



APPLICATION ACCEPTED: March 21, 2014
PLANNING COMMISSION: September 10, 2014
BOARD OF SUPERVISORS: September 23, 2014 @ 3:30 p.m.

County of Fairfax, Virginia

August 25, 2014

STAFF REPORT

REED AGRICULTURAL AND FORESTAL DISTRICT

APPLICATION AR 89-S-003-03

SPRINGFIELD DISTRICT

APPLICANT: Thomas E. and Madeline S. Reed

ZONING: R-C, WS

PARCEL(S): 66-4 ((1)) 11Z, 17Z, 18Z

ACREAGE: 43.44 acres

PLAN MAP: Residential @ 0.1-0.2 du/ac

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 Reed Local Agricultural and Forestal District be approved, subject to the Ordinance Provisions listed in Appendix 1.

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

Brent Krasner, AICP

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

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

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

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

A&F District Renewal

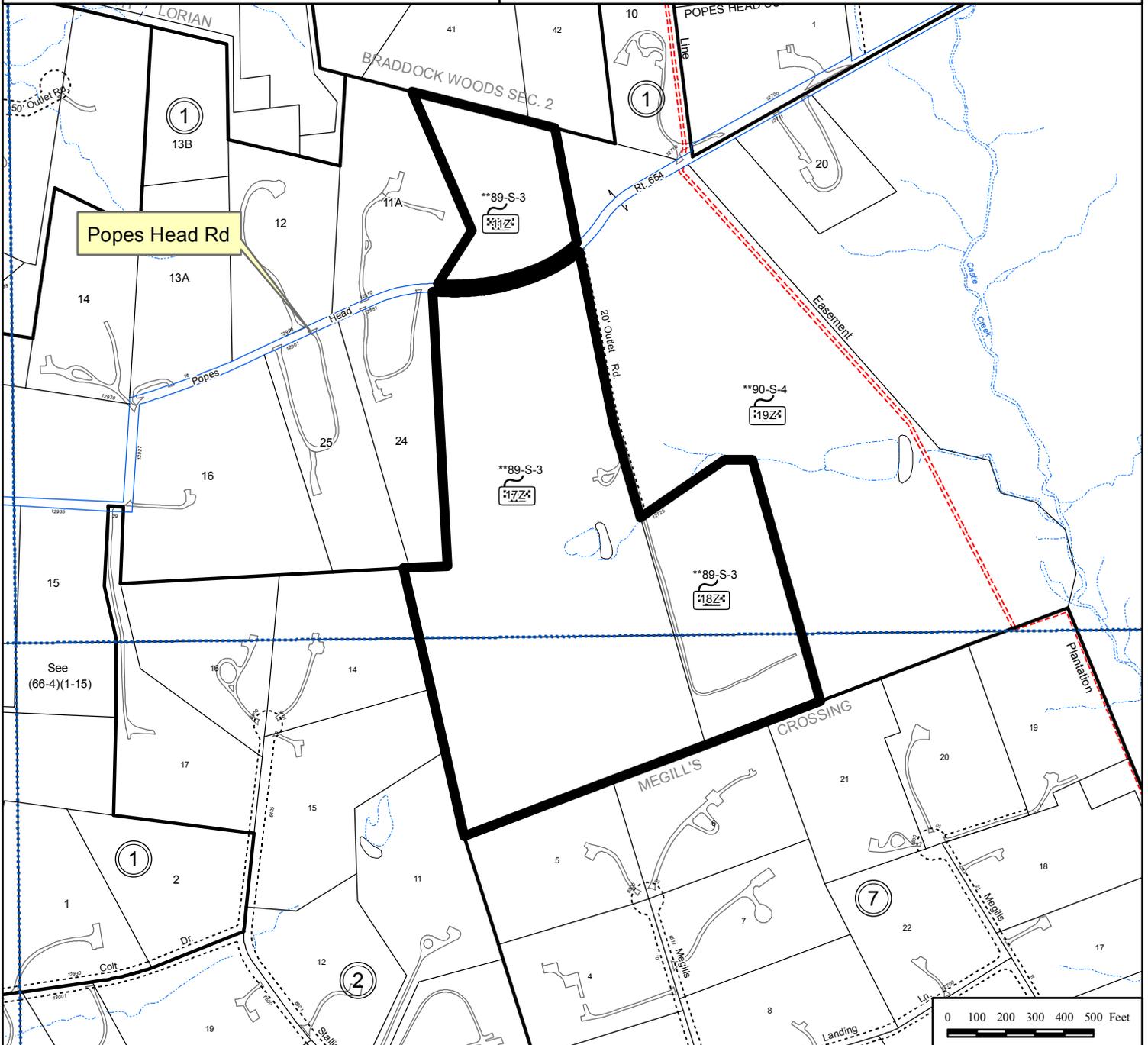
AR 89-S -003-03



Applicant: THOMAS E. REED, MADELEINE S. REED
Accepted: 03/21/2014
Proposed: AGRICULTURAL AND FORESTAL DISTRICT RENEWAL

Area: 43.44 AC OF LAND; SPRINGFIELD District
Zoning Dist Sect: 12801 POPES HEAD ROAD, CLIFTON, VA 20124

Zoning: R- C
Overlay Dist: WS
Map Ref Num: 066-4- /01/ /0011Z /01/ /0017Z
/01/ /0018Z



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

DESCRIPTION OF APPLICATION

AR 89-S-003-03

The applicant seeks to renew the Reed 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 43.44 acres located on Popes Head Road, east of Clifton Road in the Springfield District. Copies of the applicant's Statement of Justification and related application materials are contained in Appendix 2. Staff's Proposed Ordinance Provisions are contained in Appendix 1.



Figure 1. Aerial View of District

LOCATION AND CHARACTER

District Location

The district is located along both sides of Popes Head Road, about ½ mile east of Clifton Road. The main portion is accessed via a paved driveway (outlet road) from the south side of Popes Head Road.

Existing Conditions/Character of the District:

The district consists of three parcels containing a total of 43.44 acres. A majority of the land is on the south side of Popes Head Road, except for five wooded undeveloped acres (lot 11Z) which is on the north side. The main house, barn, garage, and shed are located at the end of a long driveway along the eastern property line and comprise about two acres. The remainder of the property contains approximately 31 acres that are maintained as pasture land for grazing horses on hay. About four acres are devoted to growing Christmas trees and harvesting firewood. There is a small pond located to the southwest of the main house.

Surrounding Area Description:

The property abuts single family houses on large estate-type lots (five acres and greater) to the south and west. Undeveloped wooded land that is part of the 205 acre Whitehall Statewide A&F District and the 34 acre JLB Associates Local A&F district abuts the property to the east.



Figure 2 – View of Surrounding Area

BACKGROUND

The Reed Local Agricultural and Forestal District was originally established for an eight year period on April 30, 1990. The District was renewed for an additional eight year period on August 3, 1998 and then again on July 31, 2006. 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: Pohick

Planning Sector: Johnny Moore (P3)

Plan Map: Residential use at a density of 0.1 to 0.2 dwelling units per acre

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 31 of the 43.44 acres of the subject property are utilized for horse pasture, hay fields, or Christmas tree cultivation with the remainder being residential or undeveloped wooded land. A small segment of Castle Creek traverses the district on an eastern corner. This area is a Resource Protection Area (RPA) and Environmental Quality Corridor (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.

Soil and Water Conservation District Analysis (Appendix 5)

An updated Conservation Plan was prepared on June 2, 2014 and is attached as Appendix 5. 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 pond maintenance. The plan also includes a recommendation about converting the hay fields to forest, if the property owner desires to reduce the burden of maintaining the open fields. 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.

VA Department of Forestry Analysis (Appendices 6)

The State Forester visited the property and concluded that the forest is largely unchanged from his last visit in 2006. As such, the current forest management plan from 2006 remains adequate. The letter is included as Appendix 6 and the plan is attached for reference. He did note that the small section of woods on the southeast side of the property is covered with non-native invasive plants. The vines, which appear to be bittersweet, have already killed some of the trees and it is suggested that the undergrowth and vines be sprayed with a glyphosate herbicide in mid to late summer to eradicate these plants before they spread to other nearby woods. 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 43.44 acres in size, and is devoted to hay fields, firewood harvesting, Christmas trees, 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-C. This criterion is satisfied.

3. *In general, the district should be consistent with the Comprehensive Plan. The following land uses identified in the Plan are appropriate for a district: .1-.2 dwelling unit per acre; .2-.5 dwelling unit per acre; .5-1 dwelling units per acre; Private Recreation; Private Open Space; Public Park; Agriculture; Environmental Quality Corridor. Lands not planned as such may be considered for a district if they meet at least 3 of Criteria Group B.*

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

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

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

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

Approximately 30 acres of the District has been devoted to agricultural uses since the original term. Hay production continues on the property as does the harvesting of Christmas trees, which has occurred since 1982. All district parcels are contiguous and under the same ownership. 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 95% of the site consists of soils with Classes II and IV; therefore, this criterion is satisfied.

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

such a program, but for which a conservation plan is being prepared or has been requested from the Northern Virginia Soil and Water Conservation District.

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

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

An updated letter has been provided by the State Forester, and the 2006 Forest Management Plan remains valid and in effect. 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's property has been enrolled in the agricultural and forestal district program since 1989. Conservation and Forest Management Plans have been implemented by the applicant over that time. Land has been cleared for pasture purposes; fencing has been added and upgraded; hay and Christmas trees have been produced and horses have been kept on the property. In addition, the applicant has committed to implementing the conservation and forest management plans during the life of the district. Therefore, this criterion is 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 owner predominately utilizes the land for horse pasturage and produces a limited amount of Christmas trees and hay; Although these are considered agricultural uses, there is not an active commercial agricultural operation on the site. This criterion is not fully 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 Clifton and provides scenic views from Popes Head Road. As it is adjacent to two other large A and F districts and contributes to a contiguous area of several hundred largely undeveloped acres south of Popes Head Road and west of Colchester Road 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 RC. 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 all of the applicable criteria in Group A and two of the applicable criteria in Group B (scenic vistas and RC 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 June 24, 2014 the Agricultural and Forestal District Advisory Committee voted to recommend that the Reed 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 Reed 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 Reed 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. Soil and Water Quality Conservation Plan
6. VA Department of Forestry Forest Management memo
7. Title 58.1 Article 4 *Special Assessment for Land Preservation*
8. AFDAC Memo
9. Glossary of Terms

ORDINANCE PROVISIONS

June 16, 2014

**AR 89-S-003-03
(Thomas E. Reed)**

If it is the intent of the Board of Supervisors to renew the Reed Local Agricultural and Forestal District as proposed in Application AR 89-S-003-03 pursuant to Chapter 44 of Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code on Tax Map 66-4 ((1)) 11Z, 17Z, and 18Z staff recommends that the approval be subject to the following Ordinance Provisions:

Standard Provisions (From Chapter 115)

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

Additional Provisions

- (5) The applicants shall implement and abide by the recommendations of the Soil and Water Conservation Plan dated June 2, 2014, for the life of the Reed 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 Reed Local Agricultural and Forestal District.
- (7) The applicants shall implement and abide by the recommendations of the Forest Management Plan dated April 6, 2006, for the life of the Reed 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.

Application No. AR 89-S-003-03

RECEIVED
Department of Planning & Zoning

FEB 18 2014

Zoning Evaluation Division

APPLICATION FOR THE ESTABLISHMENT OF A
AGRICULTURAL AND FORESTAL DISTRICT

FAIRFAX COUNTY

- Type of application: Local () Statewide (
Initial () Amendment () Renewal () 2/6/14
- Please list the Tax Map number, the name and address of each owner and other information for each parcel proposed for this district:

Owner's Name & Address	Tax Map Number	Year Acquired	Zoning District	Acres
<u>THOMAS E. REED</u>	<u>66-4-1-17Z-1959+60</u>		<u>R-C</u>	<u>29.6</u>
<u>MADELEINE S. REED</u>	<u>66-4-1-11Z-1984</u>		<u>R-C</u>	<u>5</u>
	<u>66-4-1-18Z-1989</u>		<u>R-C</u>	<u>8.4</u>

- Total acreage in the proposed district: 43 acres.
- Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm 35 forest 8.

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

Name: THOMAS E. REED
Address: 12801 POPES HEAD Rd.
CLIFTON, VA. 20124

Telephone: HOME - 703 - 830 - 1220
OFFICE - 703 - 591 - 3739

6. Signature of all property owners:

Thomas E. Reed 2/6/14
Madeline S. Reed 2/6/14

TO BE COMPLETED BY THE COUNTY

\$50.00

Date application accepted: March 21, 2014 *Virginia Ruffan*

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
<u>MAIN RESIDENCE - ORIG. 1895 - ADDN'S. - 1950, 1964, 1980 (HOME PLACE)</u>		
<u>BARN</u>	<u>1950</u>	<u>CATTLE + STORAGE</u>
<u>GARAGE</u>	<u>1975</u>	<u>CAR + STORAGE</u>
<u>POOL</u>	<u>1972</u>	<u>SWIM</u>
<u>FENCING</u>	<u>1966-67</u>	<u>BOARD FENCE</u>
<u>EQUIPMENT SHED</u>	<u>2004</u>	<u>STORAGE</u>

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:

N/A

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

PERIODIC REPAIRS & REPLACEMENTS TO HOUSE,
FENCING, POOL & OUTBUILDINGS.

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: _____

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
GRAZING HORSES	} NOMINAL	} NOMINAL
SOME HAY		
XMAS TREES		
2 LARGE VEGETABLE GARDENS		

FARM PROPERTY

RECEIVED
Department of Planning & Zoning

FEB 18 2014

Zoning Evaluation Division

1. Please check the appropriate description of the farm:

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

- _____

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

Active agricultural uses	<u>33</u>	acres.	<i>CLEAR + MOWED</i>
Forested or undeveloped	<u>8</u>	acres.	
Residential uses	<u>2</u>	acres.	
Total acreage	<u>43</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:

ONCE USED POPES HEAD RD., BUT NO LONGER

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

3024 cars, vans and pickup trucks heavy trucks. *(ONCE IN A WHILE)*

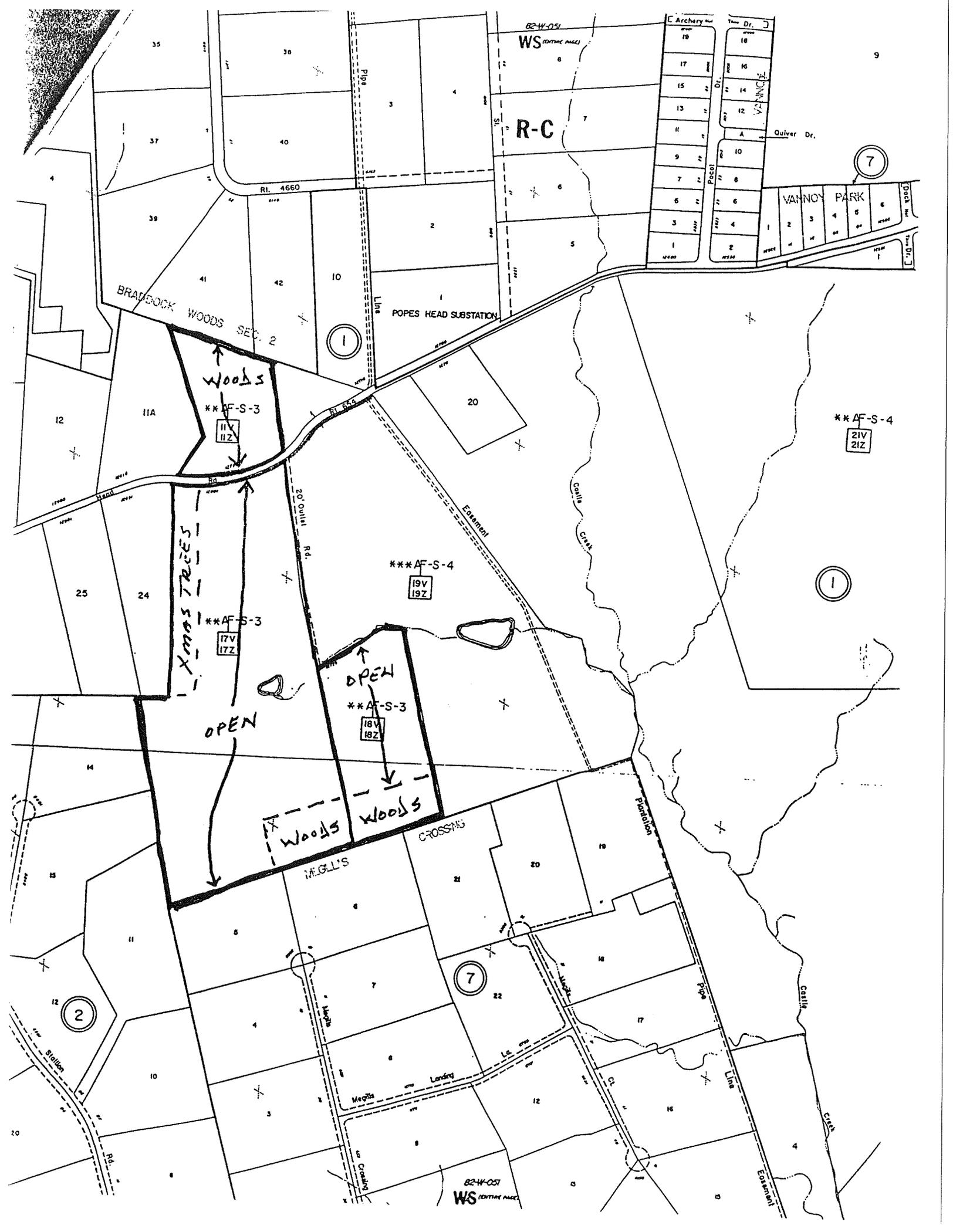
FOREST PROPERTY

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>2</u>	acres
Firewood production and harvesting	<u>8</u>	acres
Conservation	<u>31</u>	acres
Residential uses	<u>2</u>	acres
Other: _____	<u> </u>	acres
Total acreage	<u>43</u>	acres

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

IN PROCESS OF CLEARING OLD CHRISTMAS TREES



82-W-051
WS (DITCH PANEL)

R-C

19
17
15
13
11
9
7
5
3
1

VANNOY PARK

BRADDOCK WOODS SEC. 2

POPPES HEAD SUBSTATION

WOODS

**AF-S-3

11Z

XMAS TREES

**AF-S-3

17Z

OPEN

OPEN

**AF-S-3

18Z

WOODS

WOODS

CROSSING

MEGL'S

***AF-S-4

19Z

**AF-S-4

21Z

82-W-051
WS (DITCH PANEL)



County of Fairfax, Virginia

MEMORANDUM

DATE: May 8, 2014

TO: Barbara A. Byron, Director
Zoning Evaluation Division, DPZ

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

SUBJECT: ENVIRONMENTAL ASSESSMENT for: **AR 89-S-003-03**
Thomas E. and Madeline S. Reed

This memorandum, prepared by Mary Ann Welton, includes citations from the Comprehensive Plan that list and explain environmental policies for this property. The citations are followed by a discussion of environmental concerns, including a description of potential impacts that may result from the proposed agricultural and forestal district renewal. Possible solutions to remedy identified environmental impacts are suggested. Other solutions may be acceptable, provided that they achieve the desired degree of mitigation and are also compatible with Plan policies.

DESCRIPTION OF THE APPLICATION

The applicant seeks to renew approval for a 43-acre Agricultural and Forestal (A & F) District which encompasses one parcel located in the Twin Lakes Community Planning Sector (P1) with the majority of the district located in the Johnny Moore Community Planning Sector (P3) within the Pohick Planning District. A small segment of Castle Creek traverses the district on an eastern corner. This area is Resource Protection Area (RPA) and Environmental Quality Corridor (EQC).

LOCATION AND CHARACTER

The subject property is located in southwestern Fairfax County within the Johnny Moore Watershed. The proposed district is bounded to the north, south, east and west by land which is planned for residential use at .1-.2 dwelling unit per acre (du/ac) or 5-10 acre lots.

COMPREHENSIVE PLAN MAP: residential use at .1-.2 dwelling unit per acre

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



Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

DEPARTMENT OF
PLANNING
& **ZONING**

COMPREHENSIVE PLAN CITATIONS

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

The Fairfax County Comprehensive Plan, 2013 Edition, Area III, Pohick Planning District, as amended through March 4, 2014, under the heading “District-wide Recommendations, Environment” pages 5 and 9 state:

“The Pohick Planning District contains much of the wildlife habitat and rural landscape that remains in Fairfax County. Past actions taken by the governing body to protect water quality in the Occoquan Reservoir by restricting development to very low densities will help to perpetuate this character....

Land use controls have been used effectively throughout this district to maintain high water quality standards. Low densities, limited expansion of public facilities, and development designs that encourage preservation of water features and other sensitive lands will contribute to water quality protection. A land use approach to maintaining water quality should be continued and broadened throughout the district. The following guidelines are suggested to achieve this objective:

- Maintain very low density development in the portions of the district that drain into the Occoquan Reservoir...;

The Pohick Planning District remains one of the largest areas of wildlife habitat in the County. Unlike other areas, the possibility exists for this district to support an ecosystem that would include carnivores at the top of the food chain that need a large range in order to survive. Low density development goes far in maintaining this habitat; however, more controls may become necessary as the rest of the County continues to accommodate more people. Environmental Quality Corridor (EQC) boundaries should be defined and preserved not only to protect water quality, but for the preservation of valuable habitat.”

Environment

In the Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Environment, as amended through March 4, 2014, 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 March 4, 2014, 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 March 4, 2014, 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 March 4, 2014, 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

This section characterizes the environmental concerns raised by an evaluation of this site and the proposed land use. Solutions are suggested to remedy the concerns that have been identified by staff. There may be other acceptable solutions. Particular emphasis is given to opportunities provided by this application to conserve the County’s remaining natural amenities.

This application requests approval for an Agricultural and Forestal District renewal which encompasses 43 acres of land located in the County’s Occoquan watershed as well as within the Popes Head Creek watershed. The statement of justification indicates that 33 acres are maintained as grassland for horse grazing; approximately 8 acres are conserved as forestland; and 2 acres are used for residential purposes.

Water Quality Protection

This district is located both on the north and the south side of Popes Head Road west of Colchester Road. The largest portion of the district is south of Popes Head Road and it is predominately grassland with one forested area located in the southeastern corner of the site. A larger forested area characterized by steep slopes which exceed 15%, is located north of Popes Head Road. An unnamed stream associated with Castle Creek traverses a small area in the eastern portion of the district. This area is Resource Protection Area (RPA) as defined by the Chesapeake Bay Preservation Ordinance (CBPO). This area is currently maintained as grassland and was maintained as grassland at the time of the last renewal in 2006. Because this small area of stream corridor is part of a larger connected corridor, it is also considered an Environmental Quality Corridor (EQC). As recommended in 2006, staff continues to encourage the applicant to restore as much of the site which is currently grassland back to a forested condition and particularly the portion of the site which is RPA/EQC. Stable forested buffers filter runoff and enhance water quality. The applicant is encouraged to work with the Virginia Department of Forestry (VDOF) regarding appropriate reforestation and techniques for this district.

Agricultural activities within the County's Chesapeake Bay Preservation Area comply with the Chesapeake Bay Preservation Ordinance (CBPO) through the development of a Water Quality Management Plan as implemented and administered by the Northern Virginia Soil and Water Conservation District. This application will be in compliance with the County's Chesapeake Bay Preservation Ordinance upon acceptance, completion and implementation of a current Soil and Water Quality Management Plan (SWQC).

The proposed renewal of this Agricultural District is consistent with the environmental goals and objectives of the Comprehensive Plan.

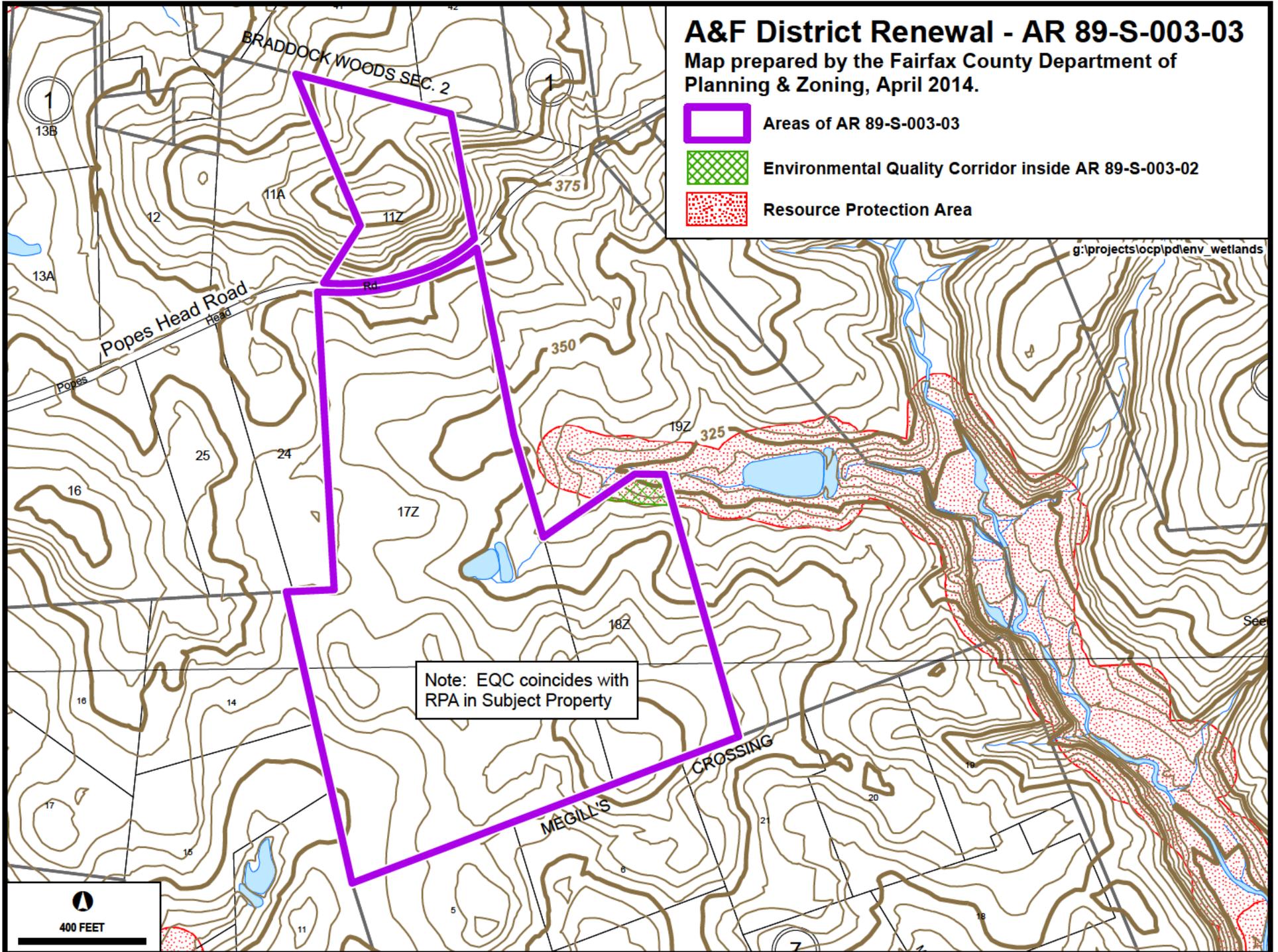
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Attachment

A&F District Renewal - AR 89-S-003-03

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

-  Areas of AR 89-S-003-03
-  Environmental Quality Corridor inside AR 89-S-003-02
-  Resource Protection Area





County of Fairfax, Virginia

MEMORANDUM**DATE:** April 25, 2014

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

FROM: Michael A. Davis, Acting Chief 
Site Analysis Section
Department of Transportation

FILE: 3-4 (AF 89-S-003)

SUBJECT: Transportation Impact

REFERENCE: AR 89-S-003-3; Thomas E. Reed & Madeleine S. Reed
Land Identification Map: 066-4 ((1)) 0011Z, 0017Z, 0018Z

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.

MAD/lah



Northern Virginia Soil and Water Conservation District

12055 Government Center Parkway, Suite #905

Fairfax, VA 22035

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

Tel: 703-324-1460

Fax: 703-423-1421

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

Property Owner/Operator:

Thomas E. and Madeleine S. Reed
 Agricultural & Forestal District – AR 89-S-003-03
 12801 Popes Head Road
 Clifton, VA 20124
 Tel: 703-830-1220

Plan Prepared by:

Willie Woode, Senior Conservation Specialist, NVSWCD

Date:

June 2, 2014

Summary of operation:

The property is approximately, 43 acres in size, located at 12801 Popes Head Road in Clifton. It consists of three parcels that can be identified in the Fairfax County tax map system as 066-4- ((1)) -11Z, -17Z and 18Z. Its watershed address is Popes Head Creek (PL 46). The property is pending renewal of its agricultural and forestal district status. The tract is predominantly in hay (grass) production, woods and wildlife preserve, and a portion being planned for Christmas tree farm.

The tract can be best described as rolling. An intermittent natural drainage flows through the central portion of the land into a 0.3-ac onsite pond. 225 linear feet of Chesapeake Bay Resource Protection area buffering an unnamed drainage, has been delineated through the eastern tip of the property.

Approximately, 1.8 acres is in residential use. The rest is in woods.

Plan Content:

This plan includes recommendations for:

- 1) Nutrient Management
- 2) Information on Integrated Pest Management

- 3) Resource protection Area (RPA) Management
- 4) Upland Forest Management
- 5) Pond Management
- 6) Establishment of Christmas Tree Farm
- 7) Recommendations for converting hay/grass land into forested land
- 8) Record Keeping

Practices:

1) Nutrient Management (590):

Nutrient application recommendations for both hay and tree farm are based on soil test results. Nutrient rates and timing of applications will be based on guidelines provided. This plan was developed and signed by a Nutrient Management Planner, certified by the Commonwealth of Virginia's Nutrient Management Program.

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Hay field #1	6.5 acs.	8	2014		
Hay field #2	20.0 acs.	8	2014		
Proposed Xmas tree plot	4.0 acs.	8	2014		
Total	30.5ac.				

2) Integrated Pest Management (595)

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

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Hay field #1	6.5 acs.	6	2014		
Hay field #2	20.0 acs.	6	2014		
Proposed Xmas tree plot	4.0 acs.	6	2014		
Residential	1.8 acs.	6	2014		
Woods	10.4 acs.	6	2014		
Pond	0.3 acs.	6	2014		
Total	43.0 acs.				

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

The green shaded area on the 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. The use of pesticides and nutrient within this zone is not recommended. If any such chemicals must be utilized, it is recommended that the application must be done by a qualified and experienced applicator, under ideal weather conditions.

Fields	Planned Amount	Month	Year	Applied Amount	Date
Hay Field #2	225 Ln. ft.	6	2014		
Total	225 Ln. ft.				

4) Upland Forest Management

Natural resource preservation practices for trees, wildlife and their habitats within these zones must be implemented. The forest management plan provided by VA Department of Forestry provides most of the basic practices to protect and enhance forested areas.

Area	Planned Amount	Month	Year	Applied Amount	Date
Wooded Wildlife Reserve 1 & 2	10.4 acs.	6	2014		
Total	10.4 acs.				

5) Pond Maintenance:

Manage existing ponds for water quality improvement and wildlife enhancement purposes. Maintain vegetation in the surrounding areas to improve filtration of pollutants before runoff enters the water body, and to reduce erosion.

Areas	Planned Amount	Month	Year	Applied Amount	Date
Pond	0.3ac.	6	2014		
Total	0.3 ac.				

6) Establishing Christmas tree farm

Appropriate tree species and the number of trees to be planted should be the first step. If possible, stagger the planting into three or four sets over four years or so.

In this case, site preparation may involve eradication of existing trees and shrubs, removal physical obstacles, such as, stumps, and logs to permit planting operations.

Seedlings are best ordered well ahead of planting time and handled appropriately, before they are to be planted (orders placed after January 1 often cannot be filled). Late winter through early spring (mid-April) is usually the recommended time for planting.

Generally, pines (the most commonly planted Christmas trees in Virginia) do not require high levels of nutrients; and on most sites, tree response to fertilizer does not justify the expense. Firs and spruces, however, are more nutrient-demanding and are fertilized annually in the winter or early spring. Nitrogen is commonly the primary nutrient applied, but often complete fertilizers, containing nitrogen, phosphorus, and potassium, are used if the soil test results suggest so. .

Insect and disease pests can be major problems in some plantations. It is crucial that pesticides be applied at proper doses and times, as stated on the product label.

Areas	Planned			Applied	
	Amount	Month	Year	Amount	Date
Proposed Xmas tree plot	4.0 acs.	6	2014		
Total	4.0 acs.				

7) Conversion of Hay land into hardwood forest:

Consider converting all or part of your grassy/hay fields into managed forested areas by planting select native woody species that support reforestation, enhances wildlife habitat, provides connectivity of wildlife corridors and reduces land management costs. Hay field #2 (20 acres) can in part/totally be converted into a wooded, wildlife enhancement area. You may qualify for some financial incentives under certain state and federal programs such as Conservation Reserve Enhancement Program (CREP) and/or Wildlife habitat improvement Program (WHIP). More information on these programs can be provided upon request.

Areas	Planned			Applied	
	Amount	Month	Year	Amount	Date
Hayfield #2	20.0 acs.	6	2014		
Total	20.0 acs.				

8) Record Keeping:

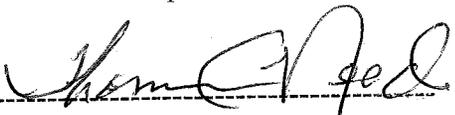
A system of records indicating the dates and applications of nutrients, or pesticides should be developed and maintained. A specimen record sheet is included.

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Hay field #1	6.5 acs.	6	2014		
Hay field #2	20.0 acs.	6	2014		
Proposed Xmas tree plot	4.0 acs.	6	2014		
Residential	1.8 acs.	6	2014		
Woods	10.4 acs.	6	2014		

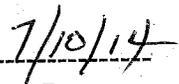
Pond	0.3 acs.	6	2014		
Total	43.0 acs.				

**SIGNATURES OF PARTICIPANTS of the Thomas E. Reed & Madeleine S. Reed
A&F District AR 89-S-003-03**

Landowner/Operator:

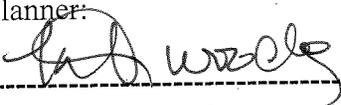


Thomas E. Reed

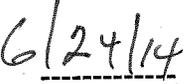


Date

Planner:



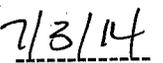
Wilfred D. Woode



Date

District Authority:

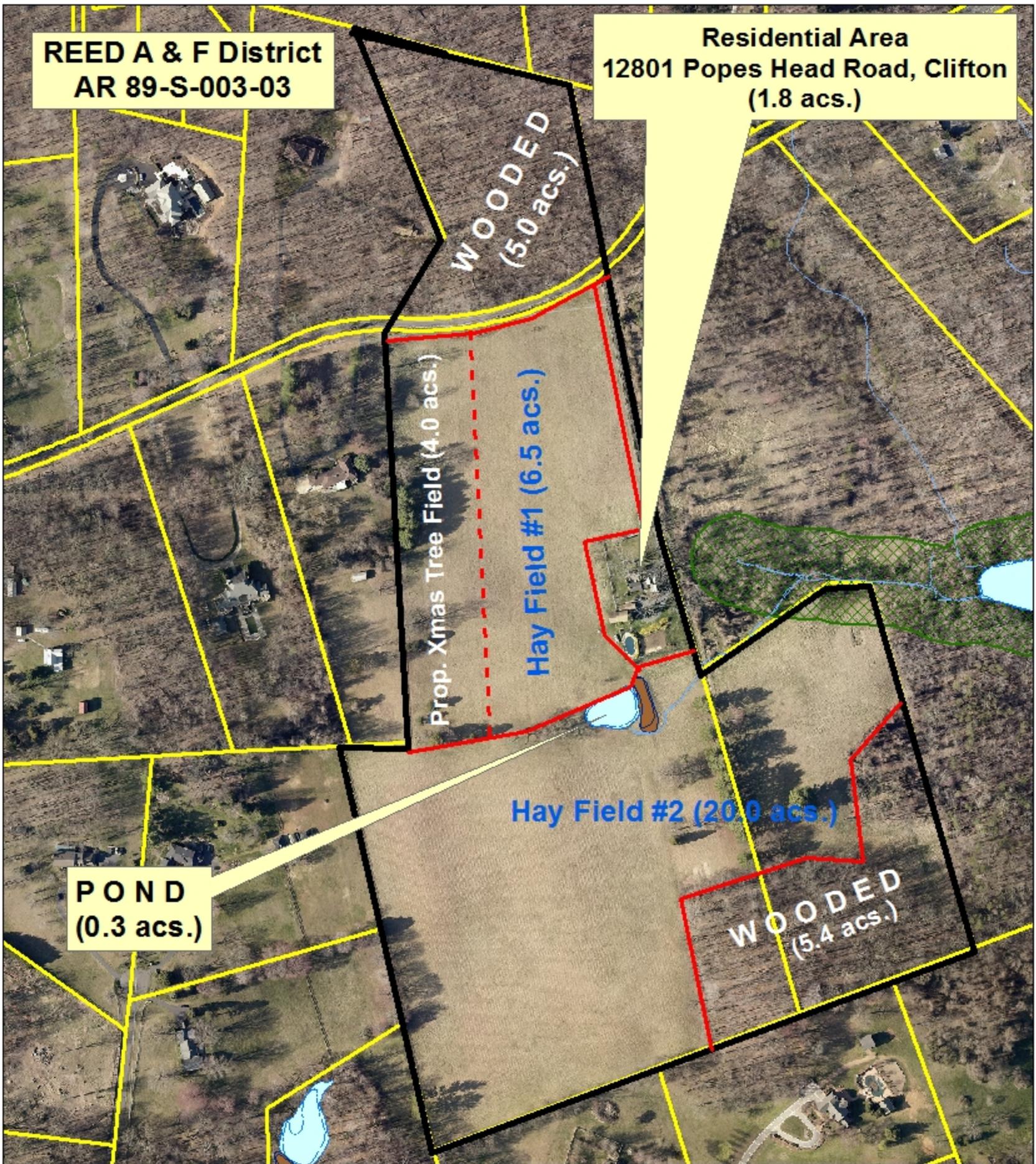

 on behalf of: _____
Chairman



Date

**REED A & F District
AR 89-S-003-03**

**Residential Area
12801 Popes Head Road, Clifton
(1.8 acs.)**



Legend

-  1993 RPAs
-  2003 RPAs
-  2003 (Rev) RPAs
-  Resource Management Areas (RMAs)
-  Parcels
-  Property Limits
-  Field Limits

Prepared by Willie Woode -NVSWCD
Using Fairfax County 2013 Orthophoto and GIS Layers

 Proposed Field Boundary

320 160 0 320 Feet

(Scale may not be accurate)



Bettina Ring
State Forester



COMMONWEALTH of VIRGINIA

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

April 10, 2014

AR 89-S-003
FAX14002

Mr. Thomas E. Reed
Mrs. Madeleine S. Reed
12801 Popes Head Road
Clifton, VA 20124

Dear Mr. and Mrs. Reed,

It was nice to see Mrs. Reed and talk about your property and trees. Our discussion touched on many topics. I was glad to hear that you employ Davey to look after the trees around the house. They are an excellent arborists company. As I mentioned thousand canker disease of black walnuts has been found in Northern Virginia. Though your trees look healthy, I have included some information about the disease.

One cause of the conversion of open space to development is the financial burdens of intergenerational transfers. As I mentioned, there are significant estate and income tax benefits to a permanent conservation easement and I have included information about conservation easements. You and your children will decide the long term future of the property and I urge you to have that discussion now. If you decide you wish to keep the property undeveloped, the enclosed information can help your devise a plan to do so, or you may contact me and I can connect you with people who can help.

The forest is unchanged from my last visit. The parcel across popes head road and the one bisected by the fence are in good shape, except for the lack of regeneration. The one isolated small block of woods on the southeast side of the property is covered with non-native invasive plants. The vines, which appear to be bittersweet, have already killed some of the trees. I would suggest that you have the undergrowth and vines in this area sprayed with a glyphosate herbicide in mid to late summer to try and get rid of these plants before they spread to other nearby woods. This and other recommendations from my 2006 plan continue to be applicable.

If you have any questions, please call.

Respectfully,

James McGlone
Urban Forest Conservationist

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



REPORT ON FORESTLANDS
OF
Mr. Thomas E. and Mrs. Madeline A. Reed
12801 Popes Head Road
Clifton, VA 20124

Location: The property is approximately 4000 feet east of Clifton Road, terminus of Popes Head Road and straddles Popes Head Road. This property is an existing A&F AR 89-S-003, which VDOF has on record.

Examined by: James McGlone, Urban Forest Conservationist

Landowner's Objectives: To maintain the property as an Agriculture and Forestal District; to enhance wildlife habitat; to maintain healthy trees for a quality forest; and the production of Christmas trees.

Introduction: The forested portion of the property makes up about 8 acres out of 43 acres. The area examined is divided into Area 1, the upland forested area and Area 2, open pasture, home site, and Christmas tree farm.

AREA 1

The upland forested portion is represented by the red outline on the attached aerial photo, and represents approximately **8 acres** of the total property. It is broken up into four areas. Area 1a is across Popes Head Road, area 1b lies within the fenced area, area 1c is adjacent to 1b outside the fence, and area 1d is down hill from the garden patch. Each area has slightly different characteristics.

Forest Type: Areas 1a, 1b, and 1c are upland mixed hardwood forest with American Beech; Red, White, Black and Chestnut Oak; and Tulip Poplar as the common species. Area 1d is mostly Black Locust and Tulip Poplar. Some Dogwood is evident in the understory of area 1a.

Quality/Size: The timber quality of all four areas of the property is good. The trees vary in size from 6" to 32" a good saw timber size. The area is not overstocked.

Wildlife Habitat: The beech nuts and acorns provide great food for wild turkey. The hard mast is also good for deer forage. The American beech provide ground cavities, as well as, higher nest areas for wildlife. The ground cavities serve the need for fox dens. Owl and woodpecker and squirrels use the higher cavities for nesting. In area 1a there are several large trees on the ground from windthrow and several logs in varying states of decay. These also serve as protection and nesting areas for ground nesting birds and mammals as well as snakes and turtles. There are also several snags in area 1a that show signs of woodpecker activity. The Black Locust and Tulip Poplar in area 1d provide nectar for the bees maintained on the property

Recreation / Aesthetics: this upland area is desirable for passive recreation such as walking, photography, bird and wildlife watching, hunting and the general observation of nature.

Recommendations: The understory in areas 1a and 1c is sparse and it is non-existent in area 1b. This can be related to the heavy deer browse and extreme shade. As the forest moves to more of a climax stage of succession, gaps will open and allow light onto the forest floor this may help with the regeneration process. A deer management brochure produced by Fairfax County has been included with this report. In areas 1a and 1c there is some regeneration of American Beech. Aside from some dogwood in area 1a, little other woody understory was observed.

There are some invasive vines, mostly honeysuckle and briar, along the shoulder of Popes Head Road. These should be removed before they invade area 1a and become a bigger problem. Area 1d is heavily infested with invasive vines. Some are honeysuckle, but most appear to be Kudzu from their draping habit. I am attaching a fact sheet from DCR on Kudzu. Kudzu will kill all the trees in area 1d and invade the surrounding open area.

Forest Health:

Forest diseases prevalent in the Northern Virginia area: Gypsy moth (oak trees), Woolly adelgid (hemlock trees), Anthracnose (dogwood and sycamore trees) and Emerald Ash Borer (Green ash trees). The best way to combat outbreaks of these diseases is to know your forest. Walk it frequently and note trees that are looking sickly. Different diseases/ infestations manifest themselves in different ways, some of the common characteristics to note are: severe defoliation, curling discolored leaves (look moldy), masses of insects present in larval forms (worms) or insect fecal matter (masses of black or white droppings. Small holes in the trunk of a tree generally indicate borers and require immediate attention. If you suspect your trees are being attacked by disease or pests contact a certified arborist, the Fairfax County Urban Forest Management Branch at 703-324-1770, the county extension agent at 703-324-5369 or this office at 703-324-1489.

AREA 2

The portion identified as Area B is mostly mowed open land, the home site and Christmas tree farm.

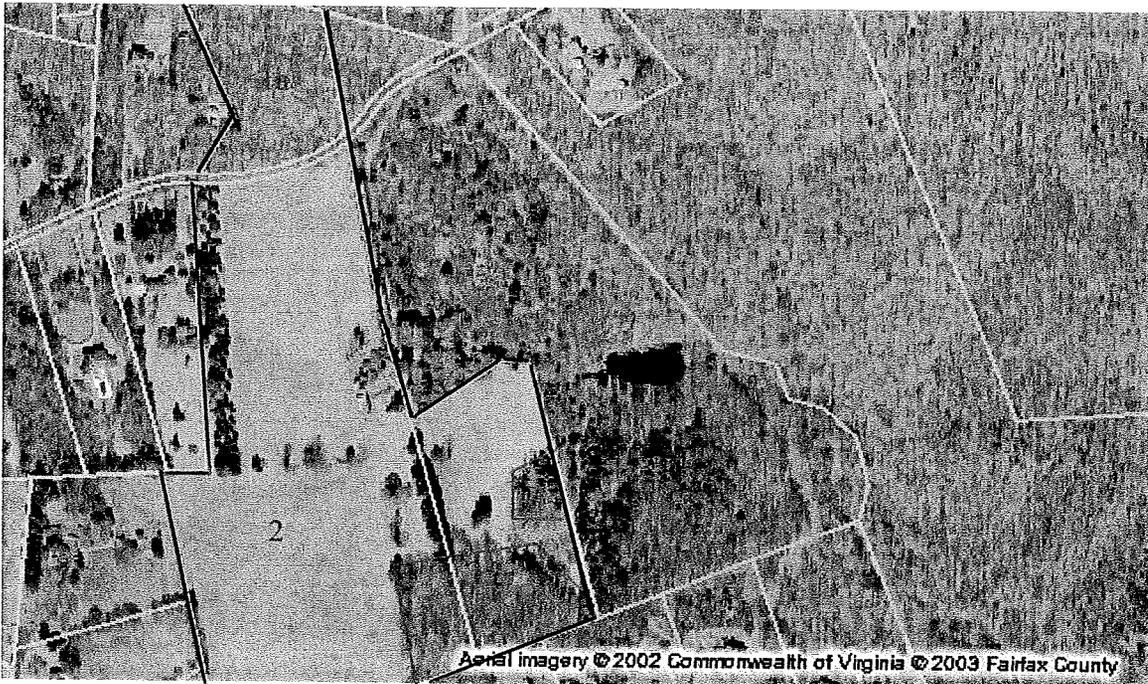
Forest Type: Landscape planting around the home and about 10 year old Scotch and white pine remnant from old Christmas tree operation.

Quality and Size: All trees in this area are in good condition. The remnant Christmas trees are of pole timber size. The owner indicates that he will be removing the pines and replacing them with spruce and fir seedlings.

Wildlife Habitat: The mowed open nature of the area limits its usefulness as wildlife habitat. Groundhogs are living in the field, as would other burrowing grass eating herbivores. Canada geese would also find the area appealing and a pair was seen nesting on the banks of the small spring fed pond.

Recreation and Aesthetics: This area is currently used for horse back riding and occasional pasture. The mowed field, framed by the white board fence and home site landscaping provides a scenic vista from Popes Head Road.

Recommendations: When establishing new spruce and fir Christmas trees, follow the nutrient management guidelines from the Northern Virginia Soil and Water Conservation District. The area could be made less appealing to resident Canada geese by establishing a 2 to 3 foot wide vegetative buffer around the pond. Vegetation should be at least 2.5 feet high and may be herbaceous or woody. At the very least the bare soil in the periodic outflow area should be stabilized with grass or shrubs.



§ 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.

FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

DATE: June 26, 2014

TO: Members, Planning Commission
Members, Board of Supervisors

FROM: Agricultural and Forestal Districts Advisory Committee

SUBJECT: Recommendations on the Reed Local Agricultural and Forestal District;
Application AR 89-S-003-03

The Agricultural and Forestal Districts Advisory Committee met on June 24, 2014, to review the application to renew the Reed Local Agricultural and Forestal District (Application AR 89-S-003-03 and made the following findings:

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

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.