



APPLICATION ACCEPTED: July 26, 2013
PLANNING COMMISSION: November 13, 2013 @ 8:15 p.m.
BOARD OF SUPERVISORS: November 19, 2013 @ 3:30 p.m.

County of Fairfax, Virginia

October 30, 2013

STAFF REPORT

KNIPLING LOCAL AGRICULTURAL AND FORESTAL DISTRICT RENEWAL

APPLICATION AR 87-V-001-03

MT VERNON DISTRICT

APPLICANTS: Gary D. Knipling and Charlotte J. Knipling

ZONING: R-E

PARCEL(S): 118-1 ((3)) Z, 118-2 ((1)) 6Z, ((2)) 10Z, ((5)) 1Z, 2Z, 7Z

ACREAGE: 36.75 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 Knipling 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 12.

Michael H. Lynskey, ASLA

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



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.

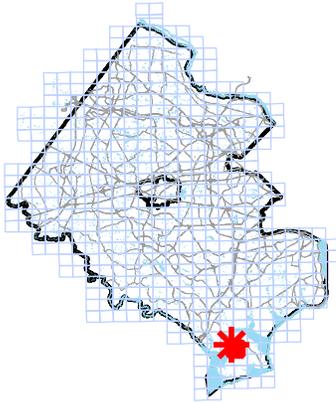
It should be noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

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).



A&F District Renewal

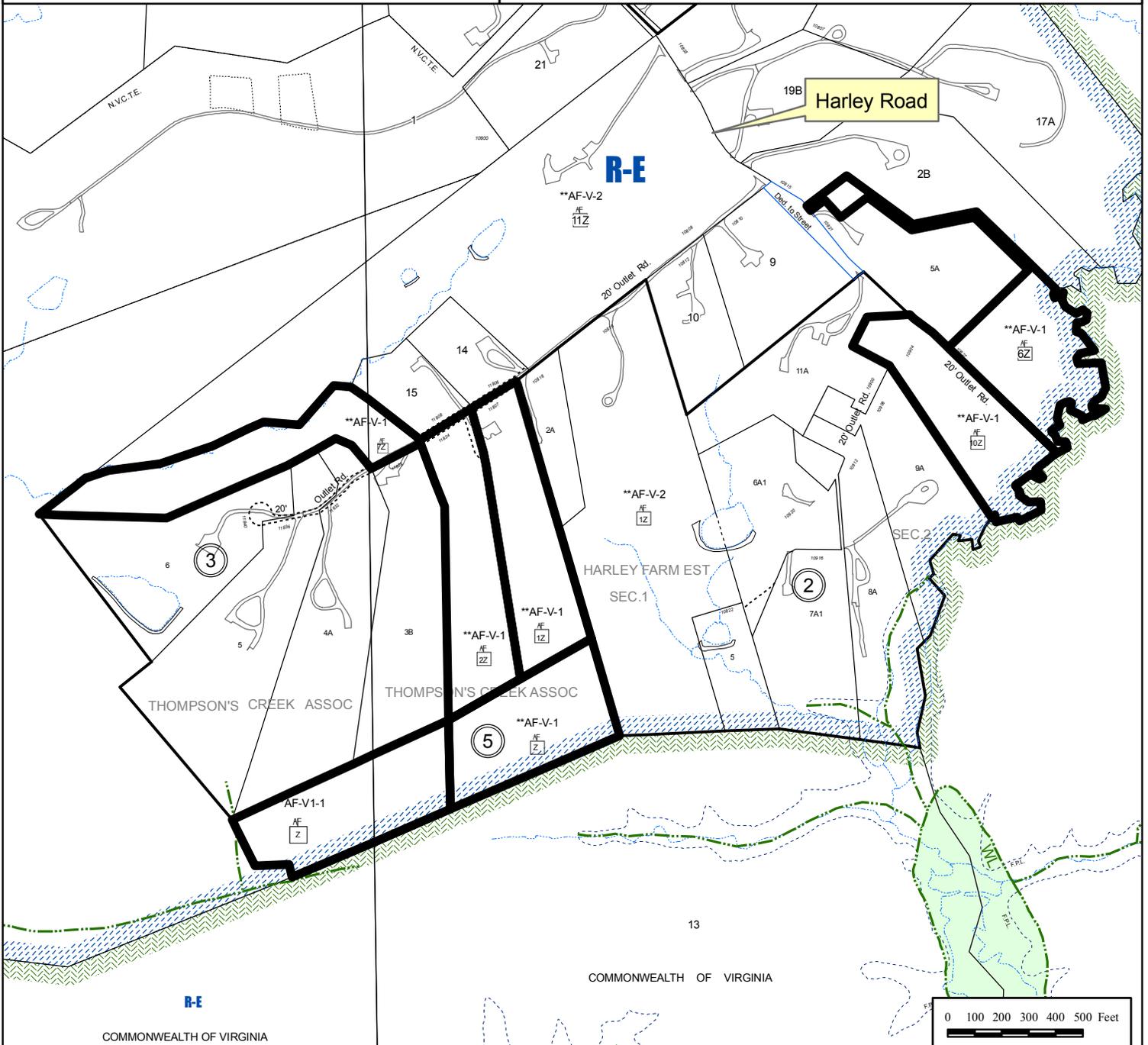
AR 87-V -001-03



Applicant: GARY D. KNIPLING & CHARLOTTE J. KNIPLING
Accepted: 07/26/2013
Proposed: AGRICULTURAL AND FORESTAL DISTRICT RENEWAL

Area: 36.75 AC OF LAND; DISTRICT - MOUNT VERNON
Zoning Dist Sect: Located: 11807 HARLEY ROAD, LORTON, VA 22079

Zoning: R- E
Overlay Dist:
Map Ref Num: 118-1- /03/ / Z 118-2- /01/ /0006Z /02/ /0010Z /05/ / Z /05/ /0001Z /05/ /0002Z /05/ /0007Z



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

DESCRIPTION OF APPLICATION

Proposal:	AR 87-V-001-03 is a renewal request for the Knipling Local Agricultural and Forestal District, under the provisions of Chapter 115 of the Fairfax County Code. The subject property consists of a total of 36.75 acres, located on the southeast and southwest sides of Harley Road in the Mt. Vernon District.
Applicant:	Gary D. and Charlotte J. Knipling
Acreage:	36.75 acres
Use:	Future timber or pulpwood harvesting: 16.3 acres Firewood production & harvesting: 10.4 acres Conservation: 8.2 acres Residential uses: 1.8 acres

BACKGROUND

The Knipling Local Agricultural and Forestal District was originally established on April 11, 1988, on 26.22 acres (the five western parcels). An additional 10.53 non-contiguous acres (the two eastern parcels) were added with the August 5, 1996 renewal of the District. A subsequent renewal was approved on February 28, 2005, consisting of the same acreage. No further changes to the district are proposed for the current renewal.

LOCATION AND CHARACTER

The subject property is located in the Lower Potomac Planning District, Mason Neck Community Planning Sector (LP3) of Area IV. The property and surrounding area are zoned R-E and consist either of single-family detached houses on lots five-acres or larger (with a few exceptions) or public parkland. Directly to the north and east is the adjoining Jarvis Local A & F District. To the west is a 120-acre parcel owned by George Mason University and used as a conflict resolution retreat center. To the south is Mason Neck State Park and Wildlife Refuge.

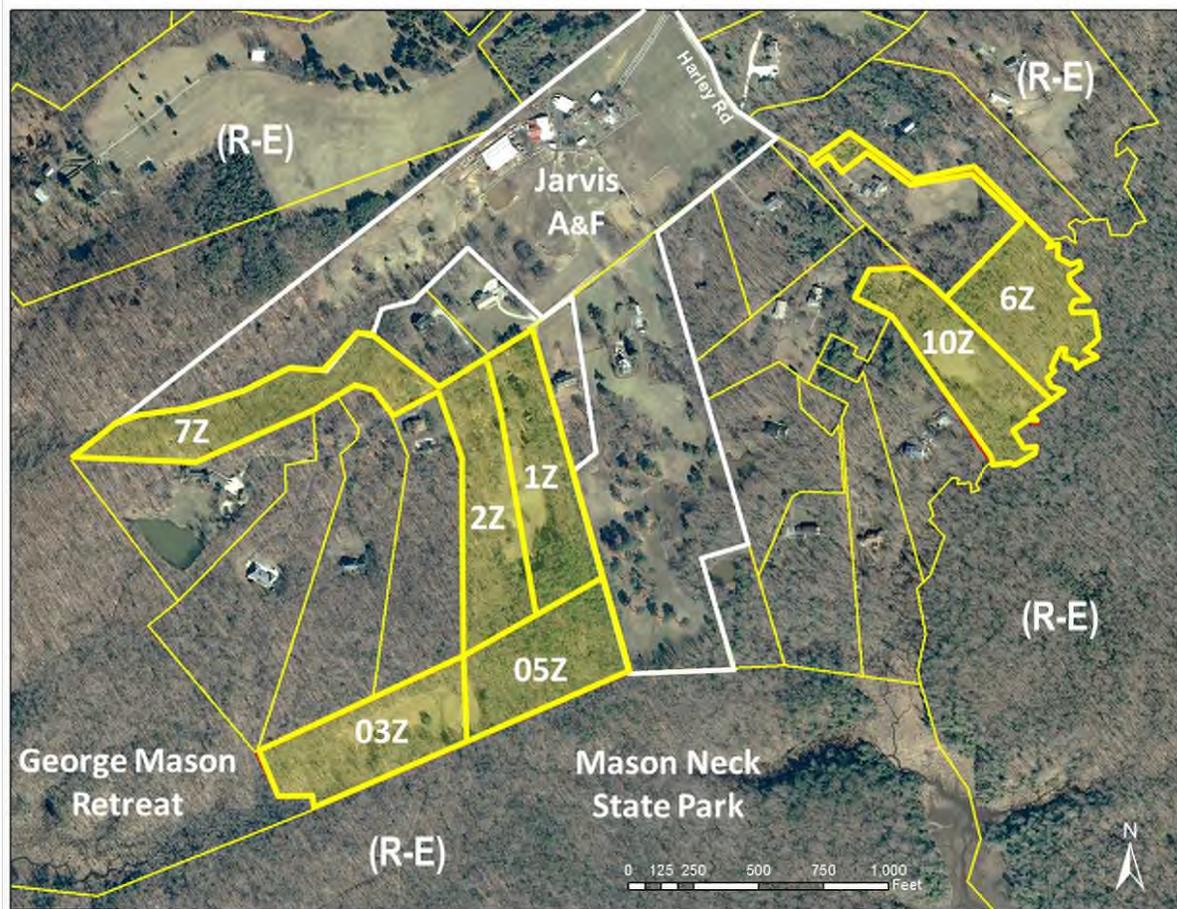


Figure 1: District parcels and surrounding properties.

	Use	Zoning	Plan
North	Single-Family Detached Residences	R-E	Residential 0.1-0.2 dwelling units/acre
South	Mason Neck State Park	R-E	Public Parks
East	Single-Family Detached Residences	R-E	Residential 0.1-0.2 dwelling units/acre
West	S.F. Residences, George Mason University Retreat	R-E	Residential 0.1-0.2 dwelling units/acre

Figure 2: Surrounding uses.

Character of the District

The applicant's residence and outbuildings are located on Parcel 118-2((5))-1Z, as is a small natural spring, which shows evidence of at least somewhat historic use, being lined with old timbers of uncertain age. The applicant has utilized his masonry skills to further stabilize and beautify the area surrounding the spring, for which the property is now named "Holly Spring". The remainder Parcel 1Z, as well as the entirety of the other parcels in the District, consists of mature forest and meadow areas, which are mowed and maintained by the applicant to provide a variety of habitat areas for local wildlife to thrive.



Figure 3: Applicant's house and barn.

Structure	Year Built	Use
Main House	1980	Residence
Barn	1984	Storage/Workshop
Chicken Coop	1981	Storage

Figure 4: Existing structures on Parcel 1Z.



Figure 5: "Holly Spring".



Figure 6: Typical maintained meadow on the property.

A tributary of Thompson's Creek is located along the southern boundary of the western parcels. A tributary of Kane Creek is located along the southern boundary of the eastern parcels. Both of these tributaries have land surrounding them that is designated as Environmental Quality Corridor (EQC) and Resource Protection Area (RPA). In addition, most of Parcel 118-1((5))-7Z is designated as EQC, but not RPA (see Appendix 1, Attachment A, for EQC/RPA map).

COMPREHENSIVE PLAN PROVISIONS

Plan Area:	Area IV
Planning District:	Lower Potomac
Planning Sector:	Mason Neck Sector (LP3)
Plan Map:	Residential use at a density of 0.1 to 0.2 dwelling units per acre and Public Parks.

ANALYSIS

Land Use Analysis

The Plan for this area encourages Agricultural and Forestal Districts to complement and enhance existing and planned land uses of very low density residential and parkland. For more detailed analysis, see Appendix 8.

Environmental Analysis

Much of this property is undeveloped open space and forested. The continuation of this A & F District is consistent with environmental recommendations of the Comprehensive Plan by protecting sensitive EQC areas, providing valuable wildlife habitat, protecting the Potomac Estuary and Chesapeake Bay from the impacts of further land development in the area. For more detailed analysis, see Appendix 8.

Soil and Water Conservation Analysis

An updated Soil and Water Quality Conservation Plan for this property was completed on September 3, 2013, and includes standard recommendations for ongoing management of stream buffers, nutrient runoff, pest control and woodland areas, for which the applicant will be required to comply as a condition of the District renewal. The full report is attached as Appendix 5.

Forestry Analysis

A Forest Management Plan was completed with a prior renewal, and a follow-up visit has recently been complete by the Area Forester. The Forester made several minor suggestions to the applicant but observed no major changes and felt no need for a revised report, at this time. A current memo from the Forester, as well as the full prior report, are included as Appendices 6 and 7, respectively.

Park Authority Analysis

The Park Authority supports the proposed renewal, while simply advising that there exists a high potential within the District of significant historic and Native American sites that have not yet been identified, and recommends that any ground disturbance be minimized to help preserve the historic landscape. The full memo is included as Appendix 9.

Transportation Analysis

The subject site is not affected by the recommendations of the Transportation Plan Map and would have no impact on Transportation facilities. The full FCDOT memo is included as Appendix 10.

AGRICULTURAL AND FORESTAL DISTRICT CRITERIA ANALYSIS

Criteria Group A:

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

The subject property is 36.75 acres in size and is entirely in forestal uses, including timber and firewood production, with the exception of approximately 1.8 acres used for residential purposes. This criterion has been satisfied.

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

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

- 3. In general, the district should be consistent with the Comprehensive Plan. The following land uses identified in the Plan are appropriate for a district: .1-.2 dwelling unit per acre; .2-.5 dwelling unit per acre; .5-1 dwelling units per acre; Private Recreation; Private Open Space; Public Park; Agriculture;*

Environmental Quality Corridor. Lands not planned as such may be considered for a district if they meet at least 3 of Criteria Group B.

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

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

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

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

This property does not qualify as a farm; therefore, this criterion is not applicable.

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

The District consists of 36.75 acres; approximately 35 acres are in forestal and open-space use. All of the parcels which comprise the District are owned by the Knipling family, but the District is not entirely contiguous. Therefore, this criterion is only partially satisfied.

7. *Approximately 2/3 of the land in agricultural use in the district should contain Class I, II, III, or IV soils as defined by the USDA Soil Conservation Service. Districts having more than 1/3 of the land in agricultural use containing Class V-VIII soils may be considered if such lands have been improved and are managed to reduce soil erosion, maintain soil nutrients, and reduce non-point pollution.*

This criterion is not applicable because this is a forestal district. Approximately 46% of the soils in the District are in Class II and III, and 54% are Class V, VII and VIII.

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.*

An updated Soil and Water Conservation Plan was prepared for the District on September 3, 2013. An ordinance provision requires the applicant to abide by the recommendations of the Soil and Water Conservation Plan for the life of the A & F District, as amended if deemed necessary by the Soil and Water Conservation District. Therefore, staff believes this criterion is satisfied.

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

An Ordinance Provision requires that the applicant abide by the forest management plan that has been completed for the District. Additionally, an Ordinance Provision would require that the applicant maintain the boundaries of the EQC as the permanent limits of clearing and grading for the life of the District. Therefore, staff believes this criterion is satisfied.

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

The applicant has owned the land included in the original district since the mid-eighties and the eastern parcels since 1978. In the past 10 years, investment has included general maintenance of the buildings and property, ongoing planting of ground cover, the provision of food for wildlife in the open areas, and road improvements to reduce erosion. The applicant is committed to maintaining the forestal and open space uses on the property for the life of the district; staff believes that this criterion has been satisfied.

Criteria Group B:

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

No farm or forest products have been regularly produced in the past five years; this criterion has not been satisfied.

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

The wooded and open lands of the subject property help maintain the rural character of Mason Neck. In particular, this property contains important EQC and RPA conservation areas, which link other protected open space areas, including Mason Neck State Park to the south, and other nearby A & F Districts. Therefore, staff believes this criterion has been satisfied.

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

Based on 18th century surveys of Mason Neck, the Old Road to Neck followed the current alignment of Harley Road and extended in the same alignment as the 20-foot outlet road that extends between the two eastern parcels. Furthermore, the 18th-century survey also shows that Mason's Mill also existed in this general location. County records indicate that George Mason II sold the mill in 1709. The exact location of the mill site is unknown. While no archaeological surveys have been done on the property, a high potential exists for such resources, based on the historical records. The renewal of the A & F District on the two eastern parcels would continue to restrict development of these parcels and protect any existing heritage resources. Staff proposes to carry forward the previously-approved ordinance provision which would allow the County Archaeologist access to the site to conduct surveys, with prior permission of the applicant. With the imposition of this provision, staff believes this criterion has been satisfied.

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

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

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

The property is zoned R-E. This criterion is not satisfied.

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

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

All of the applicable criteria in Group A and at least two criteria in Group B should be satisfied. These criteria are intended to serve as a guide in determining whether or not an agricultural district should be established; they are not a prerequisite for establishing a district. It is staff's opinion that this application satisfies two of the criteria in Group B, and satisfies all of the applicable criteria in Group A, with the exception of the requirement of Criterion #6 that all land area be contiguous.

AFDAC RECOMMENDATION (Appendix 3)

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

Staff Conclusions

As noted, the application to renew the Knipling Local Agricultural and Forestal District satisfies two of the criteria in Group B of the A & F analysis criteria, but does not satisfy the contiguous parcel requirement of Criterion #6 of Group A. These criteria, however, serve as a guide in determining whether or not an A & F District should be established; they are not a prerequisite for establishing a district. Staff recognizes that the two non-contiguous parcels are of special historic significance, due to the remnants of the Old Road to Neck on the site (the alignment for which is still visible), and also of particular ecologic value, due to the EQC and stream valley also present on these parcels. Staff also recognizes the willingness of the applicant to allow valuable public access to Mason Neck State Park via the historic road alignment on the parcels, and feels that the deletion of the two non-contiguous parcels from the District might threaten valuable historic and ecological resources and access to public lands.

The District remains unchanged since the previous two renewals, and staff feels that the District continues to meet the intent of the County Code, exceeds the minimum acreage requirements, and is in conformance with the Comprehensive Plan.

Staff Recommendation

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

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

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

APPENDICES

1. Proposed Ordinance Provisions
2. Application Materials
3. Agricultural and Forestal District Advisory Committee Recommendation
4. AR 87-V-001-02 Approved Ordinance (previous renewal)
5. 2013 Soil and Water Quality Conservation Plan
6. 2013 VA Department of Forestry Memo
7. 2004 Forest Management Plan
8. DPZ Land-Use/Environmental Analysis
9. FCPA Park Authority Memo
10. FCDOT Transportation Memo
11. Fairfax County Code, Chapter 115 – *“Local Agricultural and Forestal Districts”*
12. State of Virginia Code, Title 58.1, Chapter 32
13. Glossary of Terms

PROPOSED ORDINANCE PROVISIONS
October 30, 2013
AR 87-V-001-03

If it is the intent of the Board of Supervisors to renew the Knipling Local Agricultural and Forestal District, as proposed in Application AR 87-V-001-03 pursuant to Chapter 44 of Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code on Tax Maps 118-1((3))-Z, 118-2((1))-0006Z, ((2))-0010Z, ((5))-0001Z, 0002Z, and 0007Z, 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 September 3, 2013, for the life of the Knipling Local Agricultural and Forestal District. The Soil and Water

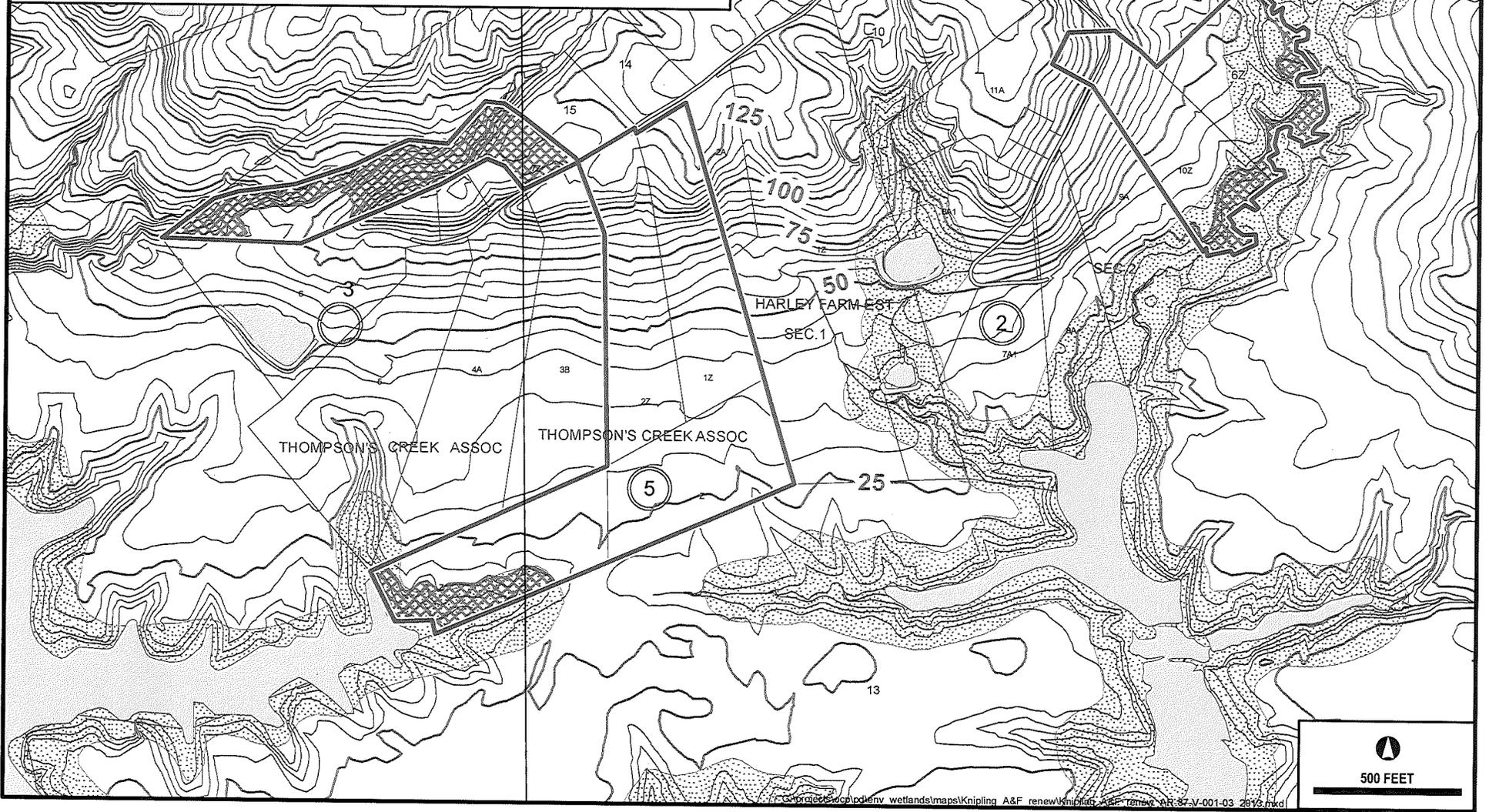
Conservation Plan may be updated from time to time, as determined necessary by the Northern Virginia Soil and Water Conservation District.

- (6) The applicant shall implement and abide by the recommendations of the Forest Management Plan, which was prepared by the Area Forester on December 3, 2004, for the life of the Knipling Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the Area Forester.
- (7) If the applicants choose to harvest the timber on the lands within the Knipling Agricultural and Forestal District, such harvesting shall be in coordination with the State Forester so that special techniques designed to protect water quality may be utilized.
- (8) Those areas delineated as Environmental Quality Corridors (EQCs) shall be left undisturbed, with the exception of selective thinning operations performed to enhance existing vegetation and the removal of dead, dying and diseased vegetation, as approved by the Urban Forest Management Branch of Fairfax County. The boundaries of the EQC shall be the permanent limits of clearing and grading for the life of the Knipling Local Agricultural and Forestal District (see attached map).
- (9) The Resource Management Division of the Fairfax County Park Authority shall be permitted to survey the property and to recover artifacts from the property for the life of the Knipling Local Agricultural and Forestal District. Surveys and other similar activities of the Resource Management Division shall be conducted only with prior permission of the property owner and at terms mutually acceptable to both parties and established before each occurrence.
- (9) The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated, if warranted in the discretion of the Board of Supervisors upon determination by a court or any declaration or enactment by the General Assembly that renders any provisions illegal or unenforceable, 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.

A&F District Renewal - AR 87-V-001-03

Applicants: Gary D. Knipling, Charlotte J. Knipling.
Map prepared by the Fairfax County Department of
Planning & Zoning, November 2004, revised August 2013.

-  Areas of AR 87-V-001-03
-  Environmental Quality Corridors inside AR 87-V-001-03
-  Resource Protection Area



JUN 06 2013

June 3, 2013

Zoning Evaluation Division

TO: Fairfax County Office of Comprehensive Planning, Zoning Evaluation Division

FROM: Gary D. and Charlotte J. Knipling

This application is for the renewal of a local A&F District that was last renewed in February 2005. The District (A&F 87-V-001) is comprised of seven parcels of land totaling 36.746 acres. The entire District is being proposed for renewal.

Criteria for establishment of a Forestal District as required by Article 5 of Chapter 115 of the Fairfax County Code:

Criteria Group A

- 1) All district acreage is presently devoted to forestal use, and is undeveloped except for approximately 1.8 acres used for residential use.
- 2) All lands in the district are currently zoned RE-1 house per 2 acres.
- 3) The comprehensive plan shows the use for the land in the district to be 0.1 to 0.2 dwelling units per acre.
- 4) A majority of the surrounding land is designated to be 0.1 to 0.2 dwelling units per acre
- 5) The land in the renewal district is for forestal use and not for agricultural use.
- 6) The land in the proposed renewal district totals 36.746 acres, and all of the land has the same owner.
- 7) A Conservation Plan from the Northern Virginia Soil and Conservation District is in effect for the original 26.22 acres in the A&F District established in 1988. The types of soil in that 26.22 acres are designated in that Plan.
- 8) The land in the existing A&F District is being managed according to the Conservation Plan established for the original A&F District.
- 9) The land in the existing A&F District is being managed according to the Forest Management Plan dated December 3, 2004.
- 10) Same as #9.

Criteria Group B

2) The land in the existing A&F District maintains the current rural character of the area. The existing District borders the Mason Neck State Park as well as another local A&F District owned by the Martin B. Jarvis family.

4) The Forestry operation practices unique or particularly effective water pollution control measures (BMP's)



Gary D. Knipling

RECEIVED
Department of Planning & Zoning

JUN 06 2013

Zoning Evaluation Division

Application No. AR 87-V-001-03

APPLICATION FOR THE ESTABLISHMENT OF A
AGRICULTURAL AND FORESTAL DISTRICT

FAIRFAX COUNTY

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

Owner's Name & Address	Tax Map Number	Year Acquired	Zoning District	Acres
Gary D. Kripling & Charlotte J. Kripling 11807 Harley Road Lorton, VA 22079-3925				
	* 1182 05 0001Z	1980	R-E	5.366
	* 1182 05 0002Z	1980+83	R-E	5.308
	* 1182 05 0007Z	1985	R-E	5.287
	1182 05 Z	1980+83	R-E	5.003
	1181 03 Z	1983	R-E	5.256
	* 1182 02 0010Z	1987	R-E	5.027
	1182 01 0006Z	1991	R-E	5.4985

3. Total acreage in the proposed district: 36.746 acres.
4. Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm forest 7.

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

Name: Dr. Gary D. Knippling
Address: 11807 Harley Road
Lorton, VA 22079-3925
Telephone: (703) 339-8196

6. Signature of all property owners:

Charlotte J. Knippling
CHARLOTTE J. KNIPLING

Gary D. Knippling 6/3/13
GARY D. KNIPLING

TO BE COMPLETED BY THE COUNTY

Date application accepted:

July 26, 2013

Virginia R. [Signature]
7/26/13

Date of action by Board of Supervisors: _____

Approved as submitted Denied

Approved with modifications

ALL APPLICANTS

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

* Structure	Year built	Use
Two-story Colonial House	1980	Residence
Two-story bank barn	1984	Storage/work shop
Chicken coop coop	1981	Storage
* All structures on Lot 1182 05 00012		

use additional page(s) if necessary

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

None that are designated.

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

Ongoing planting of ground cover and wildlife food plots in open areas.

Ongoing interior road improvements to reduce erosion.

Enhancement and landscaping of old natural spring site below the barn - the "Holly Spring"

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: December, 1995
(I don't believe a more recent Plan is on file)

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
<u>None</u>	<u>None</u>	<u>None</u>

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 Knipling Local Agricultural and Forestal District;
Application AR 87-V-001-03

The Agricultural and Forestal Districts Advisory Committee met on September 10, 2013, to review the application to renew the Knipling Local Agricultural and Forestal District (Application AR 87-V-001-03). The Committee found the following:

- The Knipling Local Agricultural and Forestal District meets the minimum district size contained in Section 115-3-2;
- The Knipling Local Agricultural and Forestal District conforms with the Policy and Purpose of Chapter 115 of the Fairfax County Code;
- The Knipling Local Agricultural and Forestal District fulfills all but one of the applicable criteria in Group A, and fulfills two (2) of the criteria in Group B, 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 Knipling 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. (AFDAC recognized that the property did not meet the contiguity requirement of one Group A criteria, but noted that the district is connected by other protected areas, including other A & F Districts and Mason Neck State Park. The committee also cited the importance of landscape preservation in this part of the County as further justification to recommend that the Board continue to approve renewal of this district, as submitted.)

7-05-F-21

*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, February 28, 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:

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

Owners	Fairfax County Tax Map Parcel Number	Acreage
Gary D. & Charlotte J. Knipling	118-1 ((3)) <i>no parcel number</i>	5.256 acres
	118-2 ((1)) 6	5.4985 acres
	118-2 ((2)) 10	5.027 acres
	118-2 ((5)) <i>no parcel number</i>	5.003 acres
	118-2 ((5)) 1	5.366 acres
	118-2 ((5)) 2	5.308 acres
	<u>118-2 ((5)) 7</u>	<u>5.287 acres</u>
	Total:	36.75 acres

(b) The Knipling Local Agricultural and Forestal District is established effective February 28, 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 dated January 4, 1996, for the life of the Knipling Local Agricultural

and Forestal District. The Soil and Water Conservation Plan may be updated from time to time as determined necessary by the Soil and Water Conservation District;

(6) The applicants shall implement and abide by the recommendations of the Forest Management Plan dated December 3, 2004, for the life of the Knipling Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the State Forester;

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

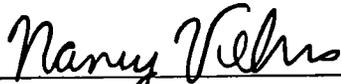
(8) Those areas delineated as Environmental Quality Corridors (EQCs) shall be left undisturbed, with the exception of selective thinning operations performed to enhance existing vegetation and the removal of dead, dying and diseased vegetation as approved by the Urban Forest Management Branch of Fairfax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

(9) The Resource Management Division of the Fairfax County Park Authority shall be permitted to survey the property and to recover artifacts from the property for the life of the Knipling Local Agricultural and Forestal District. Surveys and other similar activities of the Resource Management Division shall be conducted only with prior permission of the property owner and at terms mutually acceptable to both parties and established before each occurrence; and

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

This amendment shall become effective upon adoption.

GIVEN under my hand this 28th day of February, 2005.



NANCY JEHRs

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: 703-423-1421

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

Property Owner/Operator:

Gary D. & Charlotte J. Knipling– Agricultural and Forest District
(AR 87-V-001-03)

11807 Harley Road

Lorton, VA 22079- 3925

Tel: 703-339-8196;

Plan Prepared by:

Willie Woode, Senior Conservation Specialist, NVSWCD

Date:

September 3, 2013

Summary of operation:

This is a 36.8-acre property located at 11807 Harley Road in Lorton in the Lower Occoquan River Basin (PL 48). It consists of seven parcels, which can be identified in the Fairfax County tax map system as 118-1 ((3)) – Z, 118-2 ((1)) 6Z, ((2)) 0010Z, ((5)) Z, 1Z, 2Z, 7Z. Most parcels remain undeveloped and preserved for wildlife enhancement. There are three fields kept in hay production totaling approximately 4.0 acres. About 1.5 acre is in residential use, and the rest of the 31 acres are undeveloped, and kept wooded to support wildlife.

An enhanced natural spring exists at the southern limits of the residential area provided an impressive habitat for a population of green frogs approximately, a dozen. The property drains in various directions through intermittent and perennial tributaries that eventually discharge into Belmont Bay. Perennial streams within the property limits have been delineated with approximately 2,870 linear feet of Chesapeake Bay Resource Protection Areas (RPA). The areas in RPA are all wooded.

The property consists of soils type with extremely steep slopes in the “D” and “E” range that changes dramatically into flatter slopes in the “B” and “A” range.

Practices:**1) Buffer Management - Chesapeake Bay Resource Protection Area (RPA)**

The cross-hatched (shaded) areas on the site map are the Fairfax County delineated Chesapeake Bay Resource Protection Areas (RPA) - it is a 100-ft. wide buffer (wider in some areas where they encounter other environmentally sensitive features such as major flood plains). These are the last areas/barriers that provide opportunities for filtration of pollutants contained in runoff from adjacent lands before such polluted water enter state waters. These areas are required to be kept vegetated.

If at all there is need for Pesticide use within these sensitive areas, such applications should be done discretionally, and the label instructions must be followed prescriptively.

Permitted modifications to the buffer area include those that will aid in maintaining its core functional value. For instance: i) creating access paths to provide general woodlot management as provided by the VA Department of Forestry, ii) Pruning or removal of **approved** potentially destructive or deceased trees, or invasive plants, on condition that where such plants are removed, they will be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

Areas	Amount	Planned		Applied	
		Month	Year	Amount	Date
Woodland Management	2,870 ft.	9	2013		
TOTAL	2,870 ft.				

2) Nutrient Management:

In case the owners decide to implement fertilizer treatments, such chemicals will be applied based on the nutrient management plan provided. This was prepared using soil test results from a recognized laboratory.

Areas	Amount	Planned		Applied	
		Month	Year	Amount	Date
Lower Field	2.0 acs.	9	2013		
Upper Field	1.3 acs.	9	2013		
Grist Mill Field	0.7 ac.	9	2013		
TOTAL	4.0 acs.				

3) Pest Management

An Integrated Pest Management (IPM) approach to pest control should be implemented. A pest tolerance threshold should be set and continuous scouting performed to keep pest infestation within the established threshold. An IPM practice 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	Amount	Planned		Applied	
		Month	Year	Amount	Date
Lower Field	2.0 acs.	9	2013		
Upper Field	1.3 acs.	9	2013		
Grist Mill Field	0.7 ac.	9	2013		
Residential Area	1.5 acs.	9	2013		
Wooded Areas	31.2 acs.	9	2013		
TOTAL	36.7 acs.				

4) Woodland Management

Natural resource preservation practices for trees, wildlife and their habitats within this zone must be implemented. The forest management plan provided by the VA Department of Forestry provides most of the basic practices to protect and enhance this natural open space.

The stream corridor must be inspected at frequent intervals; especially after a major storm event to be sure any toppled tree or other drifted objects are not lodged such that they enhance erosive conditions at the banks or within the channel. If such an occurrence is observed, the fallen tree or lodged object should be removed as soon as possible before the next major storm event, especially if it has the potential to cause bank erosion. Prompt measures should be taken to address any actively eroding bank area. The NSWCD has training staff to provide basic bank stabilization techniques upon request.

Areas	Amount	Planned		Applied	
		Month	Year	Amount	Date
Woodland Management	31.2 acs.	9	2013		
TOTAL	31.2 acs.				

Carl E. Garrison III
State Forester



COMMONWEALTH of VIRGINIA

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

August 19, 2013

Dr. Gary D. Knipling
11807 Harley Road
Lorton VA 22079-3925

Dr. Knipling,

I am sorry we were unable to meet last week when I visited your property. I did enjoy walking your woods and found them to be in much the same condition as they were in 2005. Please continue to follow the recommendations in the plan that Judy Okay wrote for you then. One change is that the northern boundary of Lot #7 was declared a Resource Protection Area in Fairfax County's 2005 reassessment. Since the long standing recommendation for that lot has been not to disturb the steep slopes found here, the new designation does not change my recommendation for that lot. I am enclosing a copy of the county RPA map showing this change.

One thing I noticed is the large number of brush piles in the woods, especially below the house. Brush piles do provide wildlife habitat, but leaving woody debris scattered in the forest is also an important habitat component. If you wish to continue building brush piles that is fine, but do not build them right against the trunks of trees; this can lead to fungal infection of the trees. Also, in the unlikely event of a wildfire, the brush piles will burn with great heat and intensity, which would kill the tree. I have enclosed a brochure on brush piles for your use.

I also noticed tarps spread on the ground in Lot #7. I am not sure what the original intent was in spreading them, but they are starting to rot. If they are not picked up soon, they will lose all structural integrity and be very hard to get out of the forest.

Finally, I did a visual assessment of the trees around your house, although I found no obvious defects in the trees I would recommend a more thorough check up by a certified arborist with periodic follow up.

If I can be of any further assistance, please don't hesitate to contact me.

Respectfully,

James McGlone
Urban Forest Conservationist



JAMES W. GARNER
State Forester

COMMONWEALTH of VIRGINIA

DEPARTMENT OF FORESTRY

Fontaine Research Park
900 Natural Resources Drive, Suite 800
Charlottesville, Virginia 22903

434-977-6555 (V/TDD)
FAX 434-296-2369

December 3, 2004

Dr. Gary D. Knipling
11807 Harley Road
Lorton, Virginia 22079-3925

Re: Agricultural and Forestal District
Application Number AR 87-V-001

Dear Mr. Knipling:

It was nice to meet you and spend a nice morning walking your properties. My understanding is that your objectives for management of the forested acres of your property have not changed since the last review for the A& F application.

The enclosed report is my interpretation of the condition of the forested acreage and recommendations for continued good management of the land. The boundaries as depicted on the aerial photos are estimates meant to give a general location of individual parcels. There are not meant to be interpreted as legal property boundaries.

Thank you for the time you spent touring the properties and please contact me if you have questions or need assistance with any of the recommendations made in the report.

Sincerely,


Judith A. Okay
Natural Resource Specialist



AR87-V-001
FAX 95-002

**REPORT ON TIMBERLANDS
OF
Mr. Gary Knipling of Fairfax County, VA
11807 Harley Road
Lorton, VA 22079**

Location: 11807 Harley Rd. off Gunston Rd., Lorton, Fairfax County, VA
(County Tax Map # 118-1 & 118-2)

Examined By: Judith A. Okay, Natural Resource Specialist

Landowner's Objectives; To maintain the property as a Forestal District and
to manage the land for wildlife habitat, and passive recreation.

INTRODUCTION: The total acreage examined is approximately 36.5 acres with 6.5 acres in open space and 30 acres in forest. On the aerial photos the parcels have been divided into Lots #2 and Lot #7 and the Millwood Lots. Lots # 2 and #7 are located adjacent to each other, but across Harley Rd from each other (# 7 is west of 15 on the County tax map and #2 is east of 38 and across from 15 on the County tax map). The Millwood Lots are located at the corner and South of the corner where Harley Rd. forks (Lots 6A and 10A on County tax map).

LOT #7 N 38° 39' 34" W 77° 11' 22"

Acres: Approximately 5 acres

Forest Type: Chestnut Oak

Canopy Species: American Beech, White Oak, Red Maple in upland ridge area; Sweet Gum, Red Maple and Yellow Poplar in the bottomland area along the stream.

Understory Species: American Holly, High Bush blueberry

DESCRIPTION: This parcel is entered from Harley Rd. and is high on a ridge at this point (Photo 1). There is a steep slope to the North which ends at a stream that eventually flows to Pohick Bay (PHOTO 2). The tree coverage is a moderate stocking with a sparse understory (Photo 3). There are large beech trees that dominate the landscape and the understory is sufficient on the slope (Photo 4).

There is a good show of mast (acorns) in this stand of deciduous forest, it was confirmed by the land owner that this habitat is appropriate for wild turkey. Mr. Knipling has seen them on the property. There is evidence that the deer do browse the ridge which has less understory than the slope.

There are no additional management recommendations to add to those given when the Forestal application was submitted the first time. It is obvious the landowner has maintained good practice to keep the forest on this parcel healthy and the future growth looks promising, particularly on the slope and bottomland areas.

The parcel is suitable for bird watching, hunting, aesthetics, and occasionally taking of firewood. There is no imminent threat of fire, the fuel load is low to non-existent.

Lot # 2 N 38° 39' 35" W 77° 11' 07"

Acres : Approximately 16

Canopy Species: Willow Oak, American Beech, Red Oak, White Oak, Loblolly Pine

Under story: Seedlings of the canopy species, some American Holly, High Bush and Low Bush Blueberry.

Description: The house and outbuildings are located on the front roadside portion of this parcel. Below the house area, there is open spaced referred to as "the deer park". Deer are quite commonly seen in this open area. There is a continuous open space from the deer park to the west portion of this parcel (Photo 5). This adds another habitat dimension for raptors. There are many Bald Eagles living in and around this property. This parcel is adjacent on the South eastern side to Mason Neck Wildlife Refuge, a state owned land (Photo 6). The portion of the parcel that abuts the state land is forested and is dominated by American Beech. Beech drops a small plant seen in healthy beech forests are dense along the roots of the beech trees. There is a blue bird trail along the open space and adjacent forested area.

A large debris pile is serving as habitat for a local possum. The bottom land area is a palustrine wetland that serves as habitat for wood ducks, black ducks and other water fowl (Photo 7). Ground covers are more diverse in this area and include ferns and turtle head wildflowers. There are deer blinds on this parcel and it is a deer management area. The landowner bow hunts with friends and relatives and an average of 3 deer are removed every year.

There is a stand (approx. 2.7 acres) of Loblolly pine on the Southeast corner of this parcel. These trees have matured to the point that they could be harvested. They are subject to windthrow and it would be better to remove them through logging than to lose the wood from windthrow damage (Photo 8). A

selective harvest would allow for a future pine stand of the same quality. The access to the site is good, it is not near an RPA (Resource Protection Area), an ideal place for such a harvest.

This is a very habitat diverse parcel that has developed well through good management. Having areas with open space, but corridors of forest for wildlife is excellent not just for the wildlife, but for people to observe wildlife, hunt, walk, ride horses and enjoy. The habitat is indicative of all the species that have been observed on this parcel including pileated wood peckers that like occasional hollow, snags for nesting and foraging.

MILLWOOD LOTS N 38° 39' 36" W 77° 10' 41"

Acres: Approximately 10 acres

Canopy Species - American Beech, Oak, Sweet Gum and Yellow Poplar, Loblolly Pine

Understory: American Holly, Mountain Laurel, seedlings of canopy species.

Description: These out parcels have forest community structure similar to that of Lots 2 and 7. One difference is the presence of mountain laurel (Photo 9) in the understory indicating a reasonable acidity to the soil and a difference in drainage capacity. The Mattapex series soil type found on the Millwood parcel is susceptible to erosion problems and a very rapid drainage due to the high silt and sand content of the soil. This makes the soil more suitable for mountain laurel. There is a large amount of soil type 118 which is a marine clay type soil, it covers a much larger area of the Millwood lots than Lot 2.

The deciduous forest on these parcels is in good condition, it has a very healthy understory b (Photo 10 an 11). The oaks are mature and there is a good undergrowth of seedlings of all the canopy species. The deer browse in this area would not be considered detrimental to the health of the forest. This stand is well, but not overstocked in terms of density.

There is an area of pine on the Millwood parcel that is mature enough for harvest. It is recommended that the one acre of pine outlined on the aerial photo be considered at the time of harvest of the 2.7 acres on Lot 2. The access to the pine is good and it is growing in a grove situation which would minimize any impact on the adjacent deciduous forest on this parcel.

The wildlife habitat on the Milwood acreage is very good, enhanced by the presence of Kane Creek and the proximity to Mason Neck Wildlife Refuge. The wildlife observed by the landowner is typical of that seen on the other parcels of this A&F.

There is no imminent fire hazard on this property, the fuels load is low to non-existent.

CONCLUSIONS:

The forestry parcels contained in this A&F have been well managed and continue to serve the objectives of the landowner and County for this property. The recommendations in this report are merely recommendations to continue the health and function of the forest. The following elements were noted at the time of the site visit.

Gypsy Moth Damage: It is not evident on any of the parcels that gypsy moth has been a recent problem.

Wildlife : Although there is a healthy deer population supported on the properties, the damage to the forest is minimal. The landowner is maintaining good deer management practices. There was no evidence of recent beaver activity in any of bottomland areas. **The landowner should be commended for the bluebird boxes, habitat piles and other wildlife enhancements he has done on his property.**

Resource Protection Areas: There are resource protection areas (RPAs) on the Millwood parcels and on the bottomland area of Lot 2. The landowner should note these areas on the enclosed RPA maps and be aware of Fairfax County regulations relating to these areas. This is particularly important during timber harvest activities and other buffer activities. (Cutting of timber is not allowed in these areas without a permit and filling these areas with soil or debris is not a permitted activity).

Fire: Although the fuel load in the forested areas of these parcels is considered low, there is always a potential for fire. Dry leaves, debris and snags increase the potential. Wildfire destroys valuable timber, wildlife habitat and the general value of a property. Precaution should be taken to adhere to the no open fires (without a permit) in Fairfax County and hunters should be careful with smoking and camp fires.



Knipling AR 87-V-001

AFRenewal 2004

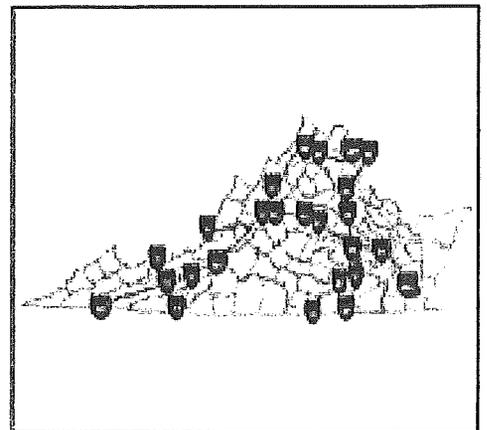
MAP BY:
JUDITH OKAY

Dec. 02, 2004



LEGEND

- Interstates VDOT
- County Connecting
- Neighborhood Roads VDOT
- Neighborhood Roads TIGER
- Lakes and Ponds**
 - Lake or Pond
 - Canal or Dam
 - Reservoir
- Streams and Rivers**
 - Watershed Stream
 - Forested Stream or Run
- County Boundary
- Fine Stand a
- 000 zone 1 border

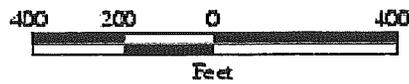




Knipling AR-87-V-001 Millwood Lots

MAP BY:
JUDITH OKAY

Dec. 02, 2004



LEGEND

- INTERSTATE VDOT
- County Conserving
- Neighborhood Roads VDOT
- Neighborhood Roads T&E

Lakes and Ponds

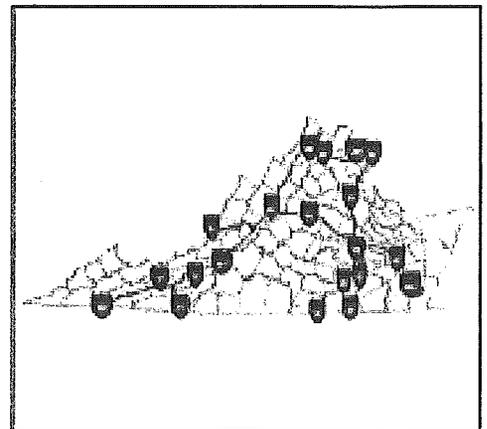
- Lake or Pond
- Canal or Stream
- Runway

Streams and Rivers

- Interceptor Stream
- Receiving Stream or Run

County Boundary

Fine Stand b
 600 zone 1 border



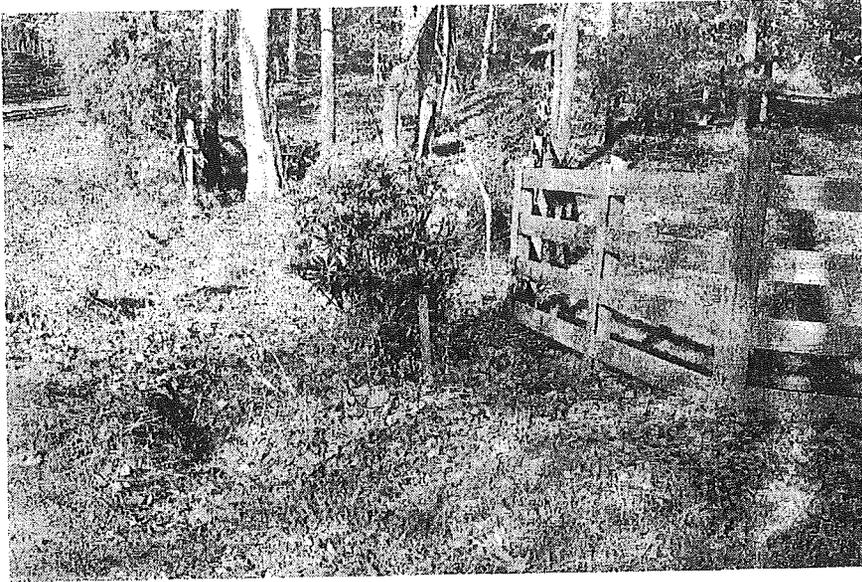


Photo 1. Entrance to Lot #7 showing corner of adjacent property and orange lot mark.

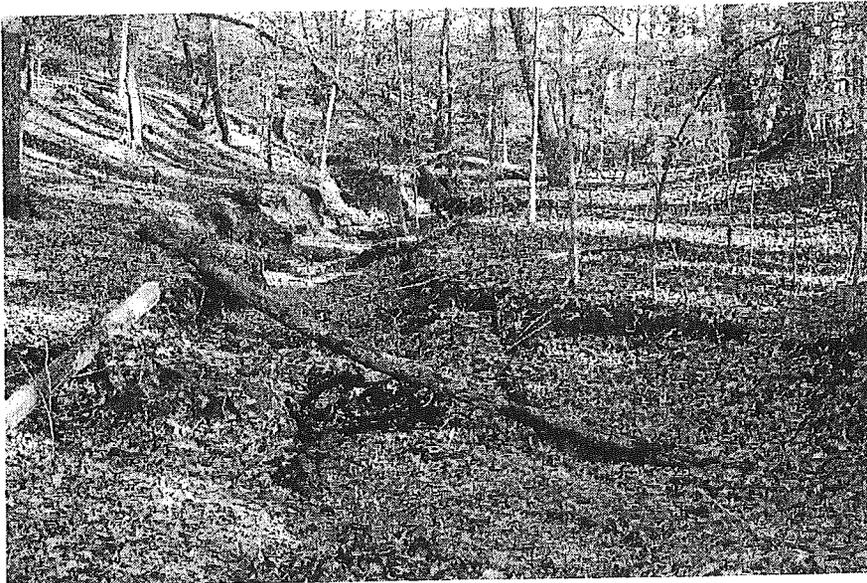


Photo 2. Drainageway at base of slope on Lot # 7.

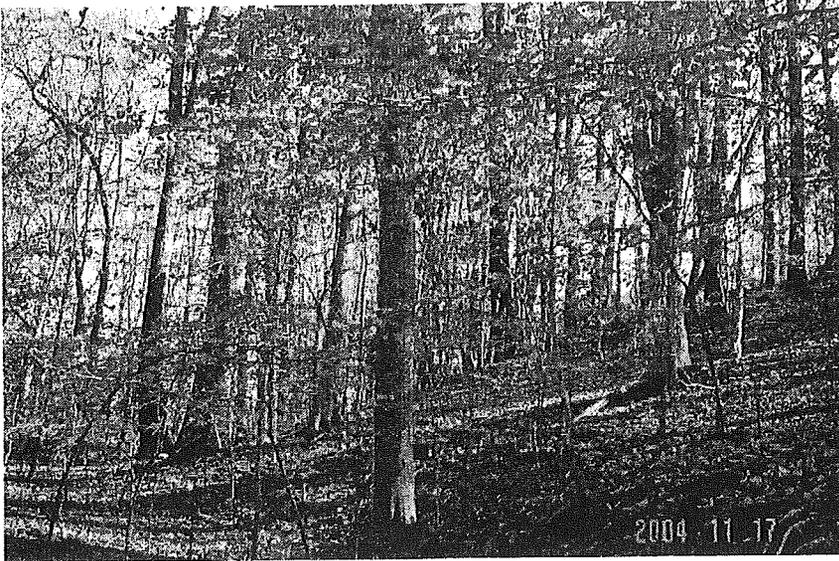


Photo 3 and 4. The tree coverage on Lot #7 is moderate with sparse understory. Primarily large beech cover the slope.



Photo 5. Open space on lower portion of Lot #2, also location of blue bird trail.



**Photo 6. Lower palustrine wetland bordering Mason Neck wildlife refuge
Note property marking with red and blue flagging.**



Photo 7. Bottom land area that serves as habitat .



Photo 8. Example of mature pines on Lot #2.

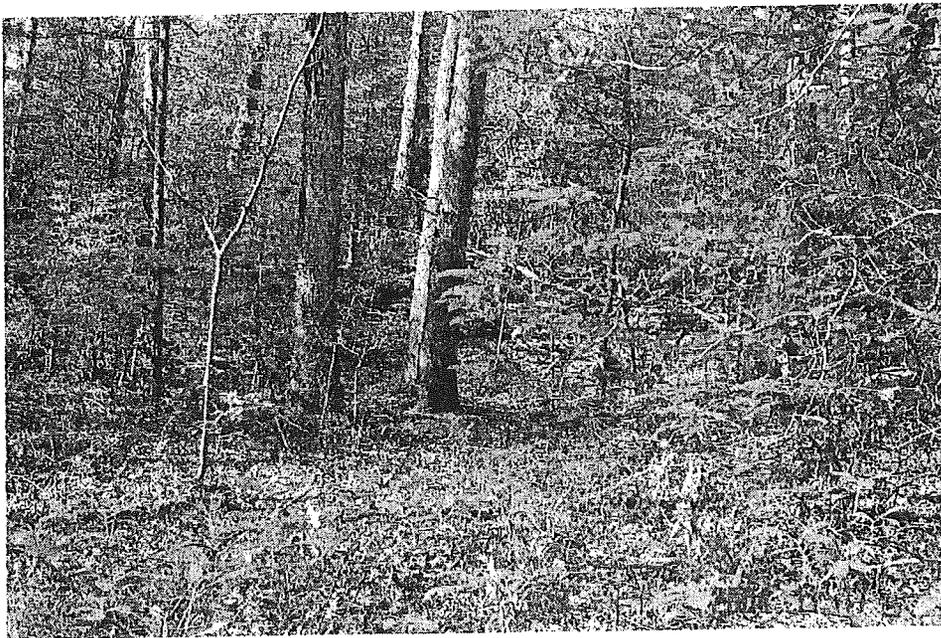


Photo 9. Mountain Laurel understory on Millwood lots.



Photo 10 Thick understory on Millwood lots.



Photo 11. Kanes Creek in bottomland area of Millwood lots.

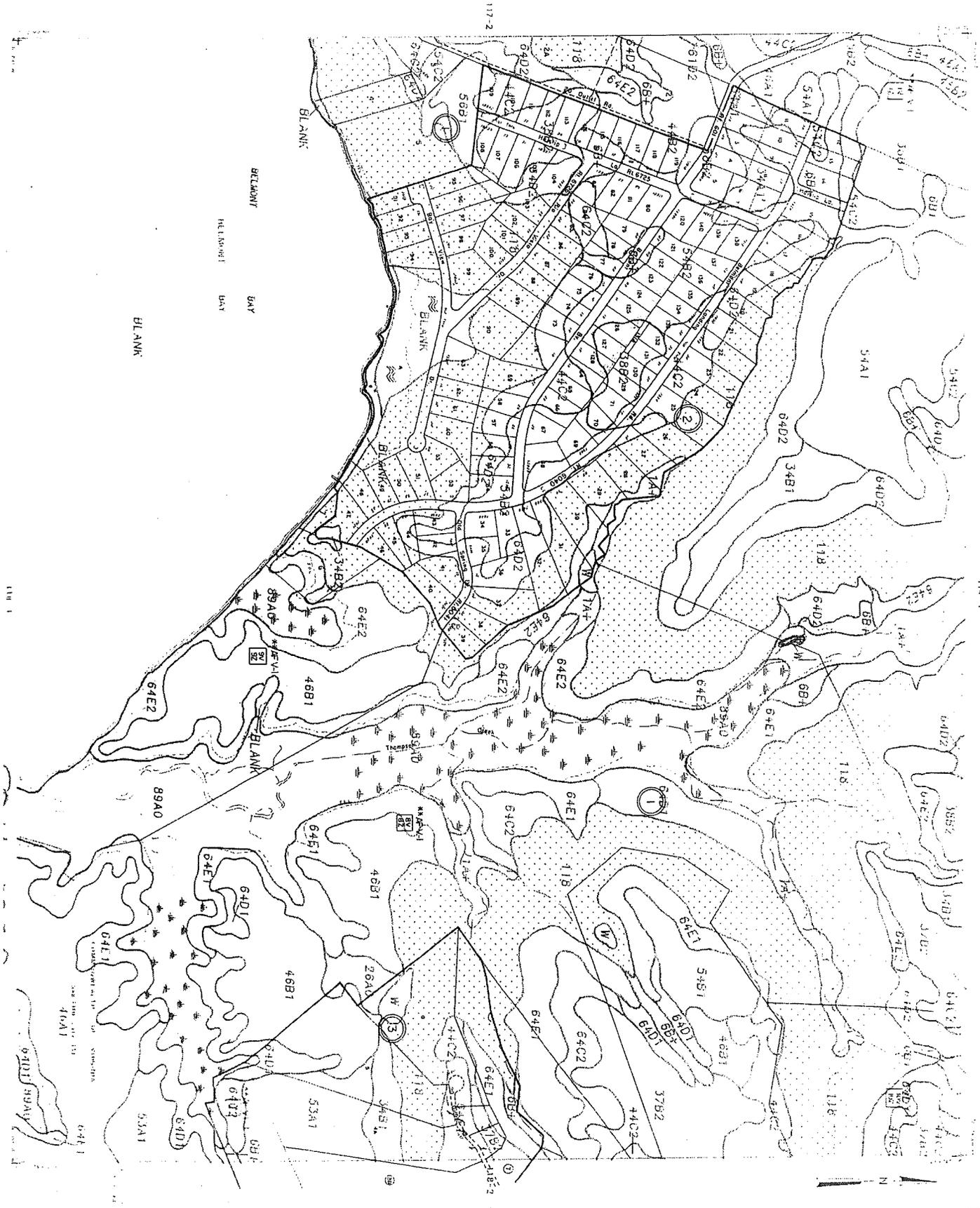
FAIRFAX COUNTY



SECTION 118-2

118-2

FAIRFAX COUNTY





County of Fairfax, Virginia

MEMORANDUM

Date: August 30, 2013

TO: Barbara Berlin, Director
Zoning Evaluation Division, DPZ

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

SUBJECT: Land Use Analysis & Environmental Assessment for: AR 87-V-001-03
Knipling Agricultural & Forestal District

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

DESCRIPTION OF THE APPLICATION

The applicant seeks approval to renew an approximately 36.74-acre Agricultural and Forestal (A&F) District. This district is comprised of seven parcels of land managed by Gary and Charlotte Knipling, and it is located in the Mason Neck Community Planning Sector (LP3) of the Lower Potomac Planning District of Area IV within the Mount Vernon Magisterial District.

The parcels are owned and operated by members of the Knipling family. The land has been left undeveloped, and used to conserve the woodlands and soil. There is a single residential house, a barn, and a chicken coop. Within the past 10 years the Knipling family have continuously planted additional ground cover and wildlife food plots in open areas, made interior road improvements to reduce erosion, and enhanced the landscaping of a natural spring.

The proposed district has 16.32 acres in future timber harvesting, 10.42 acres in firewood production, 8.2 acres under conservation, 1.8 for residential uses.

Barbara Berlin
AR 87-V-001-03
Page 2

LOCATION AND CHARACTER

The subject property is located in Mason Neck in southern Fairfax County within the Kane Creek Watershed, and is planned for .1-.2 dwelling unit per acre (5-10 acre lots). These seven parcels stem off of the southern terminus of Harley Road, and border Mason Neck State Park to the south. The district is surrounded by land which is planned for public parks, and residential at .1-.2 dwelling unit per acre. Kane Creek is located along the outtheastern boundary of the A&F district.

Much of the planning sector is largely rural due to a land use pattern that consists of areas dedicated to public uses to protect rare ecological areas and marshes, agricultural and forestal districts, and scattered low density residential uses.

The Mason Neck Community Planning Sector has an extraordinary diversity of ecological attributes, making this area a unique and highly valuable ecological and environmentally sensitive area. Mason Neck is situated in the tidal portion of the Potomac River. Intact upland forests provide important habitat for both plants and animals, as well as protect a diverse assemblage of both non-tidal and tidal wetlands. Another feature of the Mason Neck Community Planning Sector is the large amount of land in A&F Districts. The purpose of the A&F District is to protect and encourage the development and improvement of lands for the production of food and other agricultural and forestal products. The district also conserves land as valued natural and ecological resources, provides open spaces for clean air sheds, watershed protection, wildlife habitat and aesthetics.

COMPREHENSIVE PLAN MAP

Residential use at .1-.2 dwelling unit per acre (5-10 acre lots)

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, 2013 Edition, Area IV Volume, Lower Potomac Planning District, as amended through April 9, 2013, LP3-Mason Neck Community Planning Sector, Recommendations, on page 108:

“Land Use

1. This sector is planned for very low-density single-family residential use at up to .1 dwelling unit per acre. As an option, a density of up to .2 dwelling unit per acre may be appropriate if it is clustered and results in the preservation of EQC and other sensitive lands, provides substantial land in privately protected open space or public ownership, and contributes to maintaining the rural character of Mason Neck. Development at the baseline and optional levels should only occur where soils allow for septic systems.

Most new development on Mason Neck will occur on lots of two acres or larger. On lots of this size it is possible to preserve features of ecological value and to minimize the impacts of development on wildlife and water quality. These practices are known collectively as minimum impact development techniques. New large lot development on Mason Neck should:

- Limit site disturbance for individual lots;
- Site homes on the least sensitive portion of each lot;
- Maintain open space in an undisturbed state or actively manage it to enhance habitat value;
- Link open space within lots to adjacent park land and EQCs;
- Minimize the amount of new impervious surface on individual lots;
- Discourage the building of fences and other barriers in identified wildlife corridors;
- Retain existing forest cover and encourage re-vegetation of cleared areas with native plant species that have a high value as a food source for desirable species of wildlife; and,
- Encourage the use of small on-lot bioretention facilities for stormwater management.

Any additional residential development above the planned density range may undermine the rural character of the sector and exacerbate septic system problems which are being experienced on some properties. . . .

3. The establishment and renewal of Agricultural and Forestal Districts should be encouraged because such lands under these districts complement and enhance existing and planned land uses of very low density residential uses and parkland in the sector. . . .”

Environment

In the Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan Volume, Environment, as amended through February 12, 2013, on pages 7-9:

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

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

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

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

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

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

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

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

In the Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan Volume, Environment, as amended through February 12, 2013, on pages 14 and 15:

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

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

- **Habitat Quality:** The land has a desirable or scarce habitat type, or one could be readily restored, or the land hosts a species of special interest. This may include: habitat for species that have been identified by state or federal agencies as being rare, threatened or endangered; rare vegetative communities; unfragmented vegetated areas that are large enough to support interior forest dwelling species; and aquatic and wetland breeding habitats (i.e., seeps, vernal pools) that are connected to and in close proximity to other EQC areas.
- **Connectivity:** This segment of open space could become a part of a corridor to facilitate the movement of wildlife and/or conserve biodiversity. This may include natural corridors that are wide enough to facilitate wildlife movement and/or the transfer of genetic material between core habitat areas.
- **Hydrology/Stream Buffering/Stream Protection:** The land provides, or could provide, protection to one or more streams through: the provision of shade; vegetative stabilization of stream banks; moderation of sheet flow stormwater runoff velocities and volumes; trapping of pollutants from stormwater runoff and/or flood waters; flood control through temporary storage of flood waters and dissipation of stream energy; separation of potential pollution sources from streams; accommodation of stream channel evolution/migration; and protection of steeply sloping areas near streams from denudation.
- **Pollution Reduction Capabilities:** Preservation of this land would result in significant pollutant reductions. Water pollution, for example, may be reduced through: trapping of nutrients, sediment and/or other pollutants from runoff from adjacent areas; trapping of nutrients, sediment and/or other pollutants from flood waters; protection of highly erodible soils and/or steeply sloping areas from denudation; and/or separation of potential pollution sources from streams.

The core of the EQC system will be the County's stream valleys. Additions to the stream valleys should be selected to augment the

habitats and buffers provided by the stream valleys, and to add representative elements of the landscapes that are not represented within stream valleys. The stream valley component of the EQC system shall include the following elements . . . :

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

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

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

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

LAND USE ANALYSIS

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

ENVIRONMENTAL ANALYSIS

The Knipling Agricultural and Forestal District is a 36.74-acre tract of land. The property falls within the Kane Creek Watershed. Kane Creek and an associated Environmental Quality Corridor (EQC), and a Resource Protection Area (RPA), traverses across the southeastern and western ends of the properties. The extent of the EQC and

Barbara Berlin
AR 87-V-001-03
Page 7

RPA are identified on the attached map. In accordance with the Policy Plan, there should not be any new encroachments into the EQC.

Much of the property is undeveloped open space, forested and used for forestal use, not agricultural. The remaining 1.8 acres is used for residential purposes by the owners. A Conservation Plan from the Northern Virginia Soil and Conservation District is in effect for the original 26.22 acres in the A&F District established in 1988. The types of soil in those acres are designated in that recorded plan. The land in the existing A&F District is being managed according to the Forest Management Plan dated December 3, 2004.

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 no planned trails in this area.

PGN: BSS

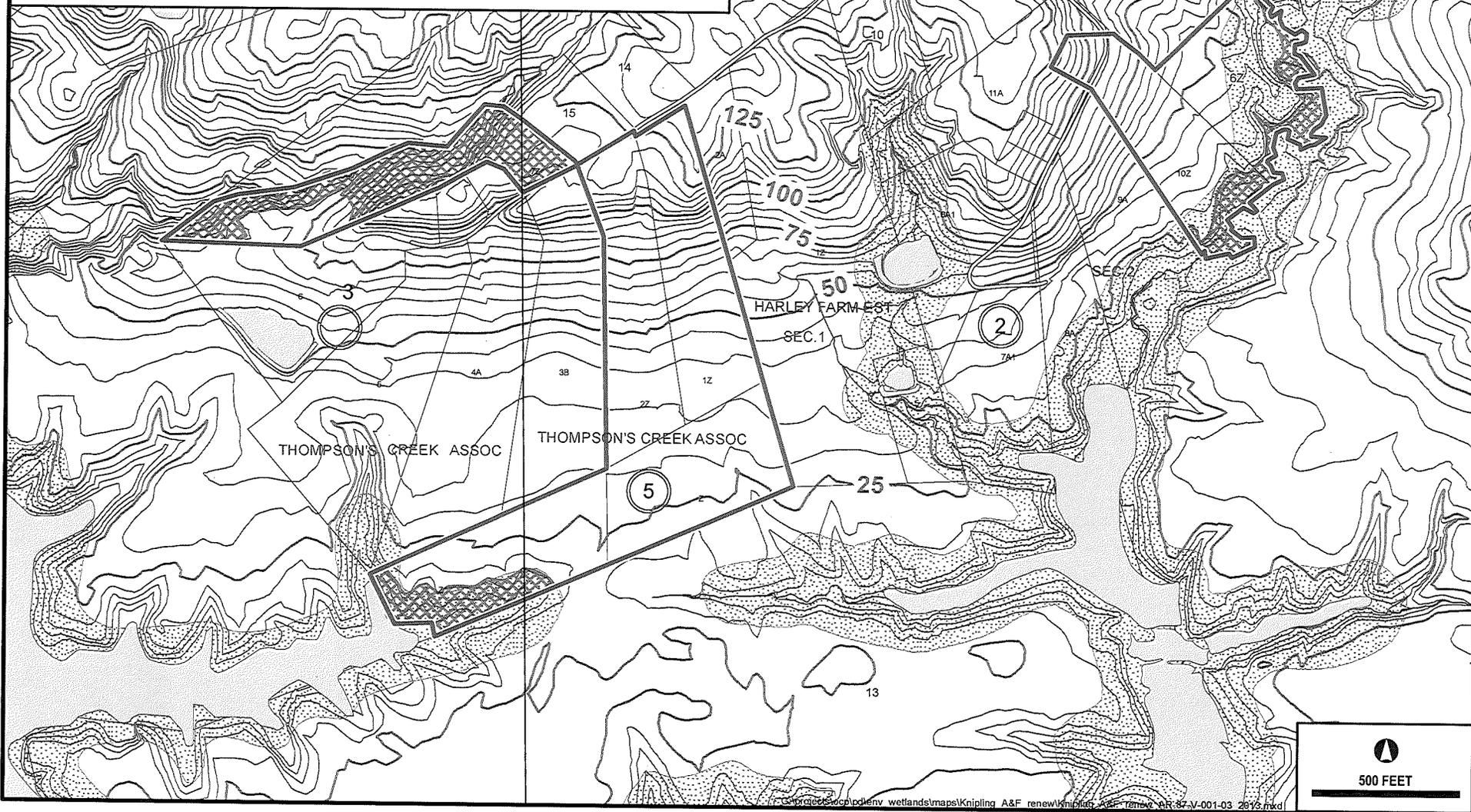
Attachment

A&F District Renewal - AR 87-V-001-03

Applicants: Gary D. Knipling, Charlotte J. Knipling.

Map prepared by the Fairfax County Department of Planning & Zoning, November 2004, revised August 2013.

-  Areas of AR 87-V-001-03
-  Environmental Quality Corridors inside AR 87-V-001-03
-  Resource Protection Area





FAIRFAX COUNTY PARK AUTHORITY



M E M O R A N D U M

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

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

DATE: September 25, 2013

SUBJECT: AR 87-V-001-03, Gary D. & Charlotte J. Knipling
Tax Map Number(s): 118-1((3))Z; 118-2((1))6Z; ((2))10Z; ((5))Z; ((5))1Z;
((5))2Z; ((5))7Z

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

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

COMPREHENSIVE PLAN GUIDANCE

The County Comprehensive Plan includes both general and specific guidance regarding parks and resources. Resource protection is addressed in multiple objectives of the Policy Plan, focusing on protection, preservation, and sustainability of resources (Parks and Recreation Objectives 2 and 5, p.5-7).

ANALYSIS & RECOMMENDATIONS

Cultural Resources Impact:

The parcels contain no known archaeological sites, however, they have extremely high potential to contain significant historic and Native American sites. Therefore, there should be as little ground disturbance as possible to help preserve the current historic landscape.

FCPA Reviewer: Andy Galusha
DPZ Coordinator: Mike Lynskey

Copy: Cindy Walsh, Director, Resource Management Division
Mike Lynskey, DPZ Coordinator
Chron Binder
File Copy



County of Fairfax, Virginia

MEMORANDUM

DATE: August 23, 2013

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

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

FILE: 3-4 (AF 87-V-001)

SUBJECT: Transportation Impact

REFERENCE: AR 87-V-001-03; Gary D. Knipling & Charlotte J. Knipling
Land Identification Map: 118-1 ((3)) Z; 118-2 ((1)) 6Z; ((2)) 10Z; ((5)) Z,
1Z, 2Z, 7Z

This application does not represent any conflict with the Countywide Plan transportation recommendations and would have no traffic impact. No projects that would affect the site are included in current construction programs. Therefore, this department has no objections to approval of this application.

AKR/lah

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.