



APPLICATION ACCEPTED: December 16, 2013
PLANNING COMMISSION: May 1, 2014
BOARD OF SUPERVISORS: May 13, 2014 @ 3:30 p.m.

County of Fairfax, Virginia

April 23, 2014

STAFF REPORT

RHINEHART AGRICULTURAL AND FORESTAL DISTRICT

APPLICATION AR 87-D-002-03

DRANESVILLE DISTRICT

APPLICANT: 1999 Land Acquisitions, LLC

ZONING: RE

PARCEL(S): 13-4 ((1)) 47Z

ACREAGE: 43.98 acres

PLAN MAP: Residential @ 0.2-0.5 du/ac; public park

PROPOSAL: Renewal of a Local Agricultural and Forestal District

STAFF RECOMMENDATIONS:

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

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

Brent Krasner, AICP

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



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

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

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

O:\bkrasner\ZED\Ag & Forest\Districts\2014-1 Rhinehart-1999 Land Acquisitions\Report\Staff Report Cover - Land Acquisitions (rhinehart).doc



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

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

DESCRIPTION OF APPLICATION

AR 87-D-002-03

The applicant seeks to renew the Rhinehart Local Agricultural and Forestal (A&F) District for an eight year term under the provisions of Chapter 115 of the Fairfax County Code. A & F Districts encourage the preservation of significant tracts of agricultural and forested land throughout the County by providing a reduced real estate tax assessment in exchange for a commitment to preserve the land for the length of the term. While certain exceptions are permitted, the land is expected to remain at its present use and development intensity. Removal of the district before the conclusion of the eight year term is subject to a penalty and payment of roll back taxes, subject to the terms in Article 6 of Chapter 115. The subject property consists of 43.98 acres located on the east side of Leigh Mill Road, just north of the Difficult Run in the Dranesville District. Copies of the applicant's Statement of Justification and related application materials are contained in Appendix 2. Staff's Proposed Ordinance Provisions are contained in Appendix 1.

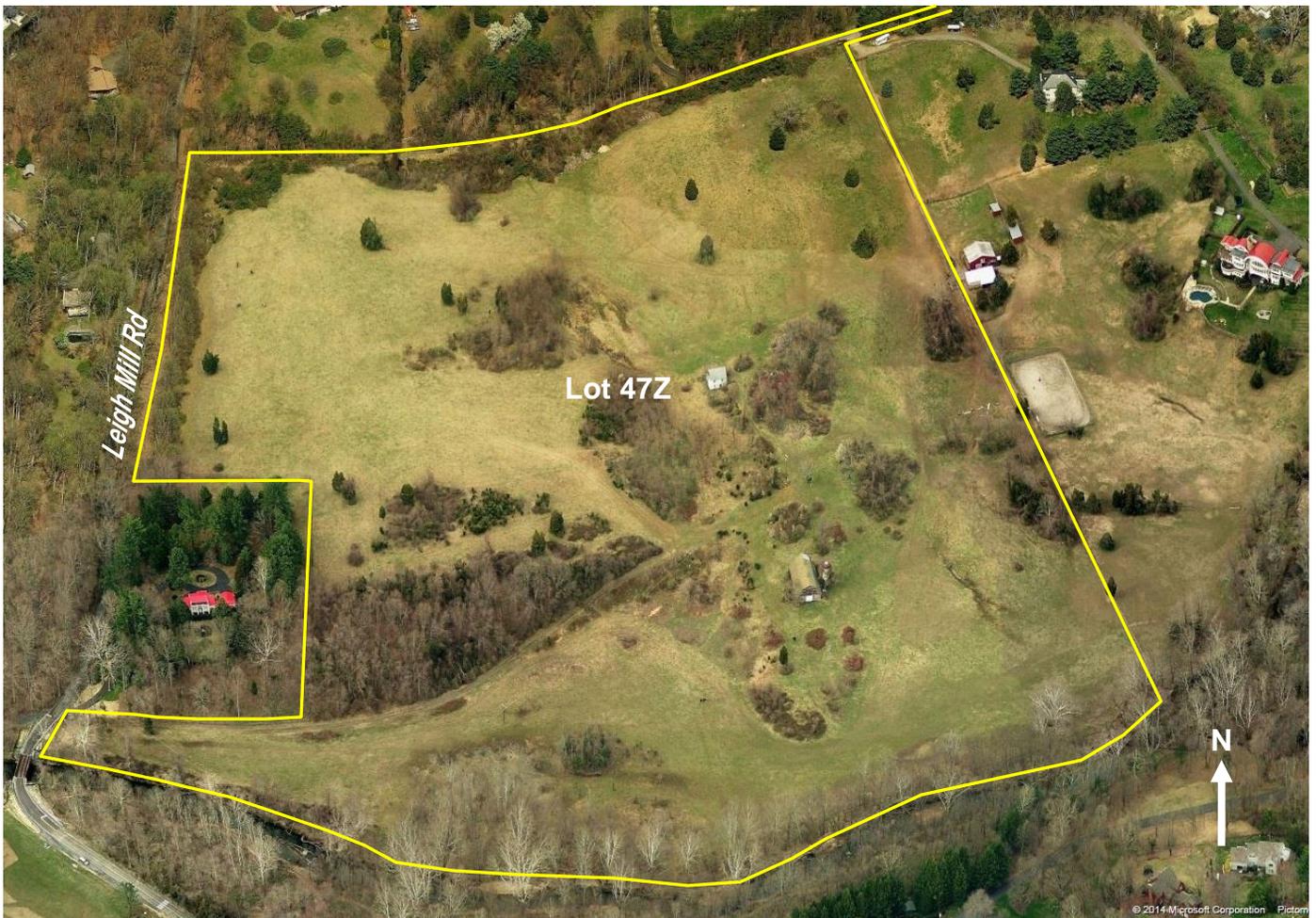


Figure 1. Aerial View of District

LOCATION AND CHARACTER

District Location

The subject property is located along the north side of Difficult Run at Leigh Mill Road. It is accessed via a gravel driveway from the east side of Leigh Mill Road. Falls Run Road, a private residential street abuts the property at the northeast corner; however no formal access is provided.

Existing Conditions/Character of the District:

The district consists of one parcel containing 43.98 acres. A majority of the property is cleared and used for horse pasture. A narrow wooded area is located along the southern edge of the site, adjacent to the Difficult Run. A spring-fed stream, runs north to south through the center of the property. There is a horse barn and silo located towards the south end of the site as well as a vacant house and block-storage structure in the middle of the property. Both the house and storage building are in fair to poor condition. All of the structures are more than 60 years old.

Surrounding Area Description:

The property abuts single family houses on large-estate-type lots, primarily three to eight acres in size, to the east, north, and west. Land owned by the Fairfax County Park Authority which includes a portion of the Cross County Trail and part of the Difficult Run Stream Valley Park is located to the south.



Figure 2 – View of Surrounding Area

BACKGROUND

The Rhinehart Local Agricultural and Forestal District was originally established for an eight year period on July 11, 1988. The District was renewed on the original property for an additional eight year period on November 18, 1996. In July of 2000, the property was purchased by the current owner, and was renewed for a third time on February 28, 2005. Since 2000, the land has been utilized to pasture 14 horses. The current owner does not reside on the property; the horses belong to an adjacent property owner who has an agreement with the owner to utilize and maintain the land for the horses. During the life of this district, the property has not been substantially altered, and the current application is for the same land area as the original application and subsequent renewals.

COMPREHENSIVE PLAN PROVISIONS

Plan Area:	Area III
Planning District:	Upper Potomac
Planning Sector:	Hickory (UP3)
Plan Map:	Residential use at a density of 0.2 to 0.5 dwelling units per acre; public park,

ANALYSIS

Land Use/Environmental Analysis (Appendix 3)

The establishment and continuation of agricultural and forestal districts is in conformance with the Plan goals of preserving the rural and scenic character of the surrounding area. Approximately 40 of the 43 acres of the subject property are utilized for horse pasture with the remainder being undeveloped wooded land. The property abuts the Difficult Run and a Resource Protection Area (RPA) is mapped along the creek and an unnamed spring-fed tributary that traverses the site. These areas are also designated as Environmental Quality Corridors (EQC). A delineation of EQC and RPA may be found in the attachment to Appendix 3. Ordinance provisions are proposed which require the applicant to continue to use the boundary of the EQC as the limits of clearing and grading, for the life of the district.

Transportation Analysis (Appendix 4)

The County's Transportation Plan has no road improvements that affect the property and no current construction programs are in proximity to this site. FCDOT has no objections to the renewal of the A&F District.

Park Authority Analysis (Appendix 5)

The renewal of this A&F District is consistent with the Comprehensive Plan's objective for resource protection, preservation, and sustainability. The Park Authority owns land adjacent to the property as part of the Difficult Run Stream Valley Park. The Cross County trail runs along the southern bank of the creek. In so much as the continued preservation of the subject property complements the Park Authority's land, they have determined that the renewal will have no adverse impact and recommend it's approval.

Soil and Water Conservation District Analysis/ VA Department of Forestry Analysis (Appendices 6-7)

The updated Soil and Water Quality Conservation Plan, including a soil analysis, is attached as Appendix 6. The plan includes a series of recommendations to improve the health and operation of the property. Most notable among these include nutrient management; pest management; and prescribed grazing of the pasture areas. The plan also includes a recommendation to maintain a buffer along the RPA and to prevent overgrazing of this section of the property. The updated report carries forward the previous recommendation to establish the boundaries of the EQC areas as the limits of any future clearing and grading.

There is no timbering on the property, and as the forest resources in the district are minimal, the State Forester provided a brief assessment, as the current forest management plan for the RPA buffer area from 2005 remains adequate. The letter is included as Appendix 7. The wooded areas are primarily located in the RPA area and although the forester noted invasive species, the vegetation is helping to prevent erosion of the steeper slopes. Staff has carried forward the ordinance provisions requiring continued compliance with the updated recommendations of the Soil Plan and Forestry Assessment.

Agricultural and Forestal District Criteria Analysis

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

Criteria Group A:

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

The subject property is 43.98 acres in size, and is entirely devoted to horse pasturage or conservation. This criterion is satisfied.

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

The property is zoned R-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 0.2 to 0.5 dwelling units per acre (du/ac) and public parks. 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 0.2 to 0.5 du/ac, private open space or Public Parks. Therefore, this criterion has been satisfied.

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

Forty of the district's 43.98 acres are devoted to horse pasturage which is considered an agricultural use, therefore this criterion is satisfied.

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

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

7. *Approximately 2/3 of the land (66%) in agricultural use in the district should contain Class I, II, III, or IV soils as defined by the USDA Soil Conservation Service. Districts having more than 1/3 of the land in agricultural use containing Class V-VIII soils may*

be considered if such lands have been improved and are managed to reduce soil erosion, maintain soil nutrients, and reduce non-point pollution.

Approximately 53% of the soils in the district are in Class I, III, and IV; and the remaining 47% of the soils are Class V, VI, and VII. Although less than 2/3 of the district contains Class I-IV soils, the owner is implementing the soil and water conservation recommendations of the Northern Virginia Soil and Water Conservation District. Therefore, staff believes this criterion has been satisfied.

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

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

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

While an updated letter has been provided by the State Forester, very little of the site is forested and no official Management Plan has been prepared. However, to address water quality and stream bank stabilization concerns, staff has proposed an ordinance provision requiring the applicant to abide by the recommendations in the forest assessment. Additionally, an ordinance provision that would require the applicant to maintain the boundaries of the EQC as the permanent limits of clearing and grading for the life of the District has been proposed. 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 acquired the property in 2000, and has maintained the property in open space and as horse pasture since that time. Investment includes general maintenance of the pastures, fencing, and horse barn. The applicant has committed to maintaining the agricultural and open spaces uses on this 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.*

While there is a history of agricultural production on this property, the current owner utilizes the land for horse pasturage; some of the horses are boarded at the site. Although horse pasturage is considered an agricultural use, there is not active agricultural production on the site. This criterion is not met.

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 subject property helps maintain the rural character of the Great Falls area, and preserves open land along Difficult Run and adjacent to the Cross-County Trail. Therefore, staff believes this criterion has been satisfied.

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

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

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

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

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

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

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

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

As previously noted, these criteria serve as a guide in determining whether or not an agricultural district should be established; they are not a prerequisite for establishing a district. All of the applicable criteria in Group A and at least two criteria in Group B should be satisfied. It is staff's opinion that this all of the applicable criteria in Group A and two of the applicable criteria in Group B (scenic vistas and R-E zoning) have been satisfied. It should also be noted that there have been no substantive changes to the district since the previous approval.

AFDAC RECOMMENDATION (Appendix 8)

On April 22, 2014 the Agricultural and Forestal District Advisory Committee voted to recommend that the Rhinehart Local Agricultural and Forestal District be renewed for an eight year term, subject to the Ordinance Provisions contained in Appendix 1 of this report.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

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

Staff Recommendations

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

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

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

APPENDICES

1. Proposed Ordinance Provisions
2. Application Materials and Statement of Justification
3. Environmental Analysis
4. Transportation Analysis
5. Park Authority Analysis
6. Soil and Water Quality Conservation Plan

7. VA Department of Forestry Forest Management memo
8. AFDAC Recommendation
9. Title 58.1 Article 4 *Special Assessment for Land Preservation*
10. Glossary of Terms

PROPOSED ORDINANCE PROVISIONS

April 10, 2014

**AR 87-D-002-3
(Rhinehart)**

If it is the intent of the Board of Supervisors to renew the Rhinehart Local Agricultural and Forestal District as proposed in Application AR 87-D-002-2 pursuant to Chapter 44 of Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code on Tax Map 13-4 ((1)) 47Z, staff recommends that the approval be subject to the following Ordinance Provisions:

Standard Provisions (From Chapter 115)

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

Additional Provisions

- (5) The applicants shall implement and abide by the recommendations of the Soil and Water Conservation Plan dated April 1, 2014, for the life of the Rhinehart Local Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to time as determined necessary by the Soil and Water Conservation District.

- (6) Those areas delineated as Environmental Quality Corridors (EQCs) shall be left undisturbed, with the exception of selective thinning operations performed to enhance existing vegetation and the removal of dead, dying and diseased vegetation as approved by the Urban Forest Management Branch of Fairfax County. The boundaries of the EQC shall be the permanent limits of clearing and grading for the life of the Rhinehart Local Agricultural and Forestal District (see attached map).
- (7) The applicants shall implement and abide by the recommendations of the Forest Management Plan dated January 3, 2005, for the life of the Rhinehart Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the State Forester.
- (8) The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if warranted in the discretion of the Board of Supervisors upon determination by a court or any declaration or enactment by the General Assembly that renders any provisions illegal or unenforceable. The reconsideration shall be in accordance with procedures established by the Board of Supervisors and communicated to the property owner(s) to demonstrate that the determination by a court or the declaration or enactment by the General Assembly does not apply to the conditions of this district.

AR 87-D-002-03

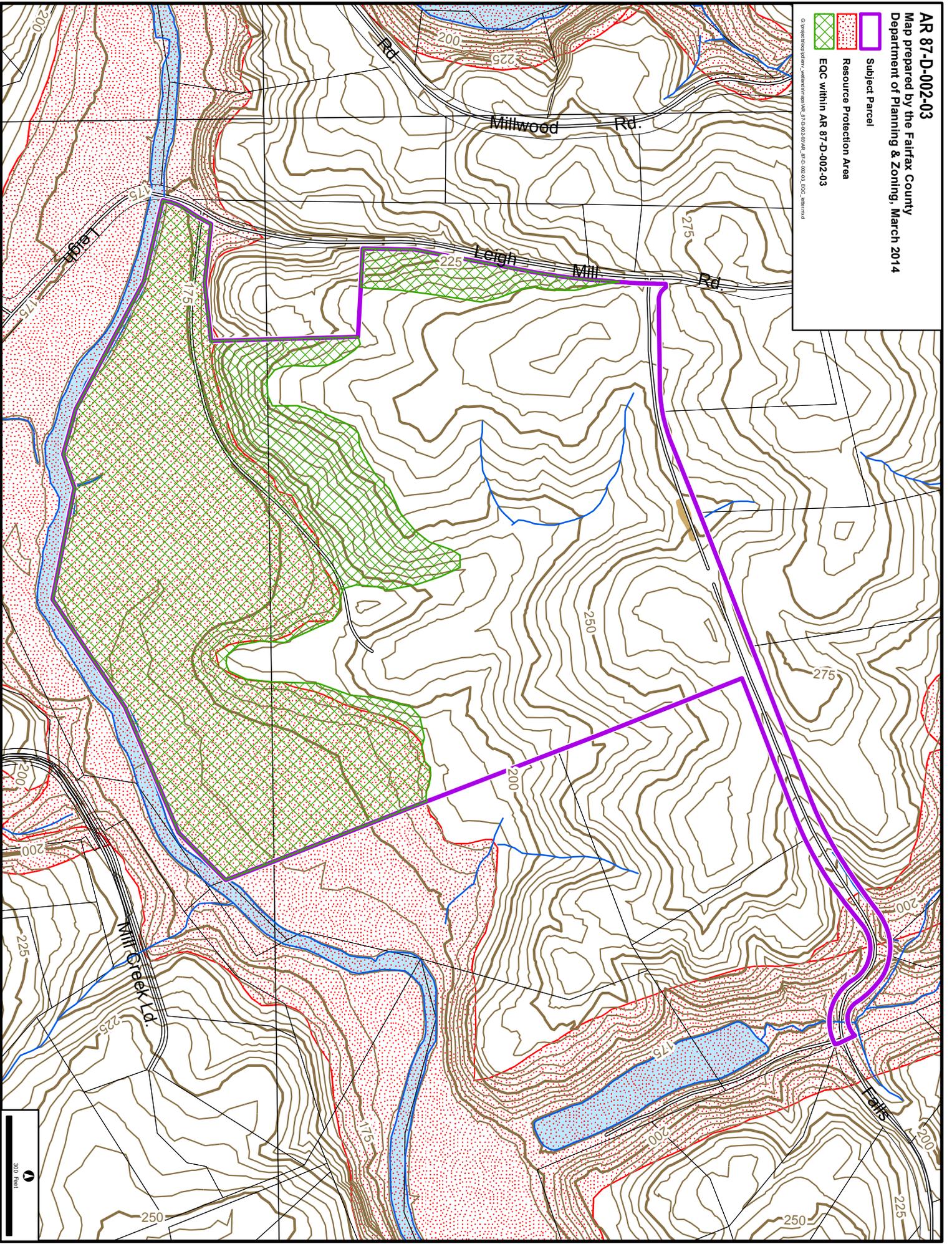
Map prepared by the Fairfax County
Department of Planning & Zoning, March 2014

Subject Parcel

Resource Protection Area

ECC within AR 87-D-002-03

© 2014 by the Commonwealth of Virginia, Department of Planning and Zoning, Fairfax County, Virginia



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

Name: David R. Gill, Esq. or Sheri L. Akin, Land Use Planner

Address: McGuireWoods LLP
1750 Tysons Boulevard, Suite 1800
McLean, VA 22102

Telephone: (703) 712-5039 (DRG) or (703) 712 5483 (SLA)

6. Signature of all property owners:



1999 Land Acquisitions, LLC

TO BE COMPLETED BY THE COUNTY

\$500 pd

Date application accepted: 12/16/13 *Virginia Ruffner*

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
Horse Barn	Pre-WWII	Stable/Storage
Cement Block Building	1946	Vacant
Frame Building	Pre-WWI	Vacant

use additional page(s) if necessary

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

None

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

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: 3/14/99

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
Horse Pasture	8-9 Horses	14
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

FARM PROPERTY

1. Please check the appropriate description of the farm:

- Owner-operated, full-time.
- Owner-operated, part-time.
- Farm manager operated.
- Rented to another farmer
- Portion of farm rented: all acres.
- Other: Please describe:
Farm managed for horse pasture by
adjacent property owner per agreement

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

Active agricultural uses	<u>40.9762</u>	acres.
Forested or undeveloped	<u>3.0</u>	acres.
Residential uses	<u> </u>	acres.
Total acreage	<u>43.9762</u>	acres.

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

If yes, which roads will be used:

4. Please estimate the number of vehicles entering or leaving your farm each day:

1 cars, vans and pickup trucks heavy trucks.

FOREST PROPERTY

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

Future timber or pulpwood harvesting	<u> </u>	acres
Christmas tree production and harvesting	<u> </u>	acres
Firewood production and harvesting	<u> </u>	acres
Conservation	<u>3.0</u>	acres
Residential uses	<u> </u>	acres
Other: <u> </u>	<u> </u>	acres
Total acreage	<u>3.0</u>	acres

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

n/a

**STATEMENT OF JUSTIFICATION
FOR RENEWAL OF THE
RHINEHART LOCAL AGRICULTURAL & FORESTAL DISTRICT**

1999 Land Acquisitions, LLC - Tax Map 13-4-((1))-47Z

October 9, 2013

Pursuant to Chapter 115 of the Fairfax County Code (the "Code"), 1999 Land Acquisitions, LLC, requests renewal of the Rhinehart Local Agricultural and Forestal District for the property known as Fairfax County Tax Map 13-4-((1))-47Z.

The subject property contains 43.9762 acres and is zoned R-E, Residential Estate. The site is located within Great Falls and is surrounded by large residential lots and parkland.

The property was purchased by the Owner in July of 2000. Since that time, the property has been utilized as horse pasture land by an adjacent property owner. At the time of the last A&F Renewal, 8-9 horses were pastured at the site. That number has now increased to 14 horses. The 3 acres of forested property is kept undisturbed and is home to an abundance of local birds and wildlife. This area will be conserved for habitat protection, soil stabilization, and aesthetic value.

The site has continuously been maintained for pasture farmland purposes including tractor mowing, fence installation/repair, and general upkeep. In addition, Soil and Water conservation and Forest Management Plan recommendations were implemented by the prior owner. These preservation and protection measures have been maintained by the current property owner.

Pursuant to Article 5, Chapter 115 of the Code, several Group A criteria are recommended for establishment and renewal of an Agricultural and Forestal district. The property and its current uses fall within these recommendations as follows: 1) the property is currently devoted to both agricultural and forestal uses; 2) the land is zoned R-E; 3) the subject property and surrounding land is consistent with the Comprehensive Plan; 4) the property is at least 20 acres in size; 5) soil and water conservation recommendations of the Northern Virginia Soil and Water Conservation District have been followed and remain in effect; 6) the forested portion of the property remains undisturbed; and 7) the property is continuously maintained for pasture farmland, and the Applicant is committed to the agricultural and forestal uses on this property.

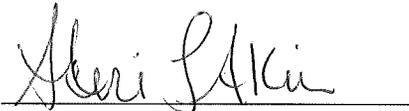
In addition, the property remains in use for horse farming purposes, it provides valuable scenic vistas, and contributes to the rural character of the area as outlined in Group B, Criteria 1 and 2.

Based upon the foregoing and the current Owner's commitment to preserving the natural

state and use of the property, the Owner respectfully requests renewal of the Rhinehart Local Agricultural and Forestal District.

Respectfully submitted,

McGUIREWOODS LLP



Sheri L. Akin
Land Use Planner
Agent for Applicant



County of Fairfax, Virginia

MEMORANDUM

April 3, 2014

TO: Barbara Berlin, Director
Zoning Evaluation Division, DPZ

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

SUBJECT: LAND USE ANALYSIS & ENVIRONMENTAL ASSESSMENT for:
AR 87-D-002-03 1999 Land Acquisitions, LLC

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

DESCRIPTION OF THE APPLICATION

The applicant seeks to renew approval for a 43.9762-acre Agricultural and Forestal (A & F) District which encompasses one parcel located in the Hickory Community Planning Sector (UP3) of the Upper Potomac Planning District. The proposed district is traversed by Difficult Run stream valley which is Resource Protection Area (RPA), floodplain and Environmental Quality Corridor (EQC) on its southern edge.

LOCATION AND CHARACTER

The subject property is located in northern Fairfax County within the Difficult Run Watershed. The proposed district is bounded to the north, south, east and west by land which is planned for residential use at .2-.5 dwelling unit per acre (du/ac) or 5-2 acre lots; and on the south by land planned for public park.

COMPREHENSIVE PLAN MAP: residential use at .2-.5 dwelling unit per acre and public park

COMPREHENSIVE PLAN CITATIONS

The Comprehensive Plan is the basis for the evaluation of this application. The assessment of the proposal for conformity with the land use and environmental

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



**Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service**

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 III, Upper Potomac Planning District, UP3-Hickory Community Planning Sector, as amended through December 3, 2013, on page 99, the Plan states:

“The Hickory Community Planning Sector is largely developed as stable low density residential neighborhoods. Infill development in these neighborhoods should be of a compatible use, type and intensity in accordance with the guidance provided by the Policy Plan....”

Environment

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

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

- Policy a. Maintain a best management practices (BMP) program for Fairfax County and ensure that new development and redevelopment complies with the County’s best management practice (BMP) requirements. . . .
- Policy c. Minimize the application of fertilizers, pesticides, and herbicides to lawns and landscaped areas through, among other tools, the development, implementation and monitoring of integrated pest, vegetation and nutrient management plans.
- Policy d. Preserve the integrity and the scenic and recreational value of 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....

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, Environment, as amended through February 12, 2013, on page 10, the Plan states:

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

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

In the Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Environment, as amended through February 12, 2013, on pages 14-17, the Plan states:

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

Policy a: For ecological resource conservation, 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.
- "Connectedness": This segment of open space could become a part of a corridor to facilitate the movement of wildlife.
- Aesthetics: This land could become part of a green belt separating land uses, providing passive recreational opportunities to people.
- Pollution Reduction Capabilities: Preservation of this land would result in significant reductions to nonpoint source water pollution, and/or, micro climate control, and/or reductions in noise.

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.

Modifications to the boundaries so delineated may be appropriate if the area designated does not benefit habitat quality, connectedness, aesthetics, or pollution reduction as described above. In addition, some intrusions that serve a public purpose such as unavoidable public infrastructure easements and rights of way are appropriate. Such intrusions should be minimized and occur perpendicular to the corridor's alignment, if practical....

Preservation should be achieved through dedication to the Fairfax County Park Authority, if such dedication is in the public interest. Otherwise, EQC land should remain in private ownership in separate undeveloped lots with appropriate commitments for preservation. The use of protective easements as a means of preservation should be considered....”

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

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

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

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

Policy c: Use open space/conservation easements as appropriate to preserve woodlands, monarch trees, and/or rare or otherwise significant stands of trees, as identified by the County.”

LAND USE ANALYSIS

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

ENVIRONMENTAL ANALYSIS

Water Quality Protection

This request seeks approval to renew an existing Agricultural and Forestal District which encompasses approximately 43.98-acres of land located in Difficult Run watershed in northern Fairfax County adjacent to Difficult Run stream valley located immediately adjacent to the southern boundary of the subject property. Resource Protection Area (RPA) as defined by the Chesapeake Bay Preservation Ordinance (CBPO), Environmental Quality Corridor (EQC) per Policy Plan and one hundred year flood plain characterize much of this district adjacent to Difficult Run stream valley. The area of the RPA and EQC are basically the same area for this proposed district. The extent of the EQC and RPA are identified on the attached map.

The statement of justification and the application materials indicate that the majority of the district, or 40.97 acres, is devoted to horse pasture land and that the remaining 3 acres of the district is characterized by forest. Almost half the district is environmentally sensitive stream valley which is 100 year floodplain, RPA and EQC. Much of the RPA, EQC and 100 year floodplain area is currently serving as pasture for 14 horses.

The applicant is encouraged to work with the Northern Virginia Soil and Water Conservation District (NVSWCD) to develop a current Soil and Water Quality Management (SWQC) Plan for this district. The SWQC Plan usually provides extensive recommendations for buffer management, nutrient management, pest management and riparian forest management.

The Virginia Department of Forestry (VDOT) submitted comments to the applicant noting that the forest resource within this district is minimal and that the forest has been invaded by certain non-native invasive species including multi-flora rose, honeysuckle and callery pear exist. In addition, a deer stand was also cited on the property. In order to improve the health of the small forest on the subject property as well as surrounding properties the applicant is encouraged to implement deer herd management and invasive plant species management.

Staff recommends that the applicant work with the NVSWCD and VDOF to enlarge the forested stream valley buffer with a balance of native groundcover, shrubs and trees. Management of non-native invasive species is also encouraged. Such an effort would enhance water quality in the Difficult Run stream valley and ultimately improve water quality in the Chesapeake Bay, as well as improve the quality of the wildlife habitat. The expense of such a buffer enhancement may also be eligible for grant funding opportunities.

Approval of this Agricultural Forestal District is compatible with the goals of the Comprehensive Plan to preserve this environmentally sensitive area of Fairfax County.

COUNTYWIDE TRAILS MAP:

The Countywide Trails Plan depicts a natural surface stone dust trail on the east side of Leigh Mill Road immediately adjacent to the subject property. A major regional trail and a stream valley trail are shown along Difficult Run stream valley adjacent to the southern boundary of the subject property.

PGN: MAW

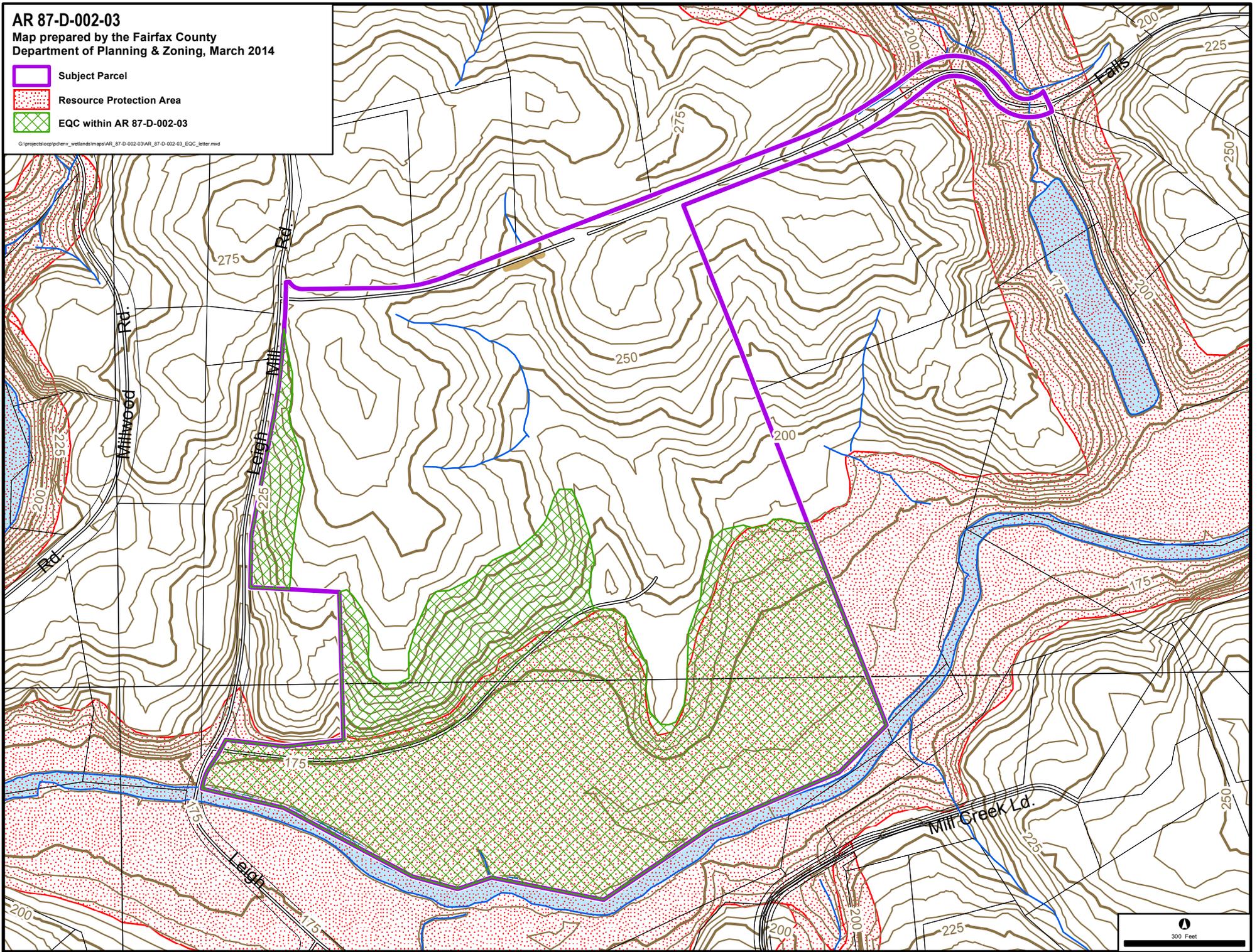
Attachment

AR 87-D-002-03

Map prepared by the Fairfax County
Department of Planning & Zoning, March 2014

-  Subject Parcel
-  Resource Protection Area
-  EQC within AR 87-D-002-03

G:\projects\ocp\p\env_wetlands\maps\AR_87-D-002-03\AR_87-D-002-03_EQC_letter.mxd





County of Fairfax, Virginia

MEMORANDUM

DATE: January 27, 2014

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

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

FILE: 3-4 (AF 87-D-002)

SUBJECT: Transportation Impact

REFERENCE: AR 87-D-002-03; 1999 Land Acquisitions, LLC
(Rhinehart Local Agricultural and Forestal District)
Land Identification Map: 013-4 ((1)) 0047Z

MADE for ANR

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



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: January 24, 2014

SUBJECT: AR 87-D-002-3, 1999 Land Acquisitions, LLC
Tax Map Number: 13-4((1)) 47Z

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

FCPA Reviewer: Jay Rauschenbach
Staff Coordinator: Brent Krasner

Copy: Cindy Walsh, Director, RMD
Brent Krasner, Staff Coordinator, Department of Planning and Zoning
Chron Binder
File Copy



Northern Virginia Soil and Water Conservation District

12055 Government Center Parkway, Suite #905

Fairfax, VA 22035

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

Tel: 703-324-1460

Fax: 703-423-1421

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

Property Owners/Operators:

1999 Land Acquisitions, LLC
 The Rhinehart A&F District AR 87-D-002-03
 1013-B Leigh Mill Road
 Great Falls, VA 22066
 Contact: Sheri Akin, Landuse Planner
 McGuireWoods, LLP
 Tel: 703-712-5483

Plan Prepared by:

Willie Woode, Senior Conservation Specialist, NVSWCD

Date:

April 1, 2014

Property Assessment:

This property is almost 40 acres in size, and is located within the Difficult Run Watershed (PL-22), 1013-B Leigh Mill Road in Great Falls. It consists of one parcel identified in the Fairfax County Tax map as 013-4 ((1)) -0047Z. The Property is pending renewal of its Agricultural and Forestal District status.

It is currently used for grazing horses. Supporting documentation in the application's application indicates that the property is currently management by a neighbor, and used for grazing 14 horses.

Three structures were observed on site; Two Barns (one old and the other relatively new) and another structure that appears to be an uninhabited, old farm house.

At the time of my visit, no horse was seen onsite, but evidence of fresh horse droppings and others at varying stages of decay suggested that there are usually horses on site.

Difficult Run flows along the southern property limits creating 1,800 linear feet of county delineated Resource Protection Area (RPA). The southern-most pasture area is very wet. Within this wet pasture area, is an area of approximately 1.5 acres that was observed to

be flooded during my visits, and the dominant vegetation type suggests that area may be always or frequently flooded.

A natural spring exists toward the center of the property. This spring was observed to have remains of a ruined spring enhancement structure. Currently, water is simply flowing toward a wooded patch as indicated in the map.

Practices:

1) Nutrient Management:

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

Due to the wetness of the lower pasture and its proximity to Difficult Run, it is recommended that, such an be taken out of any fertilizer or chemical application program, unless it is absolutely necessary. In which case the label instructions must be followed very prescriptively..

Fields	Planned Amount	Month	Year	Applied Amount	Date
Upper Pasture	23.0 acs.	8	2014		
Lower Pasture	10.0 acs.	8	2014		
Total	33.0 acs.				

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

The green shaded area on your site map is the county delineated Chesapeake Bay Resource Protection Area (RPA). The RPA is the final barrier through which pollutants contained in runoff from adjacent land areas are filtered. RPAs are required to be kept vegetated to enhance surface filtration and soil infiltration of pollutants. Pesticide and nutrient use within this area should be under highly discretionary conditions.

Pasture areas within the Lower (wet) pasture area should not be over grazed – i.e. shorter than three inches.

Ideally, due to the wetness of that zone, serious considerations should be given to taking it out of pasturing rotations, and introducing permanent non-grazing vegetation. Recommendations can be provided upon request.

Fields	Planned Amount Year	Month		Applied Amount	Date
Lower Pasture	1,800 ln. ft.	4	2013		
Total	1,800 ln. ft.				

3) Pest Management (595)

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

Controlling weeds require:

- i) Scouting for new growth population and mowing it down.
- ii) Frequent mowing, especially before flowering and seeding stages.
- iii) Digging or uprooting the plants is another way of completely eliminating the plants that had be removed. The best time for this is after a long soaking rain, when the soil would be moist and loose. Getting some volunteer or paid labor should drastically reduce the plant population.
- iv) Maintaining the right soil pH and nutrient levels, and over-seeding with a pasture seed mix, allows grasses to grow tall and dense, and choke out the weeds.
- v) Preventing over-grazing of pastures, especially in the fields of concern.

Weeds must first be correctly identified before a chemical treatment is considered. When it gets beyond an acceptable threshold level, the use of an appropriate herbicide may be considered and used preferably as spot treatment.

The lower (wet) pasture should only be treated if absolutely necessary, under ideal weather conditions, and as are specified on the label.

Recommendations for treating other pests can be provided upon request.

Fields	Planned Amount Year	Month		Applied Amount	Date
Upper Pasture	23.0 acs.	4	2014		
Lower (Wet) Pasture	10.0 acs.	4	2014		
Flooded Area	1.5 acs.	4	2014		
Wooded/Shrubby areas and Access Roads	9.4 acs.	4	2014		
Total	43.9 acs.				

4) Prescribed Grazing (528)

Rotational grazing – Graze field areas in such a manner as to provide pasture rest and recovery periods through the grazing season. The grazing period may vary. Grazing heights and appropriate recovery periods will be observed throughout the grazing season. Temporary fencing may be considered to effectively implement this recommendation.

Fields	Planned Amount Year	Month		Applied Amount	Date
Upper Pasture	23.0 acs.	4	2014		
Lower (Wet) Pasture	10.0 acs.	4	2014		
Flooded Area	1.5 acs.	4	2014		
Wooded Shrubby areas and Access Roads	9.4 acs.	4	2014		
Total	43.9 acs.				

5) Record Keeping

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

Fields	Planned Amount Year	Month		Applied Amount	Date
Upper Pasture	23.0 acs.	4	2014		
Lower (Wet) Pasture	10.0 acs.	4	2014		
Flooded Area	1.5 acs.	4	2014		
Wooded/ Shrubby areas and Access Roads	9.4 acs.	4	2014		
Total	43.9 acs.				

6) Waste Management

Horses seem to be out in the field without a confined area. Therefore the standard management style of having a confined waste management area remains impractical. However, for an effective use of your pasture areas, it is recommended that you drag your fields often, to break down the piles of deposited waist.

Also, waist within the lower field should be cleaned-up once there is significant accumulation, especially before a storm event that will generate enough runoff to wash the deposits into Difficult Run.

Fields	Planned	Month		Applied	Date
	Amount Year			Amount	
Upper Pasture	23.0 acs.	4	2014		
Lower (Wet) Pasture	10.0 acs.	4	2014		
Flooded Area	1.5 acs.	4	2014		
Total	43.9 acs.				

SIGNATURES OF PARTICIPANTS – 1999 Land Acquisitions LLC A&F District

1999 Land Acquisitions LLC A&F District:

_____ Date _____

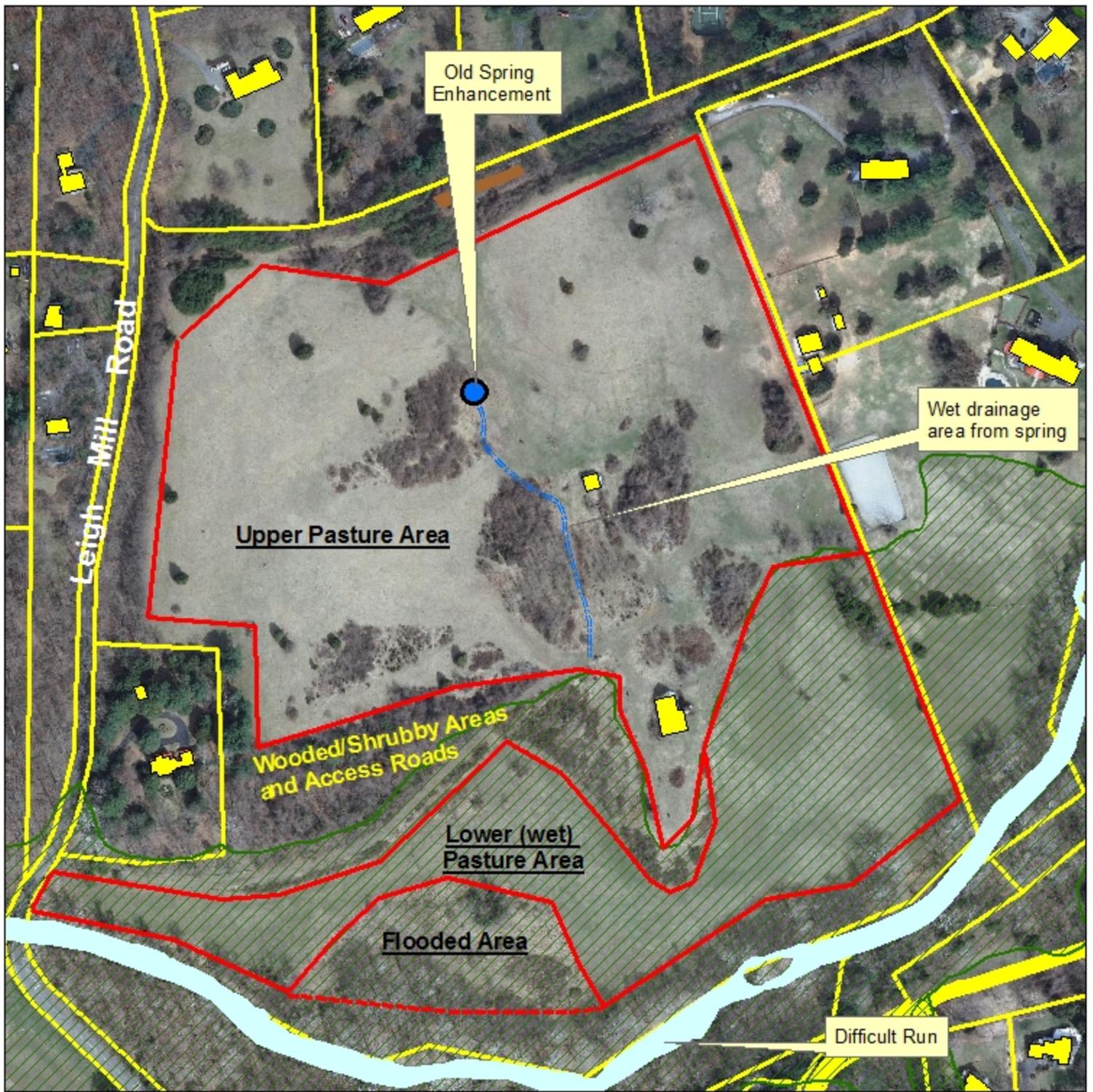
Planner:

Wilfred Woode _____ Date _____

District Authority:

Chairman _____ Date _____

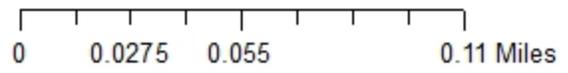
1013-B Leigh Mill Road, Great Falls - A&F District



Prep. by Willie Woode - NVSWCD Using Fairfax County's GIS and 2009 Ortho-photo Layers

Legend

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



Robert Farrell
Acting State Forester



COMMONWEALTH of VIRGINIA

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

March 21, 2014

Sherri L. Akin
Land Use Planner
McGuireWoods LLP
1750 Tysons Blvd., Suite 1800
McLean VA 22102

Dear Ms. Akin,

This letter is in regard to the renewal of A&F District AR 87-D-002-03 at 1013-A Leigh Mill Road, in Great Falls Virginia.

The forest resources on the property are minimal. I did note, however, that they are well located on steeper slopes and in the flood plain. Although these woods are heavily invaded with non-native multi-flora rose, shrub honeysuckle and callery pear, they are doing a good job of preventing erosion and protecting water quality in Difficult Run. I also noted a deer stand on the property. Control of the deer herd on the property will benefit not only your forest, but forests in the surrounding area.

If at some time in the future you should decide to reforest some or all of the pasture, please contact my office to discuss cost-share opportunities for reforestation.

Respectfully,

A handwritten signature in black ink, appearing to read "James McGlone".

James McGlone
Urban Forest Conservationist

FAIRFAX COUNTY, VIRGINIA**MEMORANDUM**

DATE: April 23, 2014

TO: Members, Planning Commission
Members, Board of Supervisors

FROM: Agricultural and Forestal Districts Advisory Committee

SUBJECT: Recommendations on the Rhinehart Local Agricultural and Forestal District; Application AR 87-D-002-03

The Agricultural and Forestal Districts Advisory Committee met on April 22, 2014, to review the application to renew the Rhinehart Local Agricultural and Forestal District (Application AR 87-D-002-03 and made the following findings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GLOSSARY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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