricultural and Forestal District, as proposed in Application AR 96-S-002-02 pursuant to Chapter 44 of Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code on Tax Maps 076-3((1))13Z and 076-4((1))15Z, the 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.

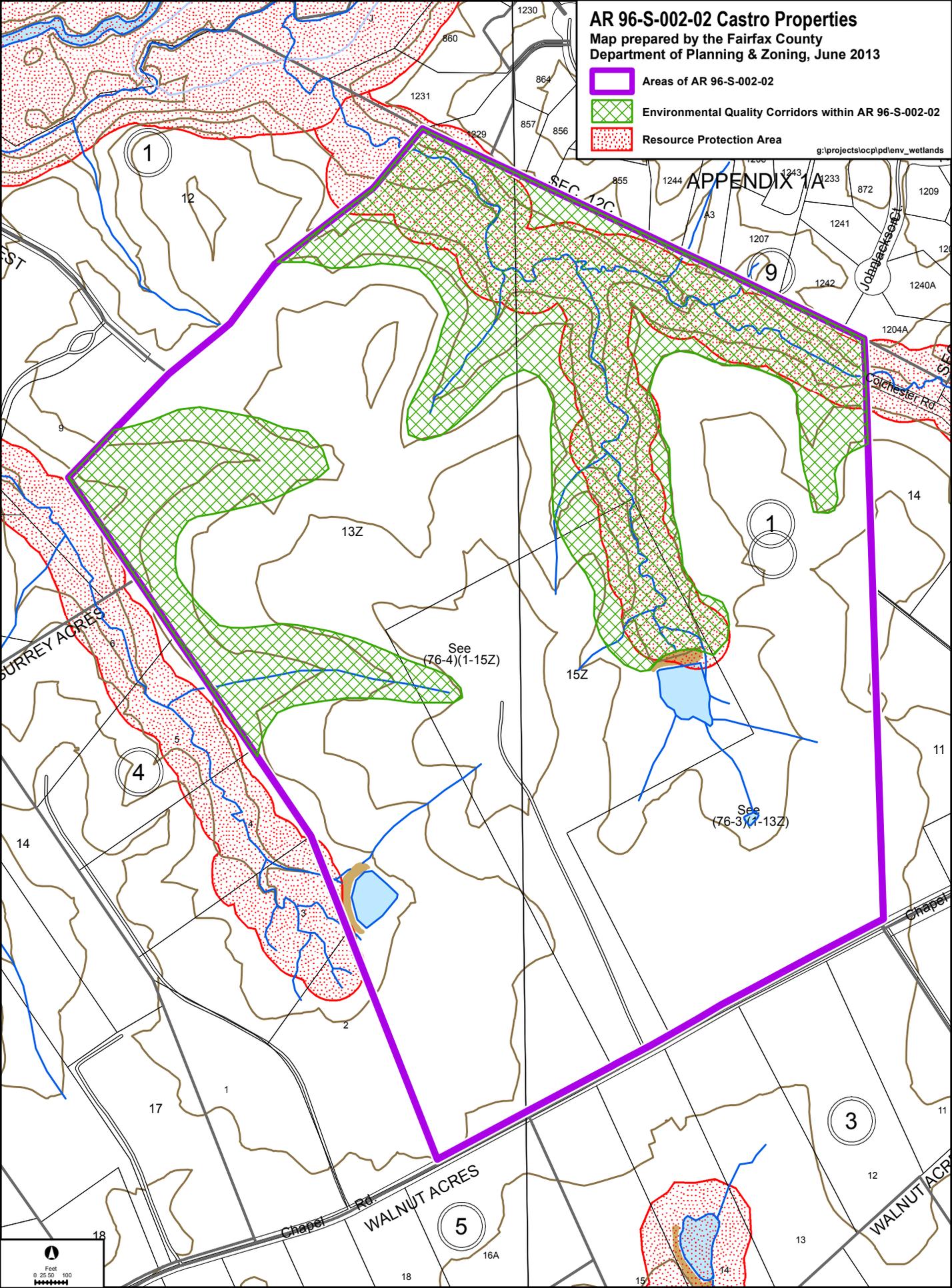
Additional Provisions

- (5) The applicants shall implement and abide by the recommendations of the Soil and Water Conservation Plan which was prepared by the Northern

- Virginia Soil and Water Conservation District on June 7, 2013, for the life of the Castro Local Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to time, as determined necessary by the Northern Virginia Soil and Water Conservation District.
- (6) The applicant shall implement and abide by the recommendations of the Forest Management Plan, which was prepared by the Area Forester on July 22, 2005, for the life of the Castro Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the Area Forester.
- (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, or upon the determination that the terms and conditions stated in this ordinance are not being implemented. The reconsideration/termination shall be in accordance with the procedures for the establishment, renewal, or amendment of an A&F District, as outlined in Section 115 of the County Code, and shall include an opportunity for the property owner(s) to demonstrate that any determination by a court or declaration or enactment by the General Assembly does not apply to the conditions of this district.
- (8) The area delineated as Environmental Quality Corridors (EQCs) shall be left undisturbed, and the boundaries of the EQCs shall be regarded as the permanent limits of clearing and grading for the life of the Castro Local Agricultural and Forestal District (See attached map.) Should any timber harvesting commence on this site, no timber harvesting shall be permitted within those areas designated as EQCs.

AR 96-S-002-02 Castro Properties
Map prepared by the Fairfax County
Department of Planning & Zoning, June 2013

-  Areas of AR 96-S-002-02
 -  Environmental Quality Corridors within AR 96-S-002-02
 -  Resource Protection Area
- g:\projects\locpl\pdenv_wetlands



Application No. AR 96-5-002-02

Amended name

APPLICATION FOR THE ESTABLISHMENT OF A
AGRICULTURAL AND FORESTAL DISTRICT

FAIRFAX COUNTY

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

Owner's Name & Address	Tax Map Number	Year Acquired	Zoning District	Acres
<i>Castro Colchester Farms, LLC</i>	<i>0763-01-0132</i>	<i>1970</i>	<i>RC</i>	<i>98.2519</i>
<i>William Castro Trust</i>	<i>0764-01-0052</i>		<i>RC</i>	<i>20</i>

- Total acreage in the proposed district: 118.2519 acres.
- Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm forest .

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

Name: Nila M. Castro
Address: 11720 Chapel Rd
Clifton, VA 20124
Telephone: 703 250-9484

6. Signature of all property owners:

Christa Colchester Fanni, LLC
Nila M. Castro
Nila M. Castro Trust
Nila M. Castro

TO BE COMPLETED BY THE COUNTY

Date application accepted:

9/9/13 Virginia Ruffin

Date of action by Board of Supervisors: _____

- Approved as submitted Denied
 Approved with modifications

ALL APPLICANTS

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

Structure	Year built	Use
Farm House	Unknown	None
Main House	1975	live in
BARN	Unknown	hay-seed
		Store Tractor - machinery

use additional page(s) if necessary

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

N/A

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

fencing - board - wire

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: Feb. 18 - 1997

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

If yes, date submitted: _____

5. List the products and yields from this farm or forest property:

Product	Past year's yield	Average yield for previous 4 years
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<u>Hay -</u>	<u>used in cattle</u>	



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

December 15, 2005

Ms. Nila M. Castro
11720 Chapel Road
Clifton, Virginia 20124

RE: Agricultural and Forestal District Application AR 96-S-002

Dear Ms. Castro:

Agricultural and Forestal District Application AR 96-S-002, in the name of Nila M. Castro, meeting all of the criteria and provisions pursuant to the Code of the County of Fairfax, Chapter 115 (Local Agricultural and Forestal Districts), and additional environmental provisions, was renewed by ordinance by the Board of Supervisors at a regular meeting held on December 5, 2005, as F-50, Castro Local Agricultural and Forest District, subject to the attached ordinance provisions dated October 12, 2005.

Sincerely,

Nancy Vehrs
Clerk to the Board of Supervisors

NV/ds
Attachment

cc: Chairman Gerald E. Connolly
Supervisor Elaine McConnell, Springfield District
Janet Coldsmith, Director, Real Estate Division, Dept. of Tax Administration
Barbara Byron, Director, Zoning Evaluation Division, Dept. of Planning and Zoning
Leslie Johnson, Deputy Zoning Administrator, Dept. of Planning and Zoning
Thomas Conry, Manager, GIS Property Mapping/Overlay
Angela Rodeheaver, Section Chief, Transportation Planning Division, DOT
Charles Strunk, Project Planning Section, Department of Transportation
James W. Patteson, Director, Land Development Services, DPWES
Plans and Document Control Section, LDS, DPWES
Department of Highways, Virginia Department of Transportation
Kirk Holley, Park Planning Branch Manager, Fairfax County Park Authority
Diane Hoffman, Northern Virginia Soil and Water Conservation District
James Cochran, Supervising Appraiser, Real Estate Division, DTA

Office of Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035

Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903

Email: clerktothebos@fairfaxcounty.gov

www.fairfaxcounty.gov/gov/bos/clerkhomepage.htm

ADOPTION OF AN AMENDMENT TO
APPENDIX F
OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Monday, December 5, 2005, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment regarding Appendix F of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

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

Amend Appendix F, as follows:

F-50. Castro Local Agricultural and Forestal District
(AR 96-S-002)

(a) The following parcels of land situated in the Mt. Vernon District, and more particularly described herein, are hereby included in the Castro Local Agricultural and Forestal District:

Owners	Fairfax County Tax Map Parcel Number	Acreage
Nila M. Castro	<u>076-3 ((1)) 13Z</u>	<u>118.26 acres</u>
	Total:	118.26 acres

(b) The Castro Local Agricultural and Forestal District is established effective December 5, 2005, pursuant to Chapter 44, Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code and is therefore subject to the provisions of those Chapters and the following provisions:

(1) 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.

(5) The applicants shall implement and abide by the recommendations of the Soil and Water Conservation Plan which was prepared by the Northern Virginia Soil and Water Conservation District on August 25, 2005 for the life of the Castro Local Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to

time as determined necessary by the Northern Virginia Soil and Water Conservation District.

(6) The applicant shall implement and abide by the recommendations of the Forest Management Plan which was prepared by the Area Forester on July 22, 2005 for the life of the Castro Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the Area Forester.

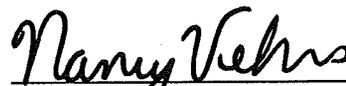
(7) The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if warranted 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/termination shall be in accordance with the procedures for the establishment, renewal, or amendment of an A&F District as outlined in Section 115 of the County Code and shall include an opportunity for 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.

(8) The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if such action is determined to be warranted by the Board of Supervisors upon determination that the terms and conditions stated in this ordinance are not being implemented. The reconsideration/termination shall be in accordance with the procedures for the establishment, renewal, or amendment of an A&F District as outlined in Section 115 of the County Code.

(9) The area delineated as Environmental Quality Corridors (EQCs) shall be left undisturbed, and the boundaries of the EQCs shall be regarded as the permanent limits of clearing and grading for the life of the Castro Local Agricultural and Forestal District (See attached map.) Should any timber harvesting commence on this site, no timber harvesting shall be permitted within those areas designated as EQCs.

This amendment shall become effective upon adoption.

GIVEN under my hand this 5th day of December, 2005.



NANCY VEHRS

Clerk to the Board of Supervisors



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 Owner/Operator:

Nila M. Castro
11720 Chapel Road
Clifton, VA 20124
Tel: 703-250-9484 (H)

Plan Prepared by: Willie Woode, Senior Conservation Specialist, NVSWCD

Date: June 7, 2013

Background and summary of operation:

This is a 118-ac. property in the Popes Head Creek Watershed (PL46), located at 11720 Chapel Road in Clifton. This property is pending renewal of its Fairfax County Agricultural and Forestal District status.

Approximately 50% of the property is kept wooded. 59 acres is kept in pasture to support the grazing needs of a herd of 13 cows. Two 0.5-acre farm ponds (P1 & P2) are located on the east and west sides of the property. P2 is located at the head of an unnamed primary tributary that combines with another unnamed tributary that flows along the north-eastern side of the property. Together these channels have approximately 5,015 linear feet of Chesapeake Bay Resource Protection Area (RPA) delineations. They discharge into Popes Head Creek at an offsite location.

The total grazing area is divided into six fields. Pastures are maintained in good shape with insignificant concerns for erosion. Fields 3, 4 and 5 have RPA overlays. Since there are only 13 cows to graze 59 acres of pasture, manure accumulation is not a concern.

Pasture fields are kept in good condition except for two areas of erosive concerns within fields 3. This field consists of critical slopes and highly erodible soils such as Manor and Glenelg. Two locations show signs of active erosion that need to be addressed.

Plan Content: This plan contains recommendations for:

- 1) Resource Protection Area (RPA) management
- 2) Nutrient management
- 3) Erosion Control measures for critical areas
- 3) Information on Integrated Pest Management control

Practices:**1) Nutrient Management:**

Application of commercial fertilizer 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 provided 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.

The nutrient management plan shows recommended nutrient application based on soil test results. Soil test results show pH levels and nutrient needs without consideration of manure contributions. Since the cows are out roaming the fields all the time, there is no accumulation of waste.

A soil pH of 6.0-6.2 is ideal for cool season grasses. This range makes plant macro- & micro-nutrients become readily available for uptake by the grasses. Lime application recommendations are also shown in the spreadsheet.

Areas	Planned Amount	Month	Year	Applied Amount	Date
Field 1	14.0 acs.	6	2013		
Field 2	14.0 acs.	6	2013		
Field 3	9.0 acs.	6	2013		
Field 4	7.0 acs.	6	2013		
Field 5	10.0 acs.	6	2013		
Field 6	5.0 acs.	6	2013		
Total	59.0 acs.				

2) Chesapeake Bay Resource Protection Area (RPA) management:

The shaded area on the site map shows the Fairfax County delineated Chesapeake Bay Resource Protection Area (RPA). RPAs are required to be kept densely vegetated to enhance surface filtration and soil infiltration of pollutants contained in surface runoff before they enter state waters. Portions of field 3, 4 & 5 have RPA overlays. Areas that are within the RPA and in use as pasture must not be over-grazed to prevent erosion.

Maintenance of existing vegetative buffer is required through improved forest management practices that meet the Chesapeake Bay Buffer management standards.

Pesticide and fertilizer applications within RPA are discouraged. If chemical application becomes absolutely necessary, it must be done with the advice of an experienced professional.

Areas	Planned Amount	Month	Year	Applied Amount	Date
Field 3	340 ft.	6	2013		
Field 4	330 ft.	6	2013		
Field 5	761 ft.	6	2013		
Forested Area	3,584 ft.				
Total	5,015 ft.				

3) Pest Management:

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.

Areas	Planned Amount	Month	Year	Applied Amount	Date
Field 1	14.0 acs.	6	2013		
Field 2	14.0 acs.	6	2013		
Field 3	9.0 acs.	6	2013		
Field 4	7.0 acs.	6	2013		
Field 5	10.0 acs.	6	2013		
Field 6	5.0 acs.	6	2013		
Pond (P1)	0.5 ac.	6	2013		
Pond (P2)	0.5 ac.	6	2013		
Resid. Area	2.0 acs.	6	2013		
Forested Area	56.0 acs.	6	2013		
Total	118.0 acs.				

4) Prescribed Grazing:

Rotational grazing – Graze fields in a rotational manner by adjusting the pasture recovery period through the grazing season. Closely monitor the grazing time of the animals to avoid over-grazing, especially within RPAs. Pasture areas within RPA should not be grazed lower than three inches.

Areas	Planned Amount	Month	Year	Applied Amount	Date
Field 1	14.0 acs.	6	2013		
Field 2	14.0 acs.	6	2013		
Field 3	9.0 acs.	6	2013		
Field 4	7.0 acs.	6	2013		
Field 5	10.0 acs.	6	2013		
Field 6	5.0 acs.	6	2013		
Total	59.0 acs.				

5) Critical Area Stabilization:

Field 3 shows developing erosive conditions at two locations:

- i) The upper portion next to the driveway fence-line shows developing gully about 30 feet long and six inches deep. It is a result of concentrated flows entering the field. A level spreader can be installed to spread out the concentrated flow. The developing gulley should be filled-in and seeded.
- ii) At the lower portion of the same field is an area with exposed soil. This appears to be man-made. A cut about three feet deep and approximately 10 feet wide should be graded to create gentler slopes around the sides and then filled with large stones to dissipate the energy that may cause further erosion.

Area	Planned Amount	Month	Year	Applied Amount	Date
Field 3	2 locations	6	2013		

6) Farm Pond Management (399):

Existing ponds (P1 & P2) indicated on the site map should be stocked to maintain a biologically balanced fish population. It was observed that approximately, 50% of the surface of P1 is covered over by two dominant aquatic weeds: Filamentous algae and Water chestnut. Neither of these weeds is known to have a predator that can effectively control its growth. Chemical treatment may be considered for their control.

Since the water chest nut bloom appears to be the more dominant, you may focus on treating that weed first. In the case of water chestnut, yearly treatment may be necessary for 3 – 4 years in a row.

If possible this treatment can be combined with an “Over-Winter” treatment, wherein the water level is lowered during the winter to get the seeds embedded in the pond floor to become exposed to freezing temperatures. This is known to kill them.

Areas	Planned Amount	Month	Year	Applied Amount	Date
Pond (P1)	0.5 acs.	6	2013		
Pond (P2)	0.5 acs.	6	2013		
Total					

7) Upland Wildlife Management (645):

Develop and maintain the existing preserved areas to enhance wildlife habitat

Area	Planned Amount	Month	Year	Applied Amount	Date
Forested Area	56.0 acs.	6	2013	6	20013
Total	56.0 acs.				

8) Forest Stand Improvement (666):

Forestland must be managed according to the plan and specifications provided by the Virginia Department of Forestry.

Area	Planned Amount	Month	Year	Applied Amount	Date
Forested Area	56.0 acs.	6	2013		
Total	56.0 acs.				

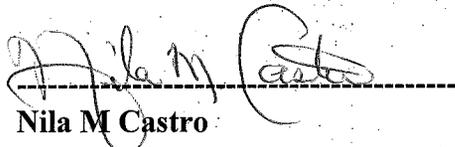
9) Record Keeping (991):

A system of records indicating on-farm activities such as dates and applications of nutrients or pesticides should be developed and maintained. A specimen record sheet is included.

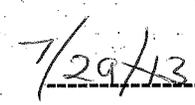
Areas	Planned Amount	Month	Year	Applied Amount	Date
Field 1	14.0 acs.	6	2013		
Field 2	14.0 acs.	6	2013		
Field 3	9.0 acs.	6	2013		
Field 4	7.0 acs.	6	2013		
Field 5	10.0 acs.	6	2013		
Field 6	5.0 acs.	6	2013		
Pond (P1)	0.5 ac.	6	2013		
Pond (P2)	0.5 ac.	6	2013		
Resid. Area	2.0 acs.	6	2013		
Forested Area	56.0 acs.	6	2013		
Total	118.0 acs.				

**SIGNATURE OF THE REPRESENTATIVE OF
THE CASTRO'S A&F DISTRICT**

Castro Family Representative:

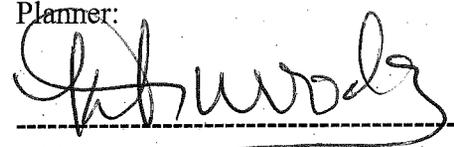


Nila M Castro

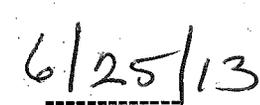


Date

Planner:

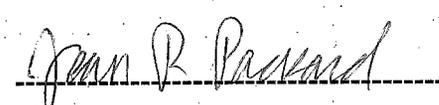


Wilfred Wood



Date

District Authority:



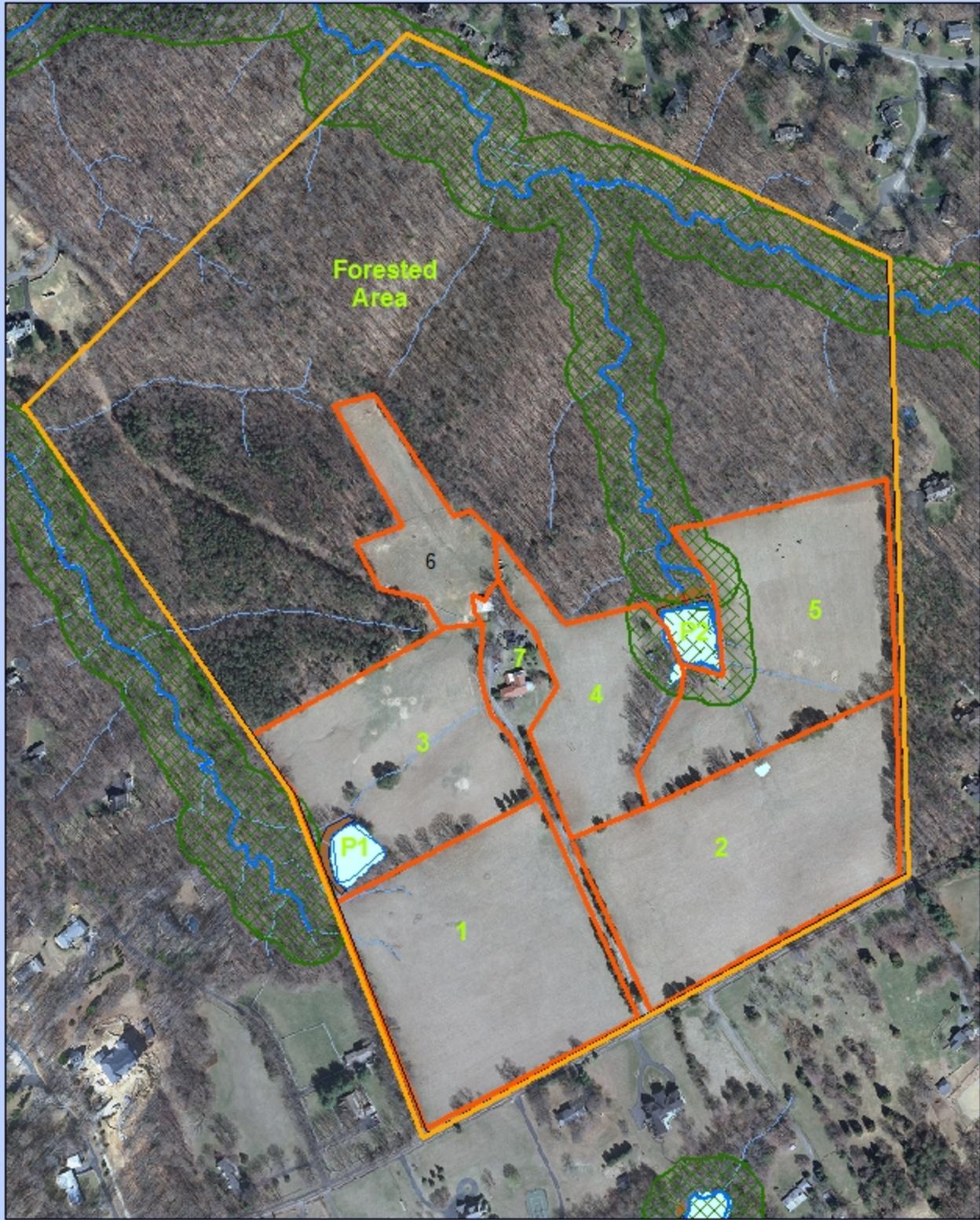
Chairman



Date

Nila Castro Ag. & Forestal Dist. 11720 Chapel Road, Clifton

APPENDIX 4



Legend

-  1993 RPAs
-  2003 RPAs
-  2003 (Rev) RPAs
-  Resource Management Areas (RMAs)

Prepared by Willie Woode - NVSWCD
Fairfax County GIS and 2009 Orthophoto Layers

0 240 480 960 Feet



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 24, 2013

Ms. Nila Moe Castro
11720 Chapel Rd.
Clifton VA 20124

Dear Ms. Castro,

I enjoyed meeting you today and walking your woods. You have some beautiful trees that are nicely complimented by woodland wildflowers and ferns this time of year. As we discussed, there has been some anticipated change in the forests on your properties. Stands A and B, which were dominated by pine in 2005, are evolving into hardwood forest similar to that found in stand C.

One concern that I do have is that there is little regeneration in the forest. I noted many stems of first year growth of maple, oak and hickory, but none are surviving beyond the first year. This can be attributed to deer browse, so I was glad to hear that you do have hunters working the property. Unfortunately the absence of regeneration and viburnum shrubs, and the presence of a browse line on the laurels and hollies suggests that there are still too many deer using the property. You should consider discuss getting a Kill Permit with the Virginia Department of Game and Inland Fisheries.

Other than the deer browse, your forest is doing nicely and you should continue to follow the recommendations in the plan dated July 22, 2005.

Respectfully,

James McGlone
Urban Forest Conservationist



AR 96-S- 002
Tract # FAX 97007

Report of Tree Cover
For
Castro Agriculture and Forestry District

Property 11720 Chapel Rd
Clifton, VA 20124

Examined by: Judith A. Okay and Jonathan Pine – Virginia Dept. of Forestry

Landowner Objectives: To maintain the Agriculture and Forestry District status as well as retaining the integrity of the natural resources and rural character of the property.

Introduction: For the purposes of this report the property was divided into three parcels which will be referenced according to the tree cover type. The total forest area reviewed is approximately 50 acres. There is a Resource Protection Area on the property which will be addressed in terms of management. There is an aerial photo and maps included with this report, they are mainly for clarification of recommendations and not intended for legal boundaries.



Castro Agriculture and Forestry District AR 96-S-002

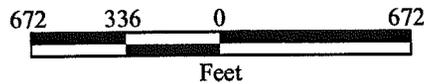
APPENDIX 6

MAP BY:
Jonathan Pine

Jul. 22, 2005



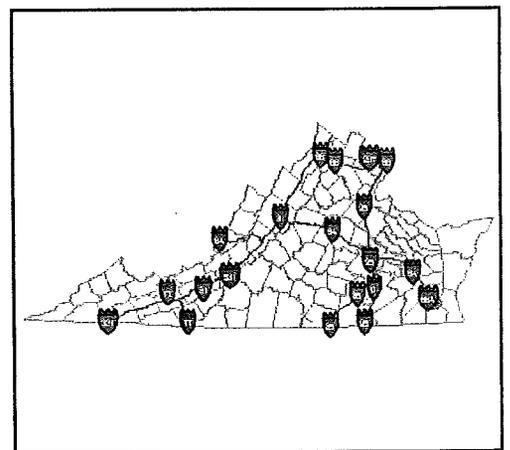
Aerial Imagery (C) 2002 Commonwealth of Virginia



LEGEND

- Interstates VDOT
- US Highways VDOT
- County Connecting Lakes and Ponds
- Lake or Pond
- Canal or Ditch
- Reservoir
- Streams and Rivers**
- Intermittent Stream
- Perennial Stream or River
- Roadline
- Connector
- Canal / Ditch

- Castro Property Line
- Parcel A
- Parcel B
- Parcel C



Parcel Map

PARCEL A
(Green polygon on aerial photo)

Species: Virginia pine is the dominant species in this polygon. The size range is an average of 18-24 inches. The understory in this parcel is very diverse. One Tulip poplar measured approximately 29 inches in diameter. American beech is the dominant species in the understory, other species present are: Tulip poplar, Red maple, Northern red oak, Sassafras, American holly, Flowering dogwood, American hophornbeam, and Viburnum prunifolium. The ground cover has various ferns, and young hardwood seedlings coming up.

Quality: The Virginia pine is past its prime and is subject to wind throw. In an unmanaged situation this is a normal process. The gaps that develop from the tree falls leave space for the young seedlings coming up in the understory. The standing pine are a good size for saw timber. Some of the hardwood species in the canopy of this area are also of saw timber size. Because of the steep grade on the south east portion of this parcel and the lack of volume on the west portion, timber removal is not recommended at this time.

There are three soil types in this parcel, Manor, Meadowville, and Glenelg. Manor type soils support White oak, Tulip poplar, Red oak, Hickory, Chestnut oak, Black oak, and Black gum. The Meadowville supports fewer forest species, Tulip poplar, Black walnut, Red oak and pine. The Glenelg support similar species to the Manor type soil. This information is helpful in understanding why certain species do better than others in a particular area. You have many of the species listed in this parcel.

Wildlife Habitat: This parcel because of its diversity has the potential to support many species of wildlife. The debris piles serve as den areas for fox, and raccoon, the snag trees serve as nesting for Owl, woodpeckers, and squirrels. Interior forest birds also take advantage of debris piles.

Recreation: Just as this parcel provides the opportunity for wildlife habitat, it also provides for wildlife observation as a recreational opportunity. The topography in this area ranges from level on the ridge and dropping off into a steep slope, therefore it makes a challenging walk. There are areas on the ridge that provide vistas for photography.

PARCEL B

(Orange polygon on aerial photo)

SPECIES: Although this parcel also contains Virginia Pine, the density is much less than in Parcel A. There is evidence of a previous harvest of the pine. In addition to the pine, there is mixed hardwood. Tulip poplar is the dominant species present in the canopy and understory as well as Hickory, Oak, and American beech, Mountain laurel, Flowering dogwood and American hornbeam. The groundcover for this parcel contains partridge berry, Virginia creeper and a few seedlings of the over story species.

Quality: This parcel does not have the diversity of the canopy species in the understory due to deer browse. The mature trees are healthy and many of the Tulip poplar are of saw timber size. The over story does not have many gaps to allow the sun to penetrate the forest floor. This aspect also contributes to the lack of understory.

The soil types in Parcel B do not vary from those in Parcel A. The species types are not considerably different either.

Wildlife Habitat: This parcel is more open than Parcel A and does not provide the nesting denning opportunities of that parcel. However, because of the openness, the opportunity for ground feeders like turkey is very good. The Hickory and Oak trees also provide the hard mast to support these species. The large Tulip poplar, Hickory and Oak provide strong branches for larger nesting birds (Owl and Hawk).

Recreation: Because the forest floor in this area is more open, it is a wonderful and easy place to walk and the open siting allows for photographic opportunities. The openness also makes wildlife observation easy.

PARCEL C
(Magenta polygon on aerial photo)

SPECIES : This parcel is quite typical of the Clifton area mixed hardwood forests. It is an Oak Hickory forest type with Tulip poplar and American beech in the canopy. The White Oak dominates the ridge as well as Chestnut Oak, Red oak and Black oak. Relative to Parcels A&B, this parcel has a sparse understory. Mountain laurel and American hornbeam are understory species that were observed. There are two water features related to this parcel, a pond and a stream, Pope's Head Creek, with a Resource Protection Area.

QUALITY: The timber is a quality that would make good sawtimber. There is no particular evidence of disease. The deer browse is evident, and there is considerable shade, both of these combine to restrict the growth of future forest trees.

The soil types, even along the stream do not differ from the other parcels on the property.

WILDLIFE HABITAT: This parcel has the same qualities as Parcel B. It does contribute more oak diversity and therefore more hard mast for wildlife species such as deer and turkey. American Beech often develops cavities at the base and these cavities are good for wildlife dens.

RECREATION: There are trails through this area and the terrain is quite walkable. With the wildlife habitat characteristics, there are opportunities for wildlife observation. As the other parcels, this parcel has vistas for photography.

CONCLUSIONS

The only portion of this property reviewed was the forested areas. There were no forest health problems evident. The gypsy moth has been in recession the past 5 years and the diverse oak species look well and have been unaffected. There are trees on all parcels that would allow for selective harvesting. This would allow the canopy that is very dense to be opened. This would reduce the light competition for younger seedlings in the understory and ground cover.

In Parcel A, the amount of dead pine does create a fire hazard. Whenever there is a heavy fuel load (dead trees) on the ground there is a risk for wildfire. Because of this, it is recommended that some of the dead material be removed. There is not a market for this pine, but chipping is an alternative. The power line that divides Parcels A& B also poses a fire risk, sparks from downed lines are listed as one of the major causes of forest fires in Virginia.

The forest on this property provides extensive wildlife habitat. This is a shrinking type of land use in Fairfax County. One of the problems with the shrinking habitat in the County is that the pressure for wildlife food and shelter is transferred to forests that remain. A deer management plan for this property is recommended.

Popes Head Creek flows through Parcel C, the cattle had access to this stream on the day of the forestry review. It is recommended that the landowner consider an application for the Conservation Reserve Enhancement Program. This program will help with fencing and

alternative water sources for cattle. A brochure about this program is enclosed. If there is interest in this program the Virginia Dept. of Forestry or the Soil and Water Conservation Service can assist with the application process.

Overall, the Castro forested property is an asset to Fairfax County and should be retained in the Agriculture and Forestry District status. It conserves an extensive parcel of mixed forest and preserves the rural character the County is losing rapidly.

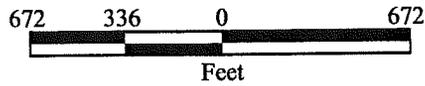
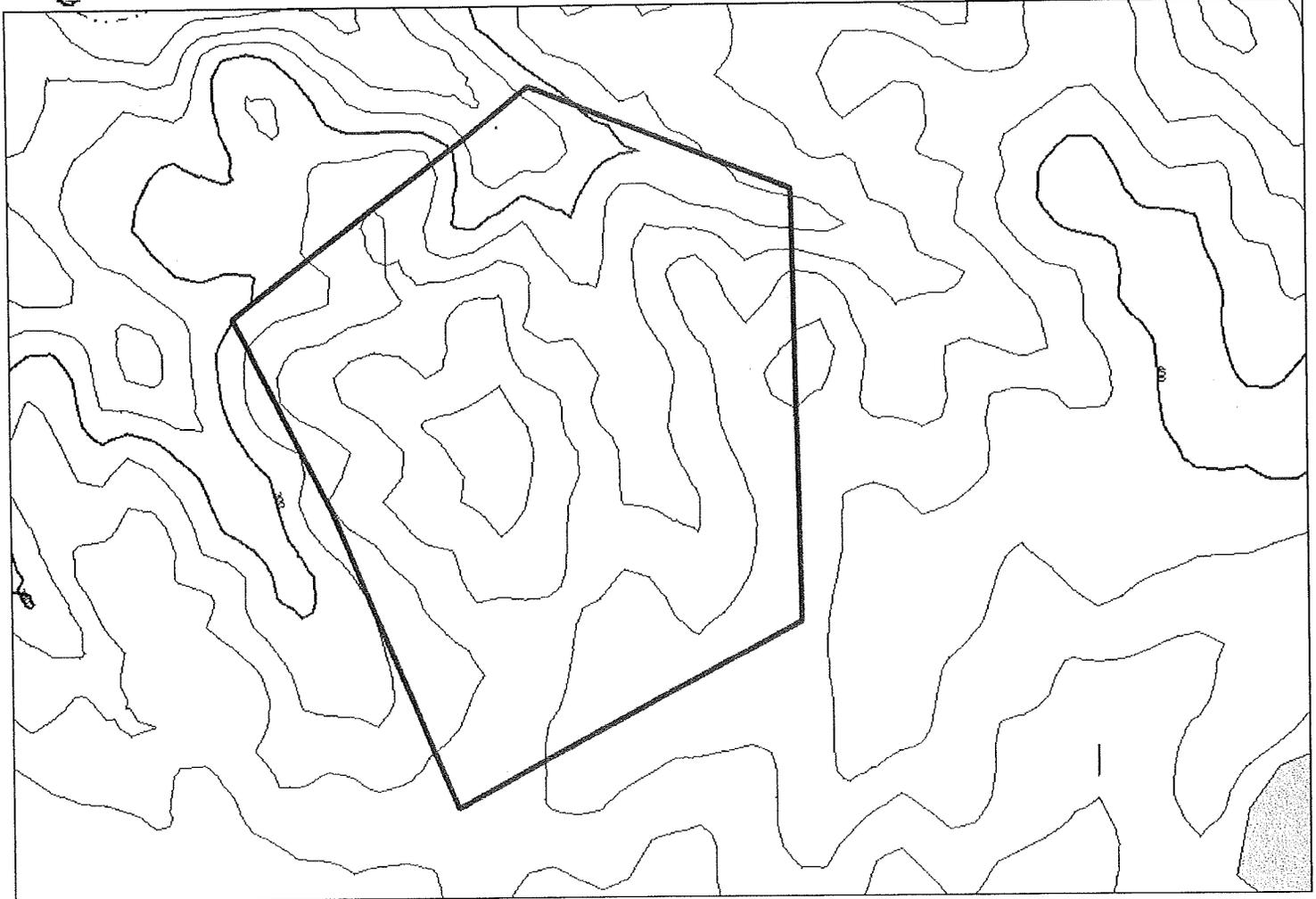


Castro Agriculture and Forestry District

AR 96-S-002

APPENDIX 6 **MAP BY:**
Jonathan Pine

Jul. 22, 2005

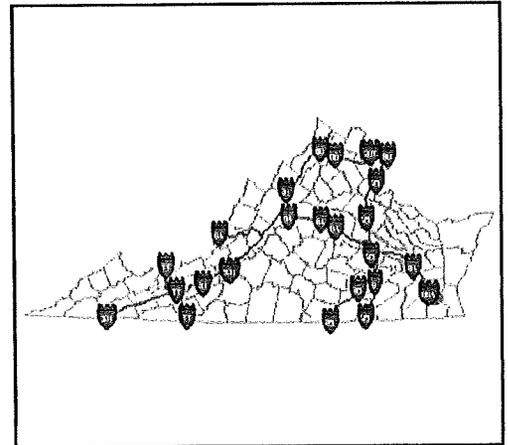


LEGEND

- Interstates VDOT
- US Highways VDOT
- County Connecting
- 20 Foot Elevation Contours
- Piedmont
- Major
- Other
- Lakes and Ponds
- Lake or Pond
- ...

- Streams and Rivers
- Intermittent Stream
- Perennial Stream or River
- Pipeline
- Connector
- Canal / Ditch
- Soils

Castro Property Line

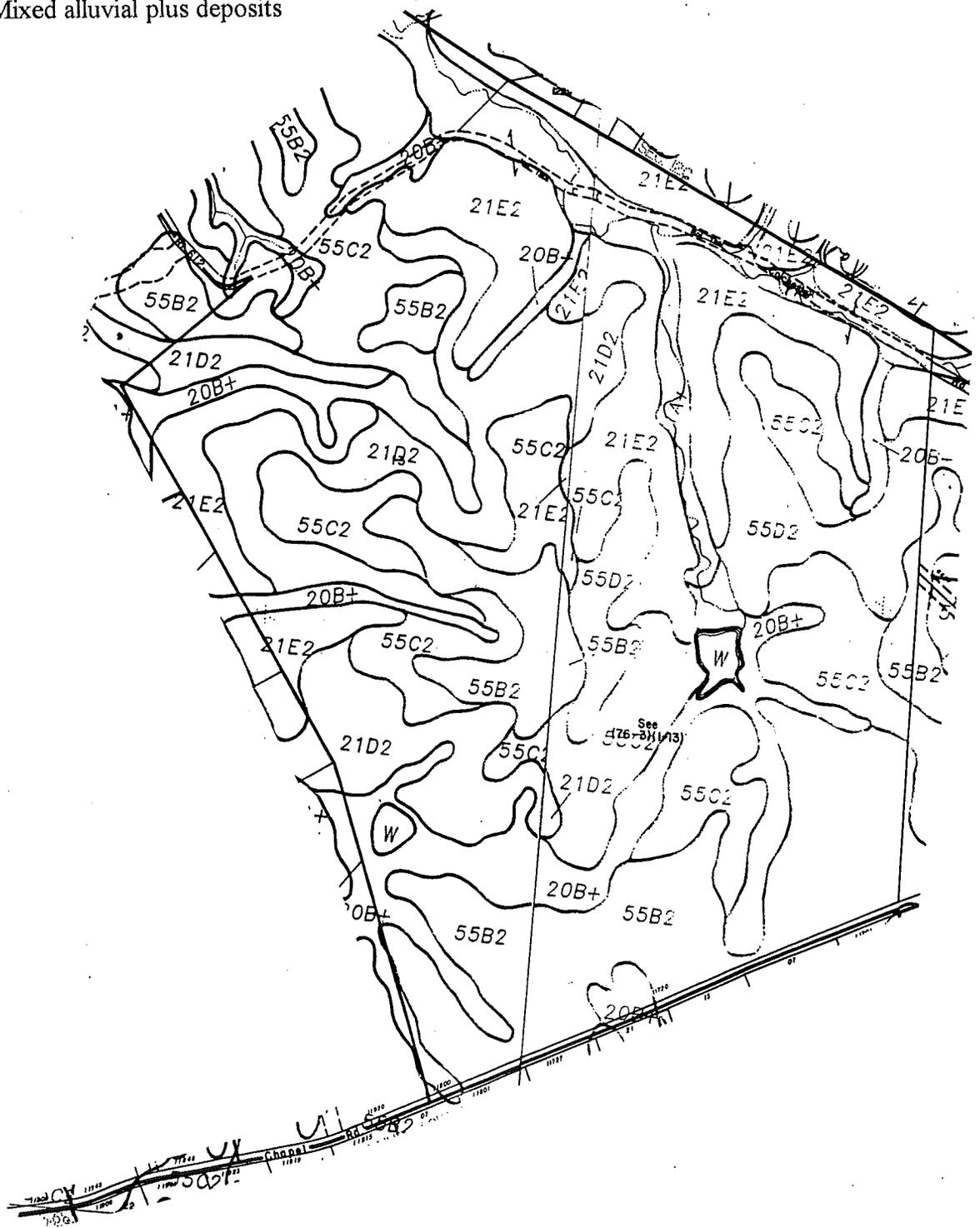


Topography

Soils Map for Castro Property

Soils present:

- 20 B+ Meadowville silt loam
- 21 D2 Manor silt loam, hilly phase
- 21 E2 Manor silt loam, steep phase
- 55B2 Glenelg silt loam, undulating phase
- 55C2 Glenelg silt loam, rolling phase
- 55D2 Glenelg silt loam, hilly phase
- 1A+ Mixed alluvial plus deposits



make rather than...
Additional... may...
166

CASE NUMBER: . 166
OWNER: . Mrs. ~~Ernest~~ Castro

ADDRESS: . 11720 Chapel Road
. Clifton, Virginia

TAX REFERENCE NUMBERS: . pg. 76-A 1-13
. Property located west of Butts Corner heading toward Clifton.

SITE OBSERVATIONS: . Sited behind a new large home at the end of a very long dirt driveway is a small two story house. Manicured lawn and several large trees surround the house. The house is shielded from views by a new Spanish Colonial house. There is no distinguishable site remaining for the house.

BUILDING DESCRIPTION: . Two story Gothic Revival house with a wide wrap around front porch with partial wood floor. Six over six double hung sash windows. Horizontal wood weatherboard siding of irregular sizes and cut edges. T plan house. Wide wrap around cornice board. Front porch has a low pitch hip roof and turned columns. Centrally located front door with three windows on the first floor facade. Front end high pitched gable dormer with six over six window. Standing seam tin roof. Several shed roof additions. Part of the house has shiplap siding. Part of the front porch is rebuilt stone; indicates stone use in house, maybe in foundation. Front house part measures about 12 by 18 feet; wing about the same. Some of the windows are 2 over 2. One dormer in wing. One interior brick chimney

STRUCTURAL CONDITION: . well maintained frame structure

HISTORIC INFORMATION: . Old maps: 1886 Shipman Map shows structure just west of Wolf Run on the north side of Chapel Road; looks like this house.
. SEE SALE: April 8 1859 public sale of Edward Sangster's property which lists a 480 acre farm improved with a dwelling.
. residence

CURRENT USE: . residence

ARCHITECTURAL STYLE/DATE: . Original house: Gothic Revival house with wing estimate date 1850-1855. No way.
. One addition looks like late 19th Century

ENVIRONMENTAL SETTING: . As-is

HISTORIC SIGNIFICANCE: . HISTORICALLY SIGNIFICANT

FOOTNOTES: . research notes: Beth Mitchell

SIGNIFICANT FOR SIZE OF PARCEL - 118 Acres

parcel # is 16-3, but should be 16-4

But what evidence that was this house? Total Sangster acreage sold was 1131. de taxes. Worthington more likely as orig. owner

1860 ownership John y Worthington 209+ acres
C-4, 398. 11-14-1860. Grantors: Alfred + Martha Moss, Worthington of Howard Co Md
\$9450. 209 5/8 a. conveyed to Moss by Walter
OCCOQUAN REGION
Powell Cont 11-13-1860
JULY 1988
STB
SEP 87



C-4, 393 a Hoched.





County of Fairfax, Virginia

MEMORANDUM

Date: July 25, 2013

TO: Barbara Berlin, Director
Zoning Evaluation Division, DPZ

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

SUBJECT: Land Use Analysis & Environmental Assessment for: AR 96-S-002-02, Nila M. Castro

This memorandum, prepared by Domenic Scavuzzo, 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 118-acre Agricultural and Forestal (A & F) District. This district is comprised of one parcel of land managed by Nila M. Castro and it is located in the Dominion Community Planning Sector (P5) of the Pohick Planning District of Area III volume within the Springfield Magisterial District.

The parcel has been owned by Ms. Castro since 1970. The land has been used for agricultural and residential purposes by Ms. Castro since she purchased the property. There is a farm house, main residential house and a barn on the property. Within the past 10 years Ms. Castro has added a fence to her property composed of board and wire.

The proposed district has 56.2 acres in agricultural use. Approximately 60 acres are kept as forested or undeveloped land, and the remainder of the property is composed of 2 acres of single residential structure.

LOCATION AND CHARACTER

The subject property is located in western Fairfax County within the Popes Head Creek Watershed. The district is surrounded by land which is planned for residential use at .1-2 dwelling unit per acre (du/ac) or 5-10 acre lots, and private open space.

COMPREHENSIVE PLAN CITATIONS

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

Land Use

In the Fairfax County Comprehensive Plan, 2007 Edition, Area III, Pohick Planning District, as amended through September 28, 2010, P5-Dominion Community Planning Sector, Recommendations, Land Use, on page 59 and 61, the Plan states:

Land Use

“A portion of the Dominion Planning Sector is developed as stable residential neighborhoods. Infill development in these neighborhoods should be of a compatible use, type and intensity in accordance with the guidance provided by the Policy Plan under Land Use Objectives 8 and 14. . . .

1. Protection of the Occoquan Reservoir water quality is the primary objective for this area. Land in the watershed of the Occoquan Reservoir should be planned for residential use within a density range of .1-.2 dwelling units per acre. This conforms with findings in the Occoquan Basin Study and is commensurate with predominant densities and the well-established character of existing development in this sector. . . .
3. Agricultural and forestall 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 forestall techniques are supportive of water quality goals for the Occoquan Reservoir watershed.”

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

Environment

In the Fairfax County Comprehensive Plan, 2007 Edition, Policy Plan, Environment, as amended through July 27, 2010, on pages 7-9, the Plan states:

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

Policy a. Maintain a best management practices (BMP) program for Fairfax County and ensure that new development and

redevelopment complies with the County's best management practice (BMP) requirements. . . .

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

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

In the Fairfax County Comprehensive Plan, 2007 Edition, Policy Plan, Environment, as amended through July 27, 2010, on page 10, the Plan states:

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

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

In the Fairfax County Comprehensive Plan, 2007 Edition, Policy Plan, Environment, as amended through July 27, 2010, on pages 14 and 15, the Plan states:

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

Policy a: 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, 2007 Edition, Policy Plan, Environment, as amended through July 27, 2010, on page 18, the Plan states:

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

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

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 Castro Agricultural and Forestal District is a 118.25-acre tract of land. The property falls within the Popes Head Creek Watershed, immediately north of the Wolf Run Watershed. Popes Head Creek and an associated Environmental Quality Corridor (EQC), traverses the entire northwestern part of the property. A Resource Protection Area (RPA)

Barbara Berlin
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also traverses across the entire northern part of the property. The RPA also runs into the center of the property to the east of the residential unit, and ends where a stormwater retention pond is located. 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 northern section of the property is heavily forested, while 56.2 acres of the southern section of the property is used for agricultural uses. The land on the property that is forested amounts to 60 acres. The remaining two acres are used for residential purposes by the owner.

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 two trails that are planned immediately adjacent to the subject property. The plan also depicts a Major regional trail in the vicinity of the subject property to the north. A Natural Surface or Stoned Dust Trail, typically six feet to eight feet in width, is planned along the property's southeastern boundary. The South County East-West Trail is planned along Popes Head Creek, and may consist of either of an asphalt or concrete trail that is eight feet or more in width, or built as a Natural Surface or Stoned Dust Trail. This trail is to the north of the subject property.

PGN: DAS

Attachment

FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

DATE: September 10, 2013

TO: Members, Planning Commission
Members, Board of Supervisors

FROM: Agricultural and Forestal Districts Advisory Committee

SUBJECT: Recommendations on the Castro Local Agricultural and Forestal District;
Application AR 96-S-002-02

The Agricultural and Forestal Districts Advisory Committee met on September 10, 2013, to review the application to renew the Castro Local Agricultural and Forestal District (Application AR 96-S-002-02). The Committee found the following:

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

The Agricultural and Forestal Districts Advisory Committee unanimously recommends that Appendix F of the Fairfax County Code be revised to renew the Castro Local Agricultural and Forestal District. The Advisory Committee further recommends that the renewal of this district be subject to the Ordinance Provisions which are contained in Appendix 1 of the staff report.

Selected provisions from the Fairfax County Code, Chapter 115. For the full, unabridged, code please visit the website of the Fairfax County Planning and Zoning Department or view a copy in person at the Fairfax County Planning and Zoning office.

ARTICLE 1.

In General.

Section 115-1-1. Short title.

This chapter may be referred to as to "Local Agricultural and Forestal Districts Ordinance" of the County of Fairfax and is to become effective June 30, 1983. (13-83415.)

Section 115-1-2. Policy and purpose.

It is the policy of Fairfax County to conserve and protect and to encourage the development and improvement of its important agricultural and forest lands for the production of food and other agricultural and forest products. It is also Fairfax County policy to conserve and protect agricultural and forest lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, watershed protection, wildlife habitat, aesthetic quality, and other environmental purposes. It is the purpose of this Chapter to provide a means by which Fairfax County may protect and enhance agricultural and forest lands of local significance as a viable segment of the Fairfax County economy and as an important economic and environmental resource. (13-83-115.)

Section 115-1-3. Authority.

The authority for the establishment of a program of local agricultural and forestal districts in Fairfax County is derived from Title 15.1, Chapter 36.1 of the *Code of Virginia*, entitled the "Local Agricultural and Forestal Districts Act." (13-83-115.)

ARTICLE 3.

District Applications.

Section 115-3-2. Minimum district size, district boundaries.

An agricultural and forestal district shall be comprised of no less than twenty (20) acres, all of which shall be located in Fairfax County. (13-83-115; 21-95-115.)

Section 115-4-8. Provisions of local district ordinances.

Any district ordinance adopted by the Board in order to establish or renew an agricultural and forestal district shall include the following provisions:

- a) 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 (8) 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;
- b) 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 (8) years from the date of adopting of the original district ordinance;
- c) That land used in agricultural and forestal production within the agricultural and forestal district of local significance shall automatically qualify for an agricultural or forestal value assessment on such land pursuant to Chapter 4, Article 19 of the Fairfax County Code and to *Code of Virginia*, Section 58-769.4 et seq., if the requirements for such assessment contained therein are satisfied;
- d) 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 of land shall be included in any agricultural and forestal district of local significance without such owner's written approval; and
- e) Any other provisions to the mutual agreement of the landowner and the Board of Supervisors that further the purpose of this Chapter. (21-95-115.)

Section 115-4-9. Renewal of local districts.

- a) Local districts may be renewed by the adoption by the Board of Supervisors of a district ordinance as described in Section 115-4-8.
- b) No land may be included in a renewed district without the written approval of all the owners of such land. Notice of such approval shall be given by the completion, signing and submission of an application as provided in Article 8 of this Chapter. Such application should be submitted at least six (6) months before the expiration date of the existing district which is to be considered for renewal, but in no case shall it be submitted later than sixty (60) days before such expiration date.

- c) When a renewal application has been submitted and accepted, the procedures outlined in Article 4 of this Chapter shall be used to review such application.
- d) If no renewal application is submitted and accepted by the deadline required in Section 115-4-9(b), the district shall not be renewed; however, owners formerly in a district may reapply pursuant to Section 115-3-1 at any time.
- e) If a renewal application signed by all owners of parcels proposed for inclusion in a renewed district is submitted and accepted by the deadline required in Section 115-4-9(b), but the Board of Supervisors fails to act on the application by the expiration date of the district, such district, including only those parcels proposed for renewal, shall continue; and all provisions of the district ordinance and this Chapter shall apply until such time as the Board of Supervisors makes its decision whether or not to renew the district as proposed.
- f) If a district is not renewed, the lands that were formerly in the district shall no longer be restricted in use as required by the district ordinance, shall no longer qualify for an agricultural or forestal value assessment, nor shall other provisions of the district ordinance any longer apply to such lands. (21-95-115.)

ARTICLE 5.

Criteria for Establishment, Modification, Renewal or Termination of a District.

Section 115-5-1. Criteria.

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

Criteria Group A: All the following criteria should be met by all proposed districts:

- 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 (5) acres per district, may be included.
- 2) All lands in the district should be zoned to the R-P, R-C, R-A or R-E District.
- 3) The district should be consistent with the Comprehensive Plan. The following land uses identified in the Plan are appropriate for a district: .1-.2 dwelling unit per acre, .2 dwelling unit per acre, .2-.5 dwelling unit per acre, .5-1 dwelling unit per

acre, Private Recreation, Private Open Space, Public Park, Agriculture, Environmental Quality Corridor. Lands not planned as such may be considered for a district if they meet at least three (3) of Criteria Group B.

- 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 (3) of the criteria of Criteria Group B, if no conflicts with surrounding uses, existing and planned, are evident or likely.
- 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 include at least fifteen (15) acres of land in agricultural use. A farm may include noncontiguous parcels within one (1) mile of the core acreage (the largest parcel or group of contiguous parcels or the parcel where the farm buildings are located) as long the noncontiguous parcels are predominately agricultural in use and as long as the total acreage of each individual farm (including contiguous and noncontiguous lands) is at least twenty (20) acres.
- 6) All other properties not included in a farm as defined in (a)(5), that is, forested and partially forested properties, and properties with less than fifteen (15) acres in agricultural use, should be at least twenty (20) acres in size. These properties may contain several parcels; but all parcels must be contiguous, and all must have the same owner, or else owners must be members of the same family or a family trust or family corporation.
- 7) Approximately two-thirds of the land in agricultural use in the district should contain Class I, II, III or IV soils as defined by the USDA Soil Conservation Service. Districts having more than one-third of the land in agricultural use containing Classes V--VIII soils may be considered if such lands have been improved and managed to reduce soil erosion, maintain soil nutrients, and reduce nonpoint source pollution.
- 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 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 nonpoint 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.

- 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 is intended to reduce or prevent soil erosion, maintain soil nutrients and reduce nonpoint 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.
- 10) There should be evidence of a history of investment in farm or forest improvements or other commitments to continuing agricultural or forestal use in the district. In particular, districts with no history of investments in farm or forest improvements must evidence a firm commitment to agricultural or forest use for at least the life of the district.

Criteria Group B: In addition to meeting all of Criteria Group A, all properties in the district should meet as well at least two (2) of the following criteria:

- 1) Farm and/or forest products have been regularly produced and sold from the property during the last five (5) years.
- 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.
- 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 considered to be 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.
- 4) Farming or forestry operations practice unique or particularly effective water pollution control measures (BMP's).
- 5) The land is zoned R-A, R-P or R-C.
- 6) The land is entirely in a permanent open space easement. (13-83-115; 21-95-115.)

APPLICABLE SECTIONS OF THE CODE OF VIRGINIA,
TITLE 58.1, CHAPTER 32 – REAL PROPERTY TAX
 (current as of September 12, 2013 –
 refer to online version of the Code for up-to-date information)

§ 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 (§ [2.2-4000](#) 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. Prior, discontinued use of property shall not be considered in determining its current use. 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 property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to agricultural use. In determining whether real property is devoted to agricultural use, zoning designations and special use permits for the property shall not be the sole considerations.

"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; and nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ [2.2-4000](#) 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. Prior, discontinued use of property shall not be considered in determining its current use. 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 property that has been designated as devoted to horticultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to horticultural use. In determining whether real property is devoted to horticultural use, zoning designations and special use permits for the property shall not be the sole considerations.

"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 (§ [2.2-4000](#) et seq.). Prior, discontinued use of property shall not be considered in determining its current use. 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 property that has been designated as devoted to forest use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to forest use. In determining whether real property is devoted to forest use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or recreational purposes, including public or private golf courses, (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 (§ [2.2-4000](#) et seq.) and the local ordinance. Prior, discontinued use of property shall not be considered in determining its current use. Real property that has been designated as devoted to open-space use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to open-space use. In determining whether real property is devoted to open-space use, zoning designations and special use permits for the property shall not be the sole considerations.

§ 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; 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 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.

The roll-back taxes and penalty that otherwise would be imposed under this subsection shall not become due at the time the zoning is changed if the locality has enacted an ordinance pursuant to subsection G.

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.

G. A locality may enact an ordinance providing that (i) when a change in zoning of real estate to a more intensive use at the request of the owner or his agent occurs, roll-back taxes shall not become due solely because the change in zoning is for specific more intensive uses set forth in the ordinance, (ii) such real estate may remain eligible for use value assessment and taxation, in accordance with the provisions of this article, as long as the use by which it qualified does not change to a nonqualifying use, and (iii) no roll-back tax shall become due with respect to the real estate until such time as the use by which it qualified changes to a nonqualifying use.

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

A. Albemarle County, Arlington County, Augusta County, James City County, Loudoun County, and Rockingham County 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. As applied to zoning districts, 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 that is zoned agricultural and is subsequently rezoned to a more intensive use that 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.

B. Goochland County may include additional provisions specified in subdivisions A 1 and 2 in any ordinance enacted under the authority of this article, but only in service districts created after July 1, 2013, pursuant to Article 1 (§ [15.2-2400](#) et seq.) of Chapter 24 of Title 15.2.

§ 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.

B. 1. No subdivision, separation, or split-off of property which results in parcels that meet the minimum acreage requirements of this article, and that are used for one or more of the purposes set forth in § [58.1-3230](#), shall be subject to the provisions of subsection A.

2. The application of roll-back taxes pursuant to subsection A shall, at the option of the locality, also not apply to a subdivision, separation, or split-off of property made pursuant to a subdivision ordinance adopted under § [15.2-2244](#) that results in parcels that do not meet the minimum acreage requirements of this article, provided that title to the parcels subdivided, separated, or split-off is held in the name of an immediate family member for at least the first 60 months immediately following the subdivision, separation, or split-off.

For purposes of this subdivision, an "immediate family member" means any person defined as such in the locality's subdivision ordinance adopted pursuant to § [15.2-2244](#).

C. 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.