



APPLICATION ACCEPTED: May 30, 2014
PLANNING COMMISSION: October 22, 2014 @ 8:15 pm
BOARD OF SUPERVISORS: October 28, 2014 @ 3:30 pm

County of Fairfax, Virginia

October 15, 2014

STAFF REPORT

JENKINS LOCAL AGRICULTURAL AND FORESTAL DISTRICT RENEWAL

APPLICATION AR 97-D-002-02

DRANESVILLE DISTRICT

APPLICANT: Charles Jenkins
ZONING: R-E
PARCEL: 3-4 ((1)) 44Z, 45Z, 46Z
LOCATION: 10509 Beach Mill Rd., Great Falls
SITE AREA: 21.40 acres
PLAN MAP: 0.2 to 0.5 du/ac
PROPOSAL: Renewal of Local Agricultural and Forestal District

STAFF RECOMMENDATIONS:

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

Michael H. Lynskey, ASLA

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



It should be noted that approval of an agricultural and forestal district application does not automatically qualify a property for land use value assessment. Upon application to the Department of Tax Administration (DTA) for taxation on the basis of land use assessment, DTA must independently determine if the subject property meets the definition of either agricultural and/or forestal use, as well as the appropriate guidelines, including minimum acreage, for either use, as required by Title 58.1 of the Code of Virginia, which is found in Appendix 11.

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

It should be further 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.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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.



A&F District Renewal

AR 97-D -002-02



Applicant:
Accepted:
Proposed:

CHARLES E. JENKINS, TR.
05/30/2014
AGRICULTURAL AND FORESTAL DISTRICT RENEWAL

Area:

21.4 AC OF LAND; DISTRICT - DRANESVILLE

Zoning Dist Sect:

Located:

10509 BEACH MILL ROAD, GREAT FALLS, VA 22066

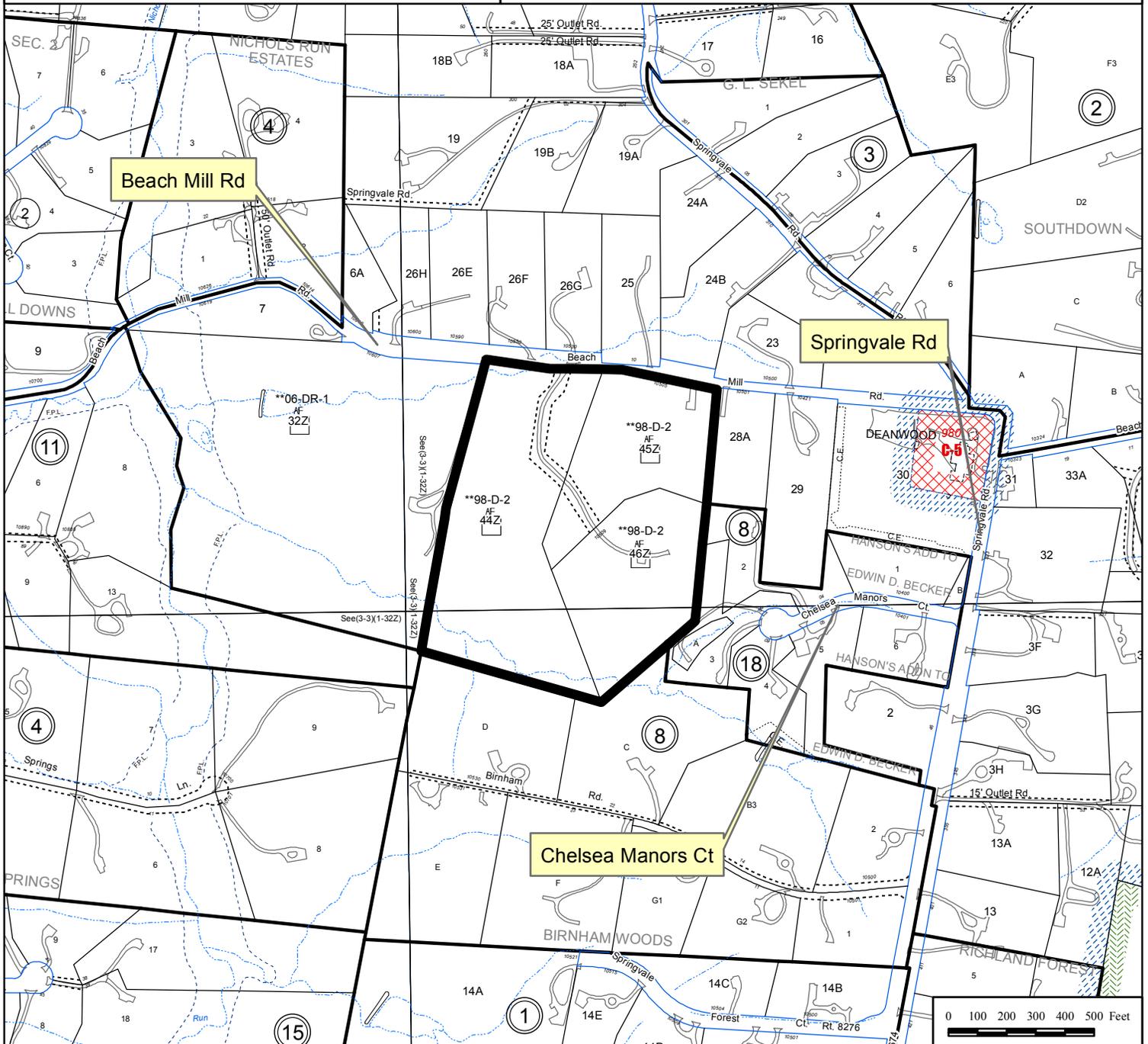
Zoning:

R- E

Overlay Dist:

Map Ref Num:

003-4- /01/ /0044Z /01/ /0045Z
/01/ /0046Z



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

DESCRIPTION OF APPLICATION

AR 97-D-002-02 is a request to renew the existing Jenkins Local Agricultural and Forestal (A & F) District for an additional 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 for the extent of the eight-year term. Removal of the district before the conclusion of the term is subject to a penalty and payment of roll back taxes, per the terms in Article 6 of Chapter 115.

Applicant: Charles E. Jenkins, Trustee
Acreage: 21.4 acres
Uses: Active agriculture – 0 acres
Forested or undeveloped – 20 acres
Residential –1.4 acres

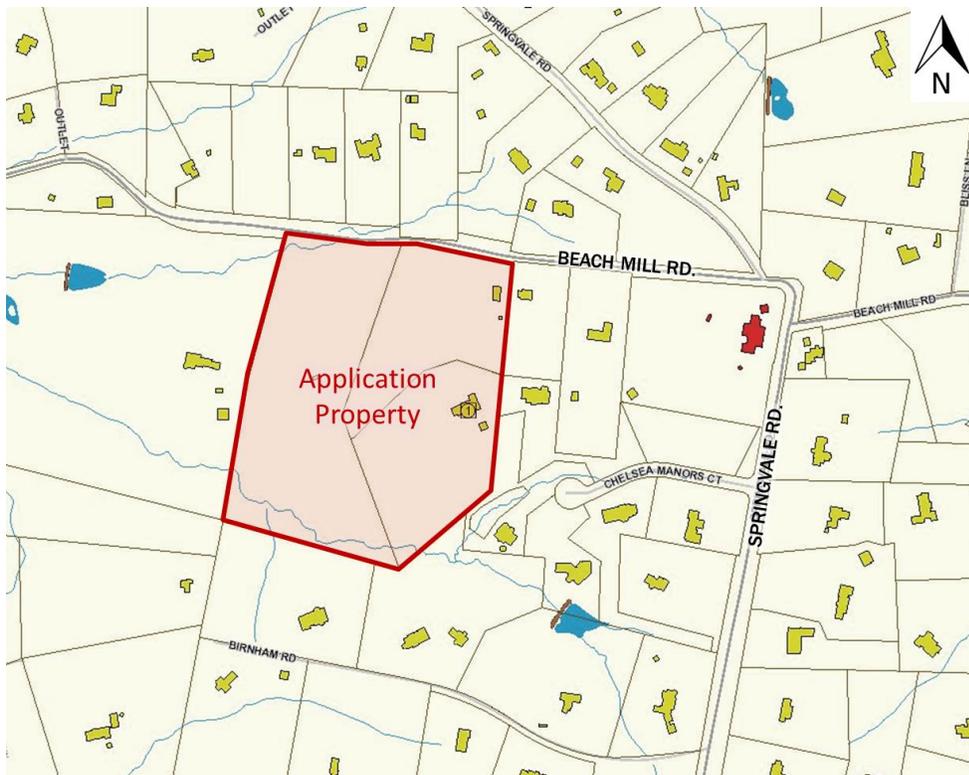


Figure 1: District location map.

A copy of the Application Form and Statement of Justification are contained in Appendix 2; Proposed Ordinance Provisions are contained in Appendix 1.

BACKGROUND

The Jenkins Local Agricultural and Forestal District was originally established by the Board of Supervisors for an eight year period on July 27, 1998 (as application AF 97-D-002), and was renewed on October 23, 2006 (as application AR 97-D-002).

According to County land records, the subject property has been owned by the applicant's family since 1931. The applicant's father built structures, fences, a pond and planted pastures over the years, and both cattle and horses were raised on the property until the father's death in 1997. The property remained in a natural state until 2004, when the applicant built a new house (in the location of a previous barn and outbuildings), took up residence on the property, rebuilt approximately 3,000 ft. of fencing, and refurbished the existing pond. No further improvements have been made since the previous renewal. The applicant does not currently use the land for agricultural use, and continues to conserve the undisturbed portions of the property in a natural state.

LOCATION AND CHARACTER

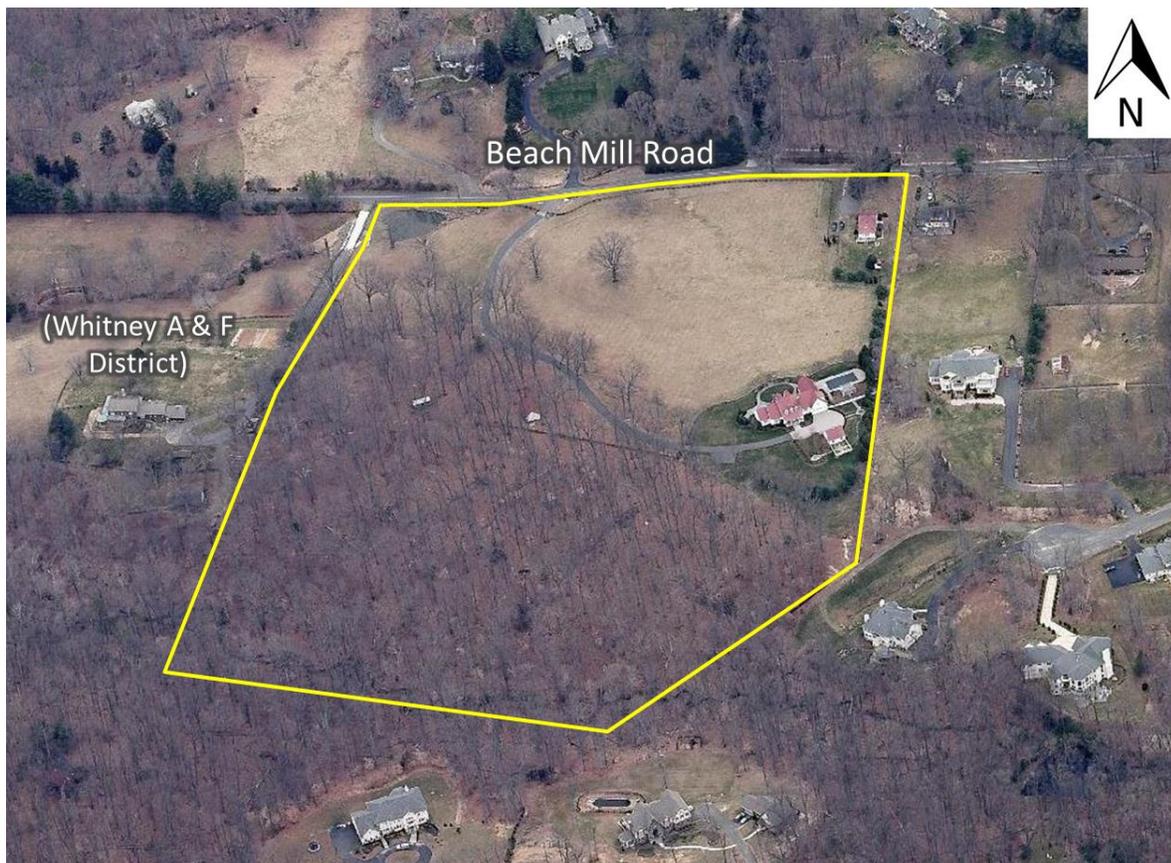


Figure 2: Aerial view of District.

The 21.4 acre property is located on the south side of Beach Mill Road, approximately 1,000 ft. west of Springvale Road, in the Great Falls area of the Dranesville District. The subject property and surrounding area are zoned R-E (Residential Estate) and planned for residential uses at 0.1-0.2 or 0.2-0.5 dwelling units per acre. Surrounding lot sizes are generally in the 5 to 20 acre range. The 21.7-acre Whitney Local Agricultural and Forestal District is abutting directly west of this property, and the The 400-acre Patowmack Farm Statewide agricultural and forestal district is just north of this property.

Property Description:

Approximately 1.4 acres form the residential portions of the property; the remaining area is roughly half wooded and half mowed pasture. One large single-family detached dwelling, one smaller rental house, and a shed are the only permanent structures on site. The property is zoned R-E (Residential Estate). Two streams traverse the District, one of which is dammed to form a small pond in the northwest corner of the property.

Figure 3: Structures on Property		
Structure	Year Built	Use
Main House	2004	Residential
Rental House	1938	Residential
Storage Shed	2007	Storage



Figure 4: The owner's residence, built in 2004.



Figure 5: Rural character of the property, older house visible on left.



Figure 6: Access driveway and shed.



Figure 7: Pond in northwest corner of property.

COMPREHENSIVE PLAN PROVISIONS

Plan Area:	Area III
Planning District:	Upper Potomac
Planning Sector:	Springvale Sector (UP2)
Plan Map:	Residential use at a density of 0.2 to 0.5 dwelling units per acre (du/ac).

ANALYSIS

Land Use Analysis (Appendix 6)

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

Environmental Analysis (Appendix 6)

This request seeks approval to renew an existing. Agricultural and Forestal District which encompasses approximately 21.4-acres of land located in Nichol Run watershed in northern Fairfax County adjacent to Nichol Run stream valley located west of the subject property. Tributaries associated with Nichol Run traverse the northwest corner

and the southern portion of this district. Resource Protection Area (RPA) as defined by the Chesapeake Bay Preservation Ordinance (CBPO), Environmental Quality Corridor (EQC) per Policy Plan and one hundred year flood plain characterize much of this district. The EQC is more extensive than the RPA because of steep slopes adjacent to the stream valley. The extent of the EQC and RPA are identified on the map attached to Appendices 1 and 6.

Staff recommends that the applicant work with the Northern Virginia Soil and Water Conservation District (NVSWCD) and the Virginia Department of Forestry (VDOF) to enhance and augment the forested stream valley buffer, particularly on the northwest portion of the district. Management of non-native invasive species is also encouraged. Such an effort would enhance water quality in the Nichol Run stream valley and ultimately improve water quality in the Chesapeake Bay, as well as improve the quality of the wildlife habitat.

Staff finds that the approval of this A & F District would be compatible with the goals of the Comprehensive Plan to preserve and protect this environmentally sensitive area of Fairfax County.

Transportation Analysis (Appendix 7)

This application does not represent any conflict with the recommendations of the County-wide Transportation Plan and would not have an impact on local traffic. No projects are included in current construction programs that would affect the site. Therefore, staff has no transportation-related objections to this application.

Parks Analysis (Appendix 8)

The Park Authority supports the establishment of A&F districts as they further goals of the FCPA policy manual. The FCPA recommends that, if the site is ever disturbed, that it be subject to an archeological survey and any appropriate assessments. An ordinance provision to this effect is proposed.

Forestry Analysis (Appendix 5)

The Area Forester inspected the property and found conditions largely the same as during the previous renewal (in 2006). He issued a letter, dated June 30, 2014, reiterating the conditions from the previous management plan, with a few minor revisions. Since there are no longer cattle on the property, a recommendation for fencing pasture trees no longer applies. Heavy deer browse was noticed as a continuing issue, and limited areas of invasive species were noted and recommended for removal. Otherwise, the Area Forester recommended that the Applicant continue to follow the recommendations of the previous Forest Management Plan, prepared in 2006.

Soil and Water Conservation Analysis (Appendix 4)

A Soil and Water Conservation Plan was prepared by the Northern Virginia Soil and Water Conservation District for the subject property on June 20, 2014, and reflects little change since the previous report. No erosion was found in the fields, and stream channels showed only normal signs of erosive conditions. The plan provides typical recommendations for nutrient management, pest management, Resource Protection Area (RPA) management, forest management, pond maintenance, and stream bank stabilization, as well as proper recordkeeping of management activities. A proposed condition is included requiring that the applicant follow the recommendations of the Plan, which may be amended if deemed necessary by the Soil and Water Conservation District.

Agricultural and Forestal District Criteria Analysis

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

Criteria Group A:

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

As mentioned in the Property Description section of the report, approximately 1.4 acres form the residential portions of the property, while the remaining 20 acres of the property are roughly half wooded, and half mowed fields. The applicant intends to conserve the undeveloped land and abide by the recommended best management practices contained in both the forestry and soil management reports. Therefore, it is staffs evaluation that this criterion is satisfied.

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

The property is zoned R-E; therefore, this criterion is satisfied

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

The property is planned for residential use at a density of 0.2 to 0.5 dwelling units per acre (du/ac). 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 a majority of the surrounding land within one-quarter mile of the district for low density residential use at 0.1 - 0.2 or 0.2 - 0.5 units per acre. Therefore, this criterion has been satisfied.

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

The property is not currently being used for any agricultural uses, and would not be considered a farm, according to the Ordinance definition, so this criterion would not apply.

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

The proposed district is not considered a farm (per criterion 5), so would be considered a forestal district and is subject to the restrictions of this criterion. The property contains a total 21.4 acres, approximately 20 acres of which is considered forested or undeveloped, and consists of three contiguous parcels under a single owner, which satisfies the criterion.

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.*

This property is not in agricultural use; however, the Northern Virginia Soil and Water Conservation District has prepared a conservation plan, which includes soils information (Appendix 4).

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

Though this District does not contain any current agricultural land, a Conservation Plan has been prepared by the Northern Virginia Soil and Water Conservation District office, and an Ordinance Provision is proposed which would require the applicant to implement this plan for at least the life of the A&F District.

9. *Forest land and undeveloped land in the district should be kept in an undisturbed state, or if periodically harvested or experiencing erosion problems, shall be used in a planned program of soil management, soil conservation, and pollution control practices which 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.*

Those areas which do not remain undisturbed shall be in compliance with the Forest Management Plan found at Appendix 5. The applicant has been advised that this plan should be implemented for at least the life of the A&F District. A Proposed Ordinance Provision in Appendix 1 addresses this issue, should the Board approve this application.

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.*

As mentioned in the Background section of the report, the subject property has been owned by the applicant's family for over eighty years, and has a history of improvements and agricultural use. Though the property is no longer used for agricultural purposes, the forested and other natural areas have been maintained in conformance with the NVSWCD and VDOF management plans for the property, and the applicant agrees to continue to do so for the life of the District.

Criteria Group B:

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

No farm or forest products have been sold from the property during the last five years. Therefore, this criterion is not satisfied.

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

The property contains over 800 feet of undeveloped frontage along Beach Mill Road, and provides scenic vistas to help maintain the rural character of surrounding area. Therefore, this criterion has been satisfied.

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

Although there are no sites within the district which are listed on the "Fairfax County Inventory of Historic Sites", the County Archaeologist has previously indicated that a potential for historic sites on this property does exist. An Ordinance Provision in Appendix 1 would allow the County Archaeologist to conduct studies on the subject property, and with the imposition of this provision, this criterion will be satisfied.

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

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

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

The subject property is zoned R-E. Therefore, this criterion is not satisfied.

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

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

As previously noted, these criteria serve as a guide in determining whether or not an agricultural district should be established; they are not a prerequisite for establishing a district. As previously stated, all of the applicable criteria in Group A and at least two

criteria in Group B should be satisfied. It is staff's opinion that all of the applicable criteria in Group A and two of the criteria in Group B have been satisfied.

AFDAC RECOMMENDATION (Appendix 9)

On October 7, 2014, The Agriculture and Forestal District Advisory Committee (AFDAC) voted unanimously to recommend that the Board of Supervisors approve this renewal application subject to the Ordinance Provisions contained in Appendix 1.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

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

Staff Recommendations

Staff recommends that the Board amend Appendix F of the Fairfax County Code to renew the Jenkins 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 Ordinance Provisions associated with this case, relieve the applicant/owner from compliance with the provisions of any other applicable ordinances, regulations, or adopted standards.

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

APPENDICES

1. Proposed Ordinance Provisions
2. Application Form
3. AR 97-D-002-02 Approved Ordinance (previous renewal)
4. Soil and Water Quality Conservation Plan
5. VA Department of Forestry Memo
6. Land-Use/Environmental Analysis
7. FCDOT Transportation Memo
8. Park Authority Memo
9. Agricultural and Forestal District Advisory Committee Recommendation
10. Fairfax County Code, Chapter 115 – *“Local Agricultural and Forestal Districts”*
11. State of Virginia Code, Title 15.2-4400 - *“Local Agricultural and Forestal Districts Act”*
12. Glossary of Terms

ORDINANCE PROVISIONS**October 15, 2014****AR 97-D-002-02**

If it is the intent of the Board of Supervisors to renew the Jenkins Local Agricultural and Forestal District as proposed in Application AR 97-D-002-02 pursuant to Chapter 36.1 of Title 15.1 of the Code of Virginia and Chapter 115 of the Fairfax County Code on Tax Map Parcel 3-4 ((1)) 44Z, 45Z, 46Z, the staff recommends that the approval be subject to the following Ordinance Provisions:

Standard Provisions (From Chapter 115)

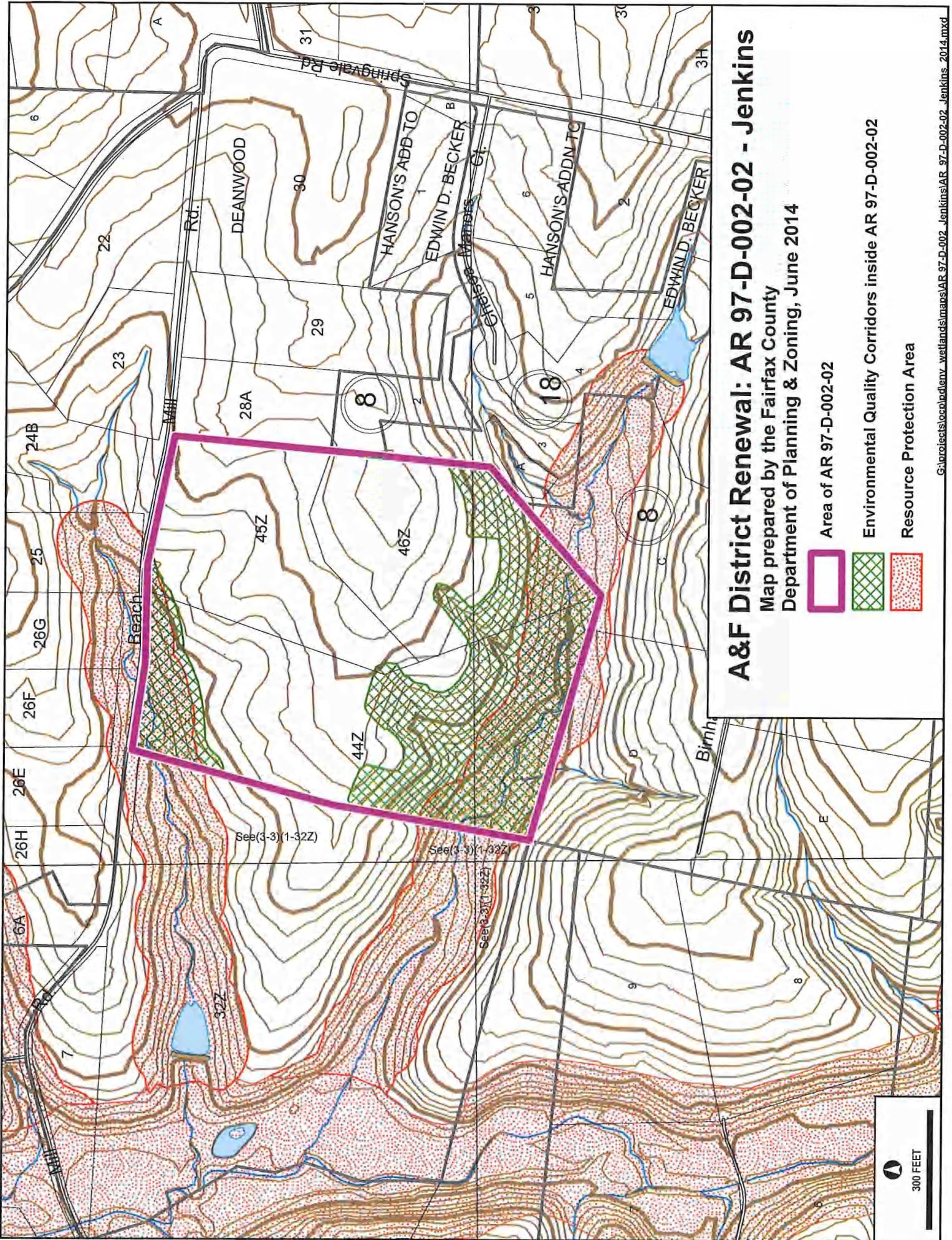
- (1) That no parcel included within the district shall be developed to a more intensive use than its existing use at the time of adoption of the ordinance establishing such district for eight years from the date of adoption of such ordinance. This provision shall not be construed to restrict expansion of or improvements to the agricultural or forestal use of the land.
- (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 58-769.4 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 applicant shall implement and abide by the recommendations of the Soil and Water Conservation Plan dated June 20, 2014, for the life of the Jenkins Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to time as determined necessary by the Soil and Water Conservation District.
- (6) The applicant shall implement and abide by the recommendations of the Forest Management Plan which is dated June 23, 2006, for the life of the Jenkins Local Agricultural and Forestal District. The Forest Management

Plan may be updated from time to time as determined necessary by the Area Forester.

- (7) The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if warranted in the discretion of the Board of Supervisors upon determination by a court or any declaration or enactment by the General Assembly that renders any provisions illegal or unenforceable. The reconsideration/termination shall be in accordance with the procedures for the establishment, renewal, or amendment of an A&F District as outlined in Section 115 of the County Code and shall include an opportunity for the property owner(s) to demonstrate that the determination by a court or the declaration or enactment by the General Assembly does not apply to the conditions of this district.
- (8) The establishment and continuation of this district depends upon the implementation of each of the terms and conditions stated in this ordinance. This district may, at the sole discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if such action is determined to be warranted by the Board of Supervisors upon determination that the terms and conditions stated in this ordinance are not being implemented. The reconsideration/termination shall be in accordance with the procedures for the establishment, renewal, or amendment of an A&F District as outlined in Section 115 of the County Code.
- (9) The Cultural Resource Management and Protection (CRMP) Section of the Fairfax County Park Authority shall be permitted to survey the property and to recover artifacts from the property. Surveys and other similar activities of the CRMP shall be conducted only with prior permission of the property owner and at terms mutually acceptable to both parties and established before each occurrence.
- (10) 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 in accordance with the Forest Management Plan and as approved by the Urban Forester. The boundaries of the EQC shall be the permanent limits of clearing and grading for the life of the Jenkins Local Agricultural and Forestal District (see attached map).



A&F District Renewal: AR 97-D-002-02 - Jenkins

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

-  Area of AR 97-D-002-02
-  Environmental Quality Corridors inside AR 97-D-002-02
-  Resource Protection Area



Application No. AR 97-D-002-02

APPLICATION FOR THE ESTABLISHMENT OF A
AGRICULTURAL AND FORESTAL DISTRICT

RECEIVED
Department of Planning & Zoning

MAY 14 2014

Zoning Evaluation Division

FAIRFAX COUNTY

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

Owner's Name & Address	Tax Map Number	Year Acquired	Zoning District	Acres
Charles E. Jenkins, Tr.*	03-4((1)) 442	2004*	R-E	10.6031
Charles E. Jenkins, Tr.*	03-4((1)) 452	2004*	R-E	5.0017
Charles E. Jenkins, Tr.*	03-4((1)) 462	2004*	R-E	5.6369
10509 Beach Mill Rd. Great Falls, VA 22066				<u>21.2407</u>

3. Total acreage in the proposed district: 21.24 acres.
4. Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm _____ forest 3.

AR 2014-0281

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

Name: Jane Kelsey, Jane Kelsey & Associates, Inc.

Address: 4041 Autumn Court
Fairfax, VA 22030

Telephone: 703-385-4687

Jane Kelsey
Agent

6. Signature of all property owners:

Charles E. Justice Trustee

TO BE COMPLETED BY THE COUNTY

Date application accepted:

May 30, 2014

Debra Lester
Suburban

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
Dwelling and Garage	2004	Dwelling
Tenant Dwelling	1935	Dwelling
Shed	2007	Storage

use additional page(s) if necessary

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

None Known.

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

Main Dwelling and Garage

Rebuilt 3,000 feet of fencing

Refurbished existing pond.

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: November 1997 Approved

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
Forest Conservation - no product	0	0

FARM PROPERTY

1. Please check the appropriate description of the farm:

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

- _____

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

Active agricultural uses	<u> 0 </u>	acres.
Forested or undeveloped	<u> 20.0 </u>	acres.
Residential uses	<u> 1.4 </u>	acres.
Total acreage	<u> 21.4 </u>	acres.

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

If yes, which roads will be used:

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

5 cars vans and pickup trucks 0 heavy trucks.

FOREST PROPERTY

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

Future timber or pulpwood harvesting	<u> </u>	acres
Christmas tree production and harvesting	<u> </u>	acres
Firewood production and harvesting	<u> </u>	acres
Conservation	<u> 20.0 </u>	acres
Residential uses	<u> 1.4 </u>	acres
Other: _____	<u> </u>	acres
Total acreage	<u> 21.4 </u>	acres

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

Jane Kelsey & Associates, Inc.

Land Use Consultants

4041 Autumn Court

Fairfax, VA 22030-5168

703-385-4687 (Phone)

703-385-8760 (FAX)

jckelse@aol.com

April 10, 2014

President

Janc Kelsey

Vice-President

Donald E. Lucas

RECEIVED
Department of Planning & Zoning

APR 11 2014

Zoning Evaluation Division

Mr. Brent Krasner, AICP
Senior Staff Coordinator, Planner III
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, VA 22055

RE: Statement of Justification

Jenkins Local Agricultural and Forestry District Renewal, AR 97-D-002

Property is located at 10509 Beach Mill Road, Great Falls, VA, Tax Map 03-4

(1) 44Z, 45Z, and 46Z, Zoning District R-E (Residential Estate).

Dear Mr. Krasner:

Attached is a renewal application for the continuation of the Agricultural and Forestry (A & F) District for the cited property of Charles E. Jenkins.

Background: This land has been in the A & F District since 1997. The original application was filed October 16, 1997 by the heirs of Mr. Charles Jenkins' father, Elsworth M. Jenkins. At that time there was both agricultural and forestry use of the property and the Jenkins homeplace which is located near Beach Mill Road. Subsequently, Mr. Charles Jenkins received title to the property and in May 2006 sought a renewal of the A & F District. Mr. Jenkins currently does not use the land for agricultural uses, but has retained the forest for conservation. He has also maintained and renovated the existing pond on the property per recommendations of the Soil & Water Conservation District. An old shed, corn crib, and chicken house were removed and a new home was constructed on the location of the previous barn on the property. The prior approved renewal application stated that a new home was planned on the property. At that time it was not known exactly where the new home would be located. At that time, Mr. Jenkins had also constructed 3,000 feet of new fencing.

This application continues to meet the A & F District criteria.

Criteria A:

1. All the land is continuing to be used for forest conservation and is undeveloped except for the old homeplace site where an old house exists and the new home constructed where the old barn was located. The area of both houses with their outbuildings is

approximately 1.4 acres. The land continues to be suitable for agricultural and forestry use.

2. All is the land in the district is zoned R-E, Residential Conservation.
3. The proposed continuation of the A & F District is consistent with the R-E zoning district and the Comprehensive Plan recommendation. The Plan recommends 0.2 to 0.5 dwelling units per acre.
4. The majority of the surrounding land within one-quarter mile of the Jenkins property is zoned R-E which is likewise in conformance with the zoning district regulations and the recommendations of the Comprehensive Plan.
5. The land forming this A & F district is 21.4 acres and has been divided into three parcels. All three parcels are the same land in the originally approved application. For mortgage and family reasons, the land (formerly lot 27) was done around the time the new house was proposed to be constructed.
6. Approximately 20 acres is currently in wooded forest and undeveloped land which is useable for farmland and is proposed to be preserved, 1.4 acres comprise Mr. Jenkins homesite and outbuildings and the tenant house location.
7. The land currently is not used for agricultural purposes, but it remains suitable for such purposes. Nevertheless, the undeveloped land previously used for pasture is environmentally managed to reduce soil erosion, maintain soil nutrients, and reduce non-point pollution.
8. A Soil and Water Conservation District Conservation Plan was previously prepared and is being implemented for the current uses.
9. The forest land and undeveloped land have been and will continue to be kept in an undisturbed state. No trees are currently harvested except for cutting an occasional tree which may have fallen on the periphery of the forest.
10. The land has been in the applicant's family for close to one hundred years. The applicant's family had a history of farming activities many years prior to 1997 and continued to have farm animals until approximately 2004. The applicant has committed to continue to use the land for conservation purposes for at least as long as this A & F District exists and to abide by the good management practices to which he previously committed. These practices, such as the maintaining of the pond, serve not only the applicant's property, but provide better water quality which is for the good of the area as a whole.

Criteria B:

1. No farm products or forest products have been sold during the last five years.

2. The land provides scenic vistas, improves the aesthetic quality of views from County roads and contributes to maintaining the rural character of this area.
3. There are no sites within the district listed on the "Fairfax County Inventory of Historic Sites" and the County Archaeologist previously indicated that a potential for such a site does exist. However, the fact that there are 20 acres of land being preserved without development reveals a point of history that Fairfax County is rapidly losing. The applicant continues to agree to allow the County Archaeologist to conduct studies on the subject property provided the applicant is notified in advance and the specific site in question is agreed to by the applicant.
4. We believe this criterion is met because the conservation and preservation of forest in the rapidly urbanization of Fairfax County is unique. In addition, the applicant has retrofitted the pond to comply with the Soil and Water Conservation District's recommendations. This pond is in a natural area for drainage for a large portion of the applicant's land and some adjacent land thus providing a natural siltation device for any runoff, allowing excess fertilizers used to maintain the undeveloped land to neutralize before seeping into the ground.
5. The land is Zoned R-E, Residential Estate, thus does not meet the criterion for being zoned R-A, R-P, or R-C, even though it meets the criterion for land in the Rural Conservation District as stated in the Zoning Ordinance, in part:

"...protect water courses, stream valleys, marshes, forest cover in watersheds, aquifer recharge areas, rare ecological areas, and areas of natural scenic vistas; to minimize impervious surface and to protect the quality of water in public water supply watersheds; to promote open, rural areas for the growing of crops, pasturage, horticulture, dairying, floriculture, the raising of poultry and livestock, and for low density residential uses..."
6. The subject property is not located within a permanent open space easement.

We believe that this application meets all the Criteria A and three (3) of the Criteria B, thus complying and exceeding the requirement for the renewal of the A & F District.

Should you have any questions or concerns, please contact me.

Sincerely,


Jane Kelsey

cc: Mr. William Woode, Soil & Water Conservation District Office

F-52 . Jenkins Local Agricultural and Forestal District
(AR 98-D-002)

(a) The following parcel of land situated in the Dranesville District, and more particularly described herein, is hereby included in the Jenkins Local Agricultural and Forestal District:

Owners	Fairfax County Tax Map Parcel Number	Acreage
Charles E. Jenkins.	3-4 ((1)) 27	21.40 acres

(b) The Jenkins Local Agricultural and Forestal District is established effective October 23, 2006, pursuant to Chapter 44, Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code and is therefore subject to the provisions of those Chapters and the following provisions:

- 1) That no parcel included within the district shall be developed to a more intensive use than its existing use at the time of adoption of the ordinance establishing such district for eight years from the date of adoption of such ordinance. This provision shall not be construed to restrict expansion of or improvements to the agricultural or forestal use of the land.
- 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 58-769.4 et seq. of the Code of Virginia, if the requirements for such assessment contained therein are satisfied.
- 4) That the district shall be reviewed by the Board of Supervisors at the end of the eight-year period and that it may by ordinance renew the district or a modification thereof for another eight-year period. No owner(s) of land shall be included in any agricultural and forestal district of local significance without such owner's written approval.
- 5) The applicant shall implement and abide by the recommendations of the Soil and Water Conservation Plan dated August 29, 2006, for the life of the Jenkins Agricultural and Forestal District.
- 6) The applicant shall implement and abide by the recommendations of the Forest Management Plan which is dated June 23, 2006, and was prepared by the

Area Forester for the life of the Jenkins Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by the Area Forester.

- 7) The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if warranted in the discretion of the Board of Supervisors upon determination by a court or any declaration or enactment by the General Assembly that renders any provisions illegal or unenforceable. The reconsideration/termination shall be in accordance with the procedures for the establishment, renewal, or amendment of an A&F District as outlined in Section 115 of the County Code and shall include an opportunity for the property owner(s) to demonstrate that the determination by a court or the declaration or enactment by the General Assembly does not apply to the conditions of this district.
- 8) The establishment and continuation of this district depends upon the implementation of each of the terms and conditions stated in this ordinance. This district may, at the sole discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if such action is determined to be warranted by the Board of Supervisors upon determination that the terms and conditions stated in this ordinance are not being implemented. The reconsideration/termination shall be in accordance with the procedures for the establishment, renewal, or amendment of an A&F District as outlined in Section 115 of the County Code.
- 9) The Resource Management Division of the Fairfax County Park Authority shall be permitted to survey the property and to recover artifacts from the property. Surveys and other similar activities of the resource management Division shall be conducted only with prior permission of the property owner and at terms mutually acceptable to both parties and established before each occurrence



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:

Charles E. Jenkins Trustee
 Agricultural & Forestal District – AR 97-D-002-02
 10509 Beach Mill Road
 Great Falls, VA 22066
 Contact: Jane Kelsey and Associates, Inc.
 Tel: 703-385-4687 (w); 703-623-1574 (m)

Plan Prepared by:

Willie Woode, Senior Conservation Specialist, NVSWCD

Date:

June 20, 2014

Summary of operation:

The property is approximately, 21.2 acres in size, located at 10509 Beach Mill Road in Great Falls. It is pending renewal of its agricultural and forestal district status. The tract is kept mainly as grass/hay fields and wildlife preserve. A 0.1 ac. inline amenity pond exists in the northwest corner of the property in the course of an unnamed tributary flowing through the north-east corner of the property. Another unnamed perennial stream flows along the southern most section of the property in an east-west direction.

Its watershed address is Nichols Run (P-23). A total of 1,404 linear feet of Chesapeake Bay Resource Protection Area (RPA) is delineated within the property limits, bordering the two un-named perennial tributaries mentioned.

Assessment:

In as much as a significant amount of weeds were observed in the hay fields, there was no sign of active erosion. Stream channels show normal signs of erosive conditions.

Practices:**1) Nutrient Management (590):**

Nutrients will be applied based on soil test results to provide balanced nutrition for best health and growth.

Nutrient applications for the fields must be based on soil test results and nutrient management plan. Nutrient levels are in the low to medium range and the soil pH is in an acidic range that makes lime recommendations important enough to be given serious consideration.

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	5.0 acs.	8	2014		
Hay Field #2	1.0 ac.	8	2014		
Total	6.0 acs.				

2) 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	5.0 acs.	5	2014		
Hay Field #2	1.0 ac.	5	2014		
Residential	4.0 acs.	5	2014		
Wooded, Wildlife Reserve	11.1acs.	5	2014		
Pond	0.1ac.	5	2014		
Total	21.2 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 #1	560 Ln. ft.	5	2014		
Wooded Wildlife reserve	844 Ln. ft.	5	2014		
Total	1,404Ln. ft.				

4) Upland and Flood Plain Riparian 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.

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

Area	Planned Amount	Month	Year	Applied Amount	Date
Wooded Wildlife Reserve	11.1 acs.	5	2014		
Total	11.1 acs.				

5) Pond Maintenance:

Manage existing pond for water quality improvement and wildlife enhancement purposes. Establish higher (shrub type) vegetative buffer around the non-dam areas of the pond to improve filtration of pollutants before runoff enters the water body and to reduce shoreline erosion.

Areas	Planned Amount	Month	Year	Applied Amount	Date
Pond	0.1ac.	5	2014		
Total	0.1 ac.				

6) Stream Bank Stabilization

Stream banks for the channel through Hay fields can be planted in native riparian zone, deer-resistant shrubs that can grow dense root masses to further stabilize stream banks.

Native shrubs may be planted using the “live Stakes” propagation method. This is done by simply pushing lengths of stems (called live-stakes) into soil area close to the banks in an alternate manner over a width band of about 15 – 20 feet. Species you may consider include:

- Red Osier Dogwood – full and partial sun
- Grey Dogwood - full and partial sun
- Pussy Willow – full sun

Other shrubs that can be planted as seedlings or potted plants include: Silky Dogwood, Inkberry, Witch Hazel, Sweet Pepper Bush, and Black Haw.

Areas	Planned Amount	Month	Year	Applied Amount	Date
Pond edge	140 ft.	9	2014		
Total	140 ft.				

7) Record Keeping:

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

Fields	Planned Amount	Month	Year	Applied Amount	Date
Hay Field #1	5.0 acs.	5	2014		
Hay Field #2	1.0 ac.	5	2014		
Residential	4.0 acs.	5	2014		
Wooded Wildlife Reserve	11.1acs.	5	2014		
Pond	0.1ac.	5	2014		
Total	21.2 acs.				

**SIGNATURES OF PARTICIPANTS of the Charles Jenkins
A&F District AR 97-D-002-02**

Landowner/Operator:

Charles Jenkins Tr 7/17/2014
Charles Jenkins Tr. Date

Planner:

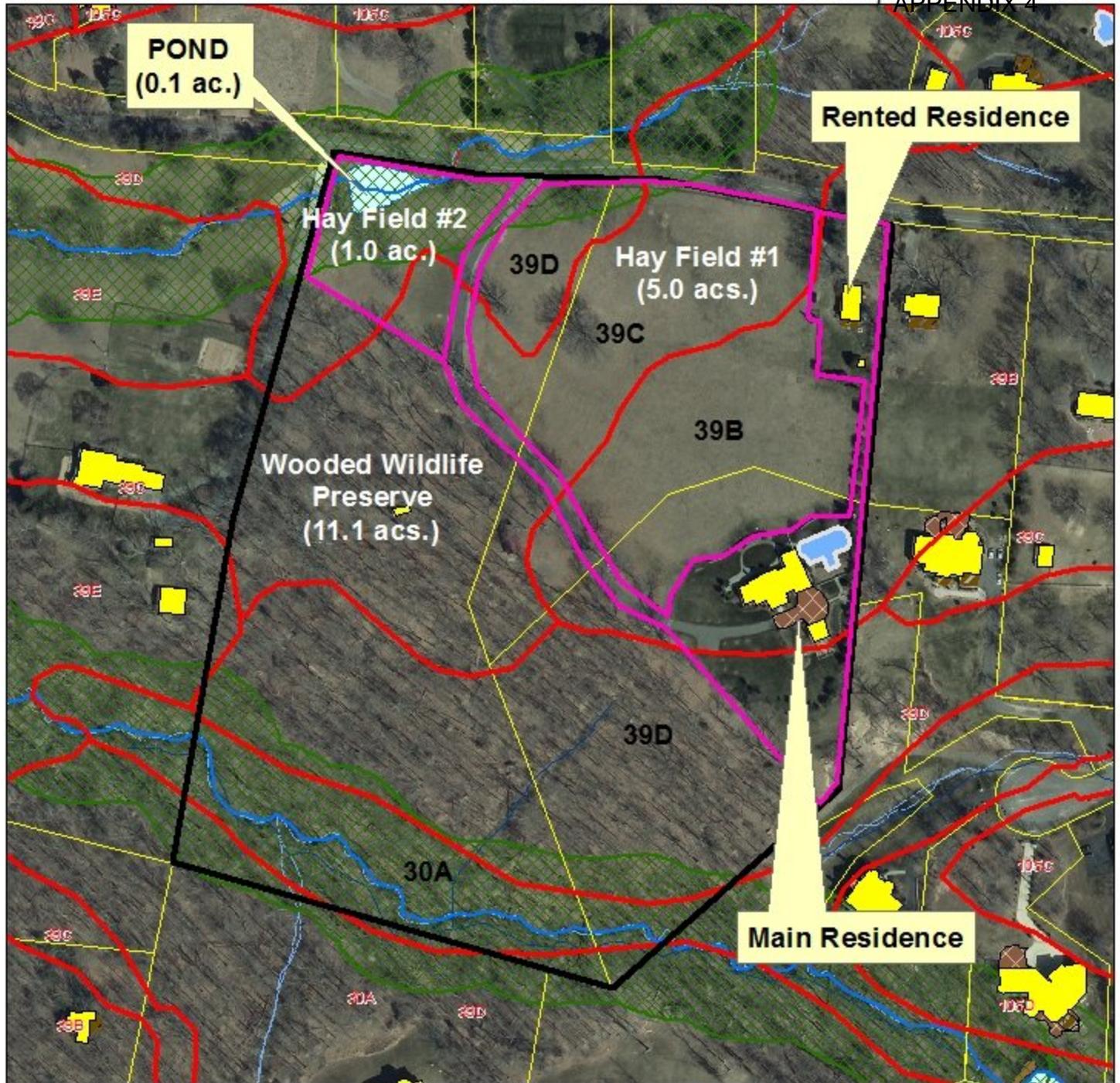
Wilfred D. Woode 6/24/14
Wilfred D. Woode Date

District Authority:

Anna J. Gape
on behalf of: 7/3/14
Chairman Date

Jenkins A&F District - 10509 Beach Mill Road, Great Falls

APPENDIX 4



Map prep. by Willie Woode - NVSWCD
Using Fairfax County 2013 Orthophoto and GIS Layers

Legend

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

-  Soil Boundaries
- 39 B/C/D - Glenelg Soil
- 30 A - Codorus and Hatboro Soil

240 120 0 240 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

June 30, 2014

Jane Kelsey
Jane Kelsey and Associates
4041 Autumn Court
Fairfax VA 22030

Dear Ms Kelsey,

I am writing to you about the Jenkins Agricultural and Forestal District, AR 97-D-002-02. I reviewed the management plan I wrote in 2006 and visited the property last week. This letter serves to update and revise the 2005 plan. Conditions on the property remain much the same and most of the recommendations made in 2006 are still applicable. Since there are no cattle on the property, the recommendation for fencing pasture trees no longer applies.

I noticed heavy deer browse on the line of *Cryptomeria japonica*, a species generally considered deer resistant. While this poses no threat to these trees, it does reinforce the observation in the plan that deer are having a large effect on the forest resources of this tract. I again encourage the Jenkins to reduce the deer herd using the property, possibly working in conjunction with adjacent landowners.

I also noticed a small patch of Japanese stilt grass between the well head and the ravine in the forest. This invasive species will spread rapidly and become a problem in the forest. It can be easily controlled by pulling or the application of a dilute solution of a glyphosate based herbicide. I would recommend treating this patch while it is small and easily controlled.

Since I dealt directly with Mr. Jenkins when I wrote the plan, I have enclosed a copy for your records.

Respectfully,


James McGlone
Urban Forest Conservationist

cc: DPZ; file

(2006 Forest Management Plan)

REPORT ON FORESTLANDS
OF

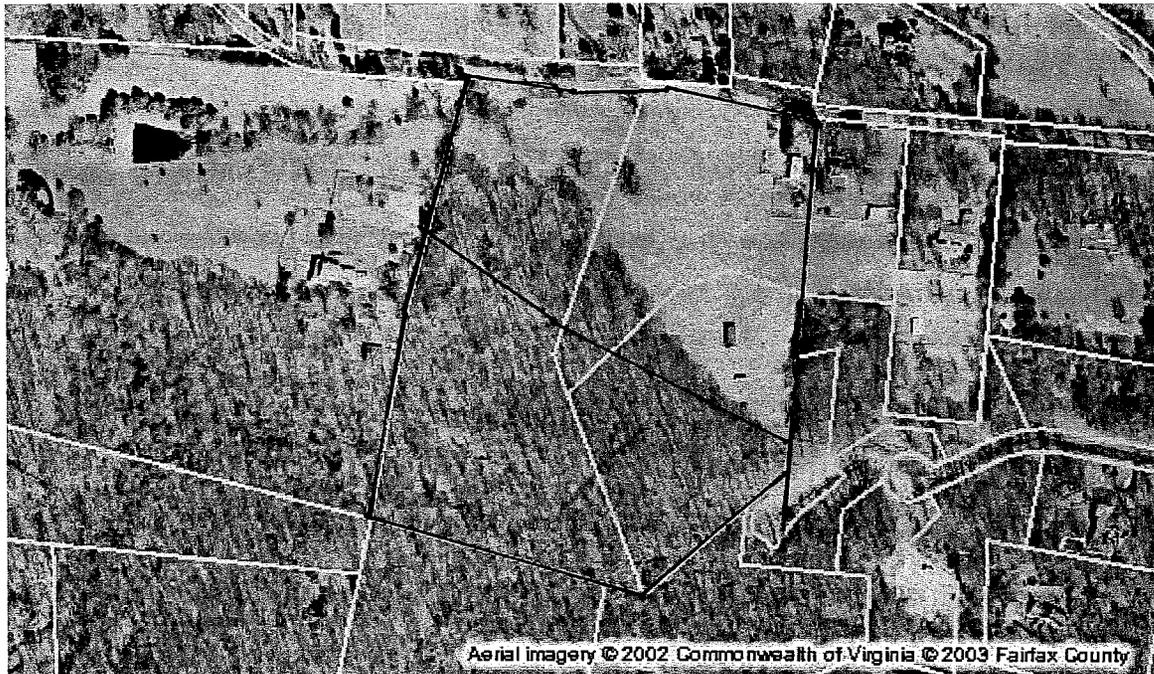
Mr. Charles E. Jenkins
10509 Beach Mill Road
Great Falls, VA 22066

Location: The property is approximately 1700 feet west of the intersection of Springvale and Beach Mill Roads. This property is a renewal of A&F AR 2006-DR-002.

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 firewood.

Introduction: This property is approximately 21.4 acres. Approximately half of the property is fenced for pasture and home sites, the rest is forested. Two streams are located on the property; one cuts across the north west corner and has been dammed to form a small farm pond; the other runs from east to west through near the southern boundary. Both streams are designated as perennial streams and are within Chesapeake Bay Resource Protection Areas



(2006 Forest Management Plan)

Forest Type: Mixed hardwood forest with white oak and red oak dominating. Also present are red maple, hickory, black gum, beech, poplar and American holly.

Quality/Size: The timber quality of the property is good. The trees vary in size from 8" to 32" a good saw timber size. The area is not overstocked. There are a few younger white oak trees, but none under about 1.5 inches.

Wildlife Habitat: The acorns and hickory nuts provide good hard mast food for deer, wild turkey and squirrels. Black gum and blueberry provide soft mast for birds and other species. There are a few dead standing trees that provide food for woodpeckers and possible nesting cavities for birds and small mammals.

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

Recommendations: The understory is sparse and there is little regeneration of the canopy species. First year sprouts and the lack of regeneration suggest this can be related to the heavy deer browse. Deer browse is evident in the number of stunted oak seedlings that have repeatedly had growth leaders nipped off. Firewood harvesting can create gaps in the canopy and allow light onto the forest floor; this may help with the regeneration process. However, lack of regeneration in natural openings on the property makes this doubtful. There is some regeneration of beech and a few small black gums and oaks that will replace the existing canopy.

Successful oak regeneration in the face of heavy deer browse has been achieved by the use of fencing and shelter woods. Shelter woods are a thinning practice that preserves select mature trees to provide a seed source, block wind and filter sunlight. Best results in oak regeneration have been achieved by fencing the stand five years before cutting. Presumably this allows the shade tolerant oak seedlings to get a head start on other plants that will attempt to fill the area when the canopy is opened.

The best solution to the regeneration problem is to reduce the deer browse pressure by reducing the number of deer. The property owner is currently allowing hunting on the property. If permanent tree stands are established in the future, foot rungs should not be driven into the trunk of the tree to allow access to the stands. Driving foot rungs or anything into a tree provides an avenue for the entrance of disease or pests.

There are organizations which cater to urban deer control on private property. Any property owner can bowhunt on their property or allow bowhunting on their property anywhere in Fairfax County. There is no minimum acreage required. Fairfax County has a longer bow season than any other county in Virginia. Ours begins the third Saturday in September and continues through the last Saturday in March. As far as safety goes, the only people who get hurt in bowhunting are the hunters themselves. The Fairfax County Animal Control office reports they have not been able to find an example of a non-participant being injured. Not just here, but anywhere. The Virginia Department of Game and Inland Fisheries (www.dgif.virginia.gov) can provide citizens with details on seasons and other requirements. Property owners do not need a hunting license to hunt on their own property. A deer management brochure produced by Fairfax County has been included with this report.

Invasive Species: In general invasive species are a problem through out the wood lands of Fairfax County. These non-native species are also a threat to forest regeneration as they compete with new seedlings for nutrients, water and growing space. They are also a threat to wildlife habitat, creating monocultures of plants often with little or no wildlife value. The only invasive species noted on the property was Japanese stiltgrass. Stiltgrass can be controlled mechanically by pulling or raking, or with a highly dilute glyphosphate herbicide. I have included a print out from the Virginia Department of Conservation and Recreation on Japanese stiltgrass.

Pasture: There are isolated oak trees, mostly white oak in the pasture area. Several of those trees along the road are in distress or decline, possibly due to accumulated stress from the alternately dry and

(2006 Forest Management Plan)

wet conditions and compaction of the road during construction of the new house. The trees in distress should be carefully monitored. Those in decline or dying should be removed. The pasture is fenced away from the forest to keep cattle from browsing on and damaging the forest trees. The trees in the pasture should also be considered for fencing to prevent cattle from browsing on the bark.

There is a pond in the pasture area. Care should be taken to keep livestock from fouling the pond. Cattle entering the pond can cause erosion of the banks and stir up sediment from the bottom. Cattle feces deposited directly in the pond create an unacceptable load of nutrients and fecal coliform bacteria. The pond can be protected by fencing out livestock and providing a supplemental water source. Additional protection can be provided by establishing a vegetated buffer around the pond to filter runoff from the pasture and by following the nutrient management program provided by the NVSWCD.

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.

Wildfire: Protection of this property from wildfire is essential. Wildfire destroys valuable timber and property. Should wildfire occur on this or adjacent property call 911 immediately to report it to the Fairfax County Fire and Rescue Department.



County of Fairfax, Virginia

MEMORANDUM

August 12, 2014

TO: Barbara Berlin, Director
Zoning Evaluation Division, DPZ

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

SUBJECT: LAND USE ANALYSIS & ENVIRONMENTAL ASSESSMENT for:
AR 97-D-002-02 Charles E. Jenkins, TR.

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

DESCRIPTION OF THE APPLICATION

The applicant seeks to renew approval for a 21.4-acre Agricultural and Forestal (A & F) District which encompasses three parcels located in the Springvale Community Planning Sector (UP2) of the Upper Potomac Planning District. The proposed district is traversed by tributaries associated with Nichol Run stream valley in the northwestern portion of the district as well as along the entire southern portion of the district. These areas are Resource Protection Area (RPA), floodplain and Environmental Quality Corridor (EQC).

LOCATION AND CHARACTER

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

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

COMPREHENSIVE PLAN CITATIONS

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

Department of Planning and Zoning
Planning Division
12055 Government Center Parkway, Suite 730
Fairfax, Virginia 22035-5509
Phone 703-324-1380
Fax 703-653-9447
www.fairfaxcounty.gov/dpz/



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DEPARTMENT OF
**PLANNING
& ZONING**

Barbara Berlin
AR 97-D-002-02
Page 2

Recommendations of the Comprehensive Plan is guided by the following citations from the Plan:

Land Use

In the Fairfax County Comprehensive Plan, 2013 Edition, Area III, Upper Potomac Planning District, UP2-Springvale Community Planning Sector, as amended through April 29, 2014, on page I45, the Plan states:

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

Environment

In the Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Environment, as amended through July 1, 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 1. 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 July 1, 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 July 1, 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 July 1, 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 low density residential character for the site and the surrounding area.

ENVIRONMENTAL ANALYSIS

Water Quality Protection

This request seeks approval to renew an existing Agricultural and Forestal District which encompasses approximately 21.4-acres of land located in Nichol Run watershed in northern Fairfax County adjacent to Nichol Run stream valley located west of the subject property. Tributaries associated with Nichol Run traverse the northwest corner and the southern portion of this district. Resource Protection Area (RPA) as defined by the Chesapeake Bay Preservation Ordinance (CBPO), Environmental Quality Corridor (EQC) per Policy Plan and one hundred year flood plain characterize much of this district. The EQC is more extensive than the RPA because of steep slopes adjacent to the stream valley. The extent of the EQC and RPA are identified on the attached map.

The statement of justification indicates that 1.4 acres of the district is in residential use for two existing homes. In addition, the application also states that no active agricultural activity takes place on the subject property and that the district will remain a conservation area. Approximately two-thirds of the district is heavily forested. The applicant is encouraged to work with the Virginia Department of Forestry (VDOF) to develop a current Forestlands Report for this agricultural forestal district renewal. The Forestlands Report will provide detailed descriptions of the forest within the district and it will provide recommendations about how to maintain a healthy forest.

The applicant is encouraged to work with the Northern Virginia Soil and Water Conservation District (NVSWCD) to develop a current Soil and Water Quality Management (SWQC) Plan for this district. The SWQC Plan will provide recommendations for riparian forest management.

Staff recommends that the applicant work with the NVSWCD and VDOF to enhance and augment the forested stream valley buffer particularly on the northwest portion of the district. Management of non-native invasive species is also encouraged. Such an effort would enhance water quality in the Nichol Run stream valley and ultimately improve water quality in the Chesapeake Bay, as well as improve the quality of the wildlife habitat.

Barbara Berlin
AR 97-D-002-02
Page 6

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

COUNTYWIDE TRAILS MAP:

The Countywide Trails map depicts an Onroad Bike Route and a Natural Surface or Stone Dust trail (defined as typically six feet to eight feet in width) on the subject property's Beach Mill Road frontage.

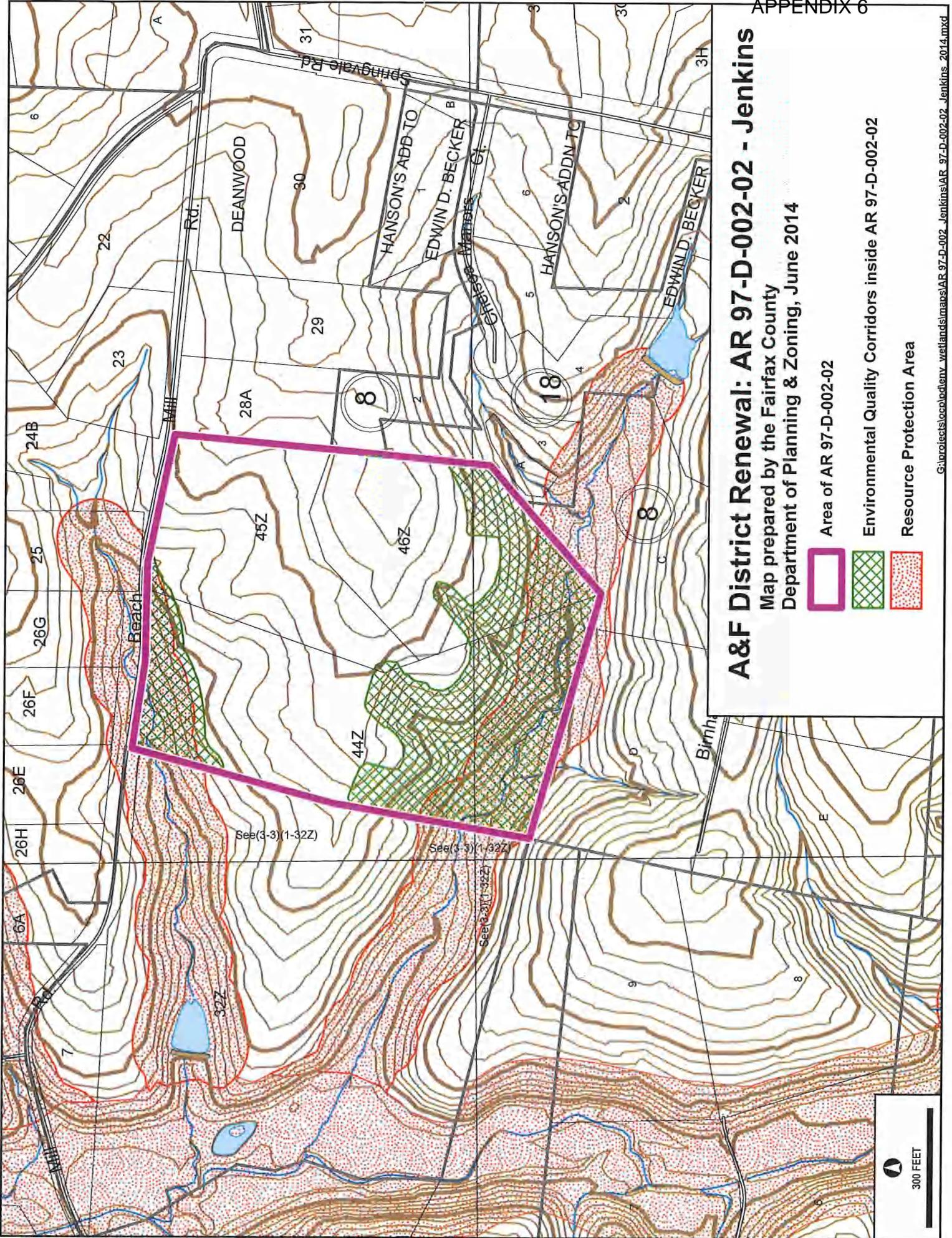
PGN: MAW

Attachment

A&F District Renewal: AR 97-D-002-02 - Jenkins

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

-  Area of AR 97-D-002-02
-  Environmental Quality Corridors inside AR 97-D-002-02
-  Resource Protection Area





County of Fairfax, Virginia

MEMORANDUM

DATE: June 20, 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 97-D-002)

SUBJECT: Transportation Impact

REFERENCE: AR 97-D-002-02; Charles E. Jenkins, Tr.
Land Identification Map: 003-4 ((1)) 0044Z, 0045Z, 0046Z

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



FAIRFAX COUNTY PARK AUTHORITY



M E M O R A N D U M

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

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

DATE: June 30, 2014

SUBJECT: AR 97-D-002-02, Charles E. Jenkins, Tr.
Tax Map Numbers: 3-4((1)) 44Z, 45Z & 46Z

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

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

COMPREHENSIVE PLAN GUIDANCE

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

ANALYSIS & RECOMMENDATIONS

Natural Resources Impact:

Natural Resource Management and Protection (NRMP) Branch has reviewed the referenced request to renew the AR district and supports this request as benefiting natural resources.

Cultural Resources Impact:

The CRMPB supports the renewal application. As stated in the application, the parcels do have potential to contain significant archaeological sites. However the areas for proposed improvements are already disturbed, and are unlikely to contain significant resources. If in the future, the high potential areas are to undergo ground disturbance, the CRMPB would reassess those areas.

FCPA Reviewer: Laura Featherstone
DPZ Coordinator: Michael Lynskey

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

FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

DATE: October 7, 2014

TO: Members, Planning Commission
Members, Board of Supervisors

FROM: Agricultural and Forestal Districts Advisory Committee

SUBJECT: Recommendations on the Jenkins Local Agricultural and Forestal District;
Application AR 97-D-002-02

The Agricultural and Forestal Districts Advisory Committee met on October 7, 2014, to review the application to renew the Jenkins Local Agricultural and Forestal District (Application AR 97-D-002-02). The Committee found the following:

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

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

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

ARTICLE 1.

In General.

Section 115-1-1. Short title.

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

Section 115-1-2. Policy and purpose.

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

Section 115-1-3. Authority.

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

ARTICLE 3.

District Applications.

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

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

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

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

- a) That no parcel included within the district shall be developed to a more intensive use than its existing use at the time of adoption of the ordinance establishing such district for eight (8) years from the date of adoption of such ordinance. This provision shall not be construed to restrict expansion of or improvements to the agricultural or forestal use of the land or to prevent the construction of one (1) additional house within the district, where otherwise permitted by applicable law, for either an owner, a member of an owner's family, or for a tenant who farms the land;
- b) That no parcel added to an already established district shall be developed to a more intensive use than its existing use at the time of addition to the district for eight (8) years from the date of adopting of the original district ordinance;
- c) That land used in agricultural and forestal production within the agricultural and forestal district of local significance shall automatically qualify for an agricultural or forestal value assessment on such land pursuant to Chapter 4, Article 19 of the Fairfax County Code and to *Code of Virginia* , Section 58-769.4 et seq., if the requirements for such assessment contained therein are satisfied;
- d) That the district shall be reviewed by the Board of Supervisors at the end of the eight-year period and that it may by ordinance renew the district or a modification thereof for another eight-year period. No owner of land shall be included in any agricultural and forestal district of local significance without such owner's written approval; and
- e) Any other provisions to the mutual agreement of the landowner and the Board of Supervisors that further the purpose of this Chapter. (21-95-115.)

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

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

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

ARTICLE 5.

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

Section 115-5-1. Criteria.

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

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

- 1) All district acreage should be currently devoted to agricultural use or forestal use or should be undeveloped and suitable for such uses, except that a reasonable amount of residential or other use, related to the agricultural or forestal use and generally not more than five (5) acres per district, may be included.
- 2) All lands in the district should be zoned to the R-P, R-C, R-A or R-E District.
- 3) The district should be consistent with the Comprehensive Plan. The following land uses identified in the Plan are appropriate for a district: .1-.2 dwelling unit per acre, .2 dwelling unit per acre, .2-.5 dwelling unit per acre, .5-1 dwelling unit per

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

- 4) A majority of the surrounding land within one-quarter mile of the district should be planned according to the Comprehensive Plan for uses identified in (a)(3), above. Exceptions may be made for lands located at the edge of a planned growth area or which meet at least three (3) of the criteria of Criteria Group B, if no conflicts with surrounding uses, existing and planned, are evident or likely.
- 5) All farms to be included in a district should be at least twenty (20) acres in size. A farm may include several parcels of land; however, all parcels must have the same owner or else owners must be members of the same immediate family or a family trust or family corporation. A farm must include at least fifteen (15) acres of land in agricultural use. A farm may include noncontiguous parcels within one (1) mile of the core acreage (the largest parcel or group of contiguous parcels or the parcel where the farm buildings are located) as long the noncontiguous parcels are predominately agricultural in use and as long as the total acreage of each individual farm (including contiguous and noncontiguous lands) is at least twenty (20) acres.
- 6) All other properties not included in a farm as defined in (a)(5), that is, forested and partially forested properties, and properties with less than fifteen (15) acres in agricultural use, should be at least twenty (20) acres in size. These properties may contain several parcels; but all parcels must be contiguous, and all must have the same owner, or else owners must be members of the same family or a family trust or family corporation.
- 7) Approximately two-thirds of the land in agricultural use in the district should contain Class I, II, III or IV soils as defined by the USDA Soil Conservation Service. Districts having more than one-third of the land in agricultural use containing Classes V--VIII soils may be considered if such lands have been improved and managed to reduce soil erosion, maintain soil nutrients, and reduce nonpoint source pollution.
- 8) Agricultural land in the district should be used in a planned program of soil management, soil conservation and pollution control practices which is intended to reduce or prevent soil erosion, maintain soil nutrients, control practices which is intended to reduce or prevent soil erosion, maintain soil nutrients, control brush, woody growth and noxious weeds on crop land, hay land and pasture land, and reduce nonpoint source pollution. Exceptions to this criterion may be made only for those agricultural lands which upon initial application for the establishment of a district are not used in such a program but for which a

conservation plan is being prepared or has been requested from the Northern Virginia Soil and Water Conservation District.

- 9) Forest land and undeveloped land in the district should be kept in an undisturbed state, or if periodically harvested or experiencing erosion problems, shall be used in a planned program of soil management, soil conservation and pollution control practices which is intended to reduce or prevent soil erosion, maintain soil nutrients and reduce nonpoint source pollution. Exceptions to this criterion may be made only for those lands which upon initial application for the establishment of a district are not used in such a program but for which a conservation plan is being prepared or has been requested from the Northern Virginia Soil and Water Conservation District or the Virginia Division of Forestry.
- 10) There should be evidence of a history of investment in farm or forest improvements or other commitments to continuing agricultural or forestal use in the district. In particular, districts with no history of investments in farm or forest improvements must evidence a firm commitment to agricultural or forest use for at least the life of the district.

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

- 1) Farm and/or forest products have been regularly produced and sold from the property during the last five (5) years.
- 2) The land provides scenic vistas, improves the aesthetic quality of views from County roads or contributes to maintaining the existing rural character of an area.
- 3) The property contains an historically and/or archaeologically significant site which would be preserved in conjunction with the establishment of a district. A site that is listed on the Federal Registry of Historic Places, the State Registry of Historic Places and/or the County Inventory of Historic Places will be considered historically and/or archaeologically significant. A property which contains a site that is considered to be archaeologically significant by the County Archaeologist, or is located in an area with a high potential for archaeological sites, provided that the property owner has agreed to permit the County Archaeologist access to the site, may also be considered historically and/or archaeologically significant.
- 4) Farming or forestry operations practice unique or particularly effective water pollution control measures (BMP's).
- 5) The land is zoned R-A, R-P or R-C.
- 6) The land is entirely in a permanent open space easement. (13-83-115; 21-95-115.)

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

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

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

"Real estate devoted to agricultural use" shall mean real estate devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.), or devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for a profit or otherwise shall be considered real estate devoted to agricultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to agricultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to agricultural use. In determining whether real property is devoted to agricultural use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to horticultural use" shall mean real estate devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts, and berries; vegetables; and nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.), or real estate devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for profit or otherwise shall be considered real estate devoted to horticultural use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it does not meet the uniform standards prescribed by the Commissioner. Real property that has been designated as devoted to horticultural use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to horticultural use. In determining whether real property is devoted to horticultural use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to forest use" shall mean land, including the standing timber and trees thereon, devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester pursuant to the authority set out in § [58.1-3240](#) and in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.). Prior, discontinued use of property shall not be considered in determining its current use. Real estate upon which recreational activities are conducted for profit, or otherwise, shall still be considered real estate devoted to forest use as long as the recreational activities conducted on such real estate do not change the character of the real estate so that it no longer constitutes a forest area under standards prescribed by the State Forester pursuant to the authority set out in § [58.1-3240](#). Real property that has been designated as devoted to forest use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to forest use. In determining whether real property is devoted to forest use, zoning designations and special use permits for the property shall not be the sole considerations.

"Real estate devoted to open-space use" shall mean real estate used as, or preserved for, (i) park or recreational purposes, including public or private golf courses, (ii) conservation of land or other natural resources, (iii) floodways, (iv) wetlands as defined in § [58.1-3666](#), (v) riparian buffers as defined in § [58.1-3666](#), (vi) historic or scenic purposes, or (vii) assisting in the shaping of the character, direction, and timing of community development or for the public interest and consistent with the local land-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation pursuant to the authority set out in § [58.1-3240](#) and in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) and the local ordinance. Prior, discontinued use of property shall not be considered in determining its current use. Real property that has been designated as devoted to open-space use shall not lose such designation solely because a portion of the property is being used for a different purpose pursuant to a special use permit or is otherwise allowed by zoning, provided that the property, excluding such portion, otherwise meets all the requirements for such designation. The portion of the property being used for a different purpose pursuant to a special use permit or otherwise allowed by zoning shall be deemed a separate piece of property from the remaining property for purposes of assessment. The presence of utility lines on real property shall not be considered in determining whether the property, including the portion where the utility lines are located, is devoted to open-space use. In determining whether real property is devoted to open-space use, zoning designations and special use permits for the property shall not be the sole considerations.

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

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

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

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

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

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

The council of any city may adopt an ordinance to provide for the assessment and taxation of only the real estate in an area newly annexed to such city in accord with the provisions of this article. All of the provisions of this article shall be applicable to such ordinance, except that if the county from which such area was annexed has in operation an ordinance

hereunder, the ordinance of such city may be adopted at any time prior to April 1 of the year for which such ordinance will be effective, and applications from landowners may be received at any time within thirty days of the adoption of the ordinance in such year. If such ordinance is adopted after the date specified in § [58.1-3231](#), the ranges of suggested values made by the State Land Evaluation Advisory Council for the county from which such area was annexed are to be considered the value recommendations for such city. An ordinance adopted under the authority of this section shall be effective only for the tax year immediately following annexation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. All structures which are located on real estate in agricultural, horticultural, forest or open space use and the farmhouse or home or any other structure not related to such special use and the real estate on which the farmhouse or home or such other

structure is located, together with the additional real estate used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other real estate in the locality.

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

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

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

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

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

D. Liability to the roll-back taxes shall attach when a change in use occurs, or a change in zoning of the real estate to a more intensive use at the request of the owner or his agent occurs. Liability to the roll-back taxes shall not attach when a change in ownership of the title takes place if the new owner does not rezone the real estate to a more intensive use and continues the real estate in the use for which it is classified under the conditions prescribed in this article and in the ordinance. The owner of any real estate which has been zoned to more intensive use at the request of the owner or his agent as provided in subsection E, or otherwise subject to or liable for roll-back taxes, shall, within sixty days following such change in use or zoning, report such change to the commissioner of the revenue or other assessing officer on such forms as may be prescribed. The commissioner shall forthwith determine and assess the roll-back tax, which shall be assessed against and paid by the owner of the property at the time the change in use which no longer qualifies occurs, or at the time of the zoning of the real estate to a more intensive use at the request of the owner or his agent occurs, and shall be paid to the treasurer within thirty days of the assessment. If the amount due is not paid by the due date, the treasurer shall impose a penalty and interest on the amount of the roll-back tax, including interest for prior years. Such penalty and interest shall be imposed in accordance with §§ [58.1-3915](#) and [58.1-3916](#).

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

property is subsequently rezoned to agricultural, horticultural, or open space, it shall be eligible for consideration for assessment and taxation under this article only after three years have passed since the rezoning was effective.

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

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

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

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

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

A. Albemarle County, Arlington County, Augusta County, James City County, Loudoun County, and Rockingham County may include the following additional provisions in any ordinance enacted under the authority of this article:

1. The governing body may exclude land lying in planned development, industrial or commercial zoning districts from assessment under the provisions of this article. As applied to zoning districts, this provision applies only to zoning districts established prior to January 1, 1981.

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

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

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

Any person failing to report properly any change in use of property for which an application for use value taxation had been filed shall be liable for all such taxes, in such amounts and at such times as if he had complied herewith and assessments had been properly made, and he shall be liable for such penalties and interest thereon as may be provided by ordinance. Any person making a material misstatement of fact in any such application shall be liable for all such taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud the locality, he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GLOSSARY

This Glossary is provided to assist the public in understanding the staff evaluation and analysis of development proposals. It should not be construed as representing legal definitions. Refer to the Fairfax County Zoning Ordinance, Comprehensive Plan or Public Facilities Manual for additional information.

ABANDONMENT: Refers to road or street abandonment, an action taken by the Board of Supervisors, usually through the public hearing process, to abolish the public's right-of-passage over a road or road right-of way. Upon abandonment, the right-of-way automatically reverts to the underlying fee owners. If the fee to the owner is unknown, Virginia law presumes that fee to the roadbed rests with the adjacent property owners if there is no evidence to the contrary.

ACCESSORY DWELLING UNIT (OR APARTMENT): A secondary dwelling unit established in conjunction with and clearly subordinate to a single family detached dwelling unit. An accessory dwelling unit may be allowed if a special permit is granted by the Board of Zoning Appeals (BZA). Refer to Sect. 8-918 of the Zoning Ordinance.

AFFORDABLE DWELLING UNIT (ADU) DEVELOPMENT: Residential development to assist in the provision of affordable housing for persons of low and moderate income in accordance with the affordable dwelling unit program and in accordance with Zoning Ordinance regulations. Residential development which provides affordable dwelling units may result in a density bonus (see below) permitting the construction of additional housing units. See Part 8 of Article 2 of the Zoning Ordinance.

AGRICULTURAL AND FORESTAL DISTRICTS: 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.

BARRIER: A wall, fence, earthen berm, or plant materials which may be used to provide a physical separation between land uses. Refer to Article 13 of the Zoning Ordinance for specific barrier requirements.

BEST MANAGEMENT PRACTICES (BMPs): 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 nonpoint sources in order to improve water quality.

BUFFER: Graduated mix of land uses, building heights or intensities designed to mitigate potential conflicts between different types or intensities of land uses; may also provide for a transition between uses. A landscaped buffer may be an area of open, undeveloped land and may include a combination of fences, walls, berms, open space and/or landscape plantings. A buffer is not necessarily coincident with transitional screening.

CHESAPEAKE BAY PRESERVATION ORDINANCE: Regulations which the State has mandated must be adopted to protect the Chesapeake Bay and its tributaries. These regulations must be incorporated into the comprehensive plans, zoning ordinances and subdivision ordinances of the affected localities. Refer to Chesapeake Bay Preservation Act, Va. Code Section 10.1-2100 et seq and VR 173-02-01, Chesapeake Bay Preservation Area Designation and Management Regulations.

CLUSTER DEVELOPMENT: Residential development in which the lots are clustered on a portion of a site so that significant environmental/historical/cultural resources may be preserved or recreational amenities provided. While smaller lot sizes are permitted in a cluster subdivision to preserve open space, the overall density cannot exceed that permitted by the applicable zoning district. See Sect. 2-421 and Sect. 9-615 of the Zoning Ordinance.

COUNTY 2232 REVIEW PROCESS: A public hearing process pursuant to Sect. 15.2-2232 (Formerly Sect. 15.1-456) of the Virginia Code which is used to determine if a proposed public facility not shown on the adopted Comprehensive Plan is in substantial accord with the plan. Specifically, this process is used to determine if the general or approximate location, character and extent of a proposed facility is in substantial accord with the Plan.

dBA: The momentary magnitude of sound weighted to approximate the sensitivity of the human ear to certain frequencies; the dBA value describes a sound at a given instant, a maximum sound level or a steady state value. See also Ldn.

DENSITY: Number of dwelling units (du) divided by the gross acreage (ac) of a site being developed in residential use; or, the number of dwelling units per acre (du/ac) except in the PRC District when density refers to the number of persons per acre.

DENSITY BONUS: An increase in the density otherwise allowed in a given zoning district which may be granted under specific provisions of the Zoning Ordinance when a developer provides excess open space, recreation facilities, or affordable dwelling units (ADUs), etc.

DEVELOPMENT CONDITIONS: Terms or conditions imposed on a development by the Board of Supervisors (BOS) or the Board of Zoning Appeals (BZA) in connection with approval of a special exception, special permit or variance application or rezoning application in a "P" district. Conditions may be imposed to mitigate adverse impacts associated with a development as well as secure compliance with the Zoning Ordinance and/or conformance with the Comprehensive Plan. For example, development conditions may regulate hours of operation, number of employees, height of buildings, and intensity of development.

DEVELOPMENT PLAN: A graphic representation which depicts the nature and character of the development proposed for a specific land area: information such as topography, location and size of proposed structures, location of streets trails, utilities, and storm drainage are generally included on a development plan. A development plan is a submission requirement for rezoning to the PRC District. A **GENERALIZED DEVELOPMENT PLAN (GDP)** is a submission requirement for a rezoning application for all conventional zoning districts other than a P District. A development plan submitted in connection with a special exception (SE) or special permit (SP) is generally referred to as an SE or SP plat. A **CONCEPTUAL DEVELOPMENT PLAN (CDP)** is a submission requirement when filing a rezoning application for a P District other than the PRC District; a CDP characterizes in a general way the planned development of the site. A **FINAL DEVELOPMENT PLAN (FDP)** is a submission requirement following the approval of a conceptual development plan and rezoning application for a P District other than the PRC District; an FDP further details the planned development of the site. See Article 16 of the Zoning Ordinance.

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

ENVIRONMENTAL QUALITY CORRIDORS (EQCs): An open space system designed to link and preserve natural resource areas, provide passive recreation and protect 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 Vol. 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 environmental quality corridors. The 100 year floodplain drains 70 acres or more of land and has a one percent chance of flood occurrence in any given year.

FLOOR AREA RATIO (FAR): An expression of the amount of development intensity (typically, non-residential uses) on a specific parcel of land. FAR is determined by dividing the total square footage of gross floor area of buildings on a site by the total square footage of the site itself.

FUNCTIONAL CLASSIFICATION: A system for classifying roads in terms of the character of service that individual facilities are providing or are intended to provide, ranging from travel mobility to land access. Roadway system functional classification elements include Freeways or Expressways which are limited access highways, Other Principal (or Major) Arterials, Minor Arterials, Collector Streets, and Local Streets. Principal arterials are designed to accommodate travel; access to adjacent properties is discouraged. Minor arterials are designed to serve both through traffic and local trips. Collector roads and streets link local streets and properties with the arterial network. Local streets provide access to adjacent properties.

GEOTECHNICAL REVIEW: An engineering study of the geology and soils of a site which is submitted to determine the suitability of a site for development and recommends construction techniques designed to overcome development on problem soils, e.g., marine clay soils.

HYDROCARBON RUNOFF: Petroleum products, such as motor oil, gasoline or transmission fluid deposited by motor vehicles which are carried into the local storm sewer system with the stormwater runoff, and ultimately, into receiving streams; a major source of non-point source pollution. An oil-grit separator is a common hydrocarbon runoff reduction method.

IMPERVIOUS SURFACE: Any land area covered by buildings or paved with a hard surface such that water cannot seep through the surface into the ground.

INFILL: Development on vacant or underutilized sites within an area which is already mostly developed in an established development pattern or neighborhood.

INTENSITY: The magnitude of development usually measured in such terms as density, floor area ratio, building height, percentage of impervious surface, traffic generation, etc. Intensity is also based on a comparison of the development proposal against environmental constraints or other conditions which determine the carrying capacity of a specific land area to accommodate development without adverse impacts.

Ldn: Day night average sound level. It is the twenty-four hour average sound level expressed in A-weighted decibels; the measurement assigns a "penalty" to night time noise to account for night time sensitivity. Ldn represents the total noise environment which varies over time and correlates with the effects of noise on the public health, safety and welfare.

LEVEL OF SERVICE (LOS): An estimate of the effectiveness of a roadway to carry traffic, usually under anticipated peak traffic conditions. Level of Service efficiency is generally characterized by the letters A through F, with LOS-A describing free flow traffic conditions and LOS-F describing jammed or grid-lock conditions.

MARINE CLAY SOILS: Soils that occur in widespread areas of the County generally east of Interstate 95. Because of the abundance of shrink-swell clays in these soils, they tend to be highly unstable. Many areas of slope failure are evident on natural slopes. Construction on these soils may initiate or accelerate slope movement or slope failure. The shrink-swell soils can cause movement in structures, even in areas of flat topography, from dry to wet seasons resulting in cracked foundations, etc. Also known as slippage soils.

OPEN SPACE: That portion of a site which generally is not covered by buildings, streets, or parking areas. Open space is intended to provide light and air; open space may function as a buffer between land uses or for scenic, environmental, or recreational purposes.

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 of the land owner, after evaluation under criteria established by the Board. See Open Space Land Act, Code of Virginia, Sections 10.1-1700, et seq.

P DISTRICT: A "P" district refers to land that is planned and/or developed as a Planned Development Housing (PDH) District, a Planned Development Commercial (PDC) District or a Planned Residential Community (PRC) District. The PDH, PDC and PRC Zoning Districts are established to encourage innovative and creative design for land development; to provide ample and efficient use of open space; to promote a balance in the mix of land uses, housing types, and intensity of development; and to allow maximum flexibility in order to achieve excellence in physical, social and economic planning and development of a site. Refer to Articles 6 and 16 of the Zoning Ordinance.

PROFFER: A written condition, which, when offered voluntarily by a property owner and accepted by the Board of Supervisors in a rezoning action, becomes a legally binding condition which is in addition to the zoning district regulations applicable to a specific property. Proffers are submitted and signed by an owner prior to the Board of Supervisors public hearing on a rezoning application and run with the land. Once accepted by the Board, proffers may be modified only by a proffered condition amendment (PCA) application or other zoning action of the Board and the hearing process required for a rezoning application applies. See Sect. 15.2-2303 (formerly 15.1-491) of the Code of Virginia.

PUBLIC FACILITIES MANUAL (PFM): A technical text approved by the Board of Supervisors containing guidelines and standards which govern the design and construction of site improvements incorporating applicable Federal, State and County Codes, specific standards of the Virginia Department of Transportation and the County's Department of Public Works and Environmental Services.

RESOURCE MANAGEMENT AREA (RMA): That 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, Ch. 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, Ch. 118, Chesapeake Bay Preservation Ordinance.

SITE PLAN: A detailed engineering plan, to scale, depicting the development of a parcel of land and containing all information required by Article 17 of the Zoning Ordinance. Generally, submission of a site plan to DPWES for review and approval is required for all residential, commercial and industrial development except for development of single family detached dwellings. The site plan is required to assure that development complies with the Zoning Ordinance.

SPECIAL EXCEPTION (SE) / SPECIAL PERMIT (SP): Uses, which by their nature, can have an undue impact upon or can be incompatible with other land uses and therefore need a site specific review. After review, such uses may be allowed to locate within given designated zoning districts if appropriate and only under special controls, limitations, and regulations. A special exception is subject to public hearings by the Planning Commission and Board of Supervisors with approval by the Board of Supervisors; a special permit requires a public hearing and approval by the Board of Zoning Appeals. Unlike proffers which are voluntary, the Board of Supervisors or BZA may impose reasonable conditions to assure, for example, compatibility and safety. See Article 8, Special Permits and Article 9, Special Exceptions, of the Zoning Ordinance.

STORMWATER MANAGEMENT: Engineering practices that are incorporated into the design of a development in order to mitigate or abate adverse water quantity and water quality impacts resulting from development. Stormwater management systems are designed to slow down or retain runoff to re-create, as nearly as possible, the pre-development flow conditions.

SUBDIVISION PLAT: The engineering plan for a subdivision of land submitted to DPWES for review and approved pursuant to Chapter 101 of the County Code.

TRANSPORTATION DEMAND MANAGEMENT (TDM): Actions taken to reduce single occupant vehicle automobile trips or actions taken to manage or reduce overall transportation demand in a particular area.

TRANSPORTATION SYSTEM MANAGEMENT (TSM) PROGRAMS: This term is used to describe a full spectrum of actions that may be applied to improve the overall efficiency of the transportation network. TSM programs usually consist of low-cost alternatives to major capital expenditures, and may include parking management measures, ridesharing programs, flexible or staggered work hours, transit promotion or operational improvements to the existing roadway system. TSM includes Transportation Demand Management (TDM) measures as well as H.O.V. use and other strategies associated with the operation of the street and transit systems.

URBAN DESIGN: An aspect of urban or suburban planning that focuses on creating a desirable environment in which to live, work and play. A well-designed urban or suburban environment demonstrates the four generally accepted principles of design: clearly identifiable function for the area; easily understood order; distinctive identity; and visual appeal.

VACATION: Refers to vacation of street or road as an action taken by the Board of Supervisors in order to abolish the public's right-of-passage over a road or road right-of-way dedicated by a plat of subdivision. Upon vacation, title to the road right-of-way transfers by operation of law to the owner(s) of the adjacent properties within the subdivision from whence the road/road right-of-way originated.

VARIANCE: An application to the Board of Zoning Appeals which seeks relief from a specific zoning regulation such as lot width, building height, or minimum yard requirements, among others. A variance may only be granted by the Board of Zoning Appeals through the public hearing process and upon a finding by the BZA that the variance application meets the required Standards for a Variance set forth in Sect. 18-404 of the Zoning Ordinance.

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 Corps of Engineers

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.

Abbreviations Commonly Used in Staff Reports

A&F	Agricultural & Forestal District	PDH	Planned Development Housing
ADU	Affordable Dwelling Unit	PFM	Public Facilities Manual
ARB	Architectural Review Board	PRC	Planned Residential Community
BMP	Best Management Practices	RC	Residential-Conservation
BOS	Board of Supervisors	RE	Residential Estate
BZA	Board of Zoning Appeals	RMA	Resource Management Area
COG	Council of Governments	RPA	Resource Protection Area
CBC	Community Business Center	RUP	Residential Use Permit
CDP	Conceptual Development Plan	RZ	Rezoning
CRD	Commercial Revitalization District	SE	Special Exception
DOT	Department of Transportation	SEA	Special Exception Amendment
DP	Development Plan	SP	Special Permit
DPWES	Department of Public Works and Environmental Services	TDM	Transportation Demand Management
DPZ	Department of Planning and Zoning	TMA	Transportation Management Association
DU/AC	Dwelling Units Per Acre	TSA	Transit Station Area
EQC	Environmental Quality Corridor	TSM	Transportation System Management
FAR	Floor Area Ratio	UP & DD	Utilities Planning and Design Division, DPWES
FDP	Final Development Plan	VC	Variance
GDP	Generalized Development Plan	VDOT	Virginia Dept. of Transportation
GFA	Gross Floor Area	VPD	Vehicles Per Day
HC	Highway Corridor Overlay District	VPH	Vehicles per Hour
HCD	Housing and Community Development	WMATA	Washington Metropolitan Area Transit Authority
LOS	Level of Service	WS	Water Supply Protection Overlay District
Non-RUP	Non-Residential Use Permit	ZAD	Zoning Administration Division, DPZ
OSDS	Office of Site Development Services, DPWES	ZED	Zoning Evaluation Division, DPZ
PCA	Proffered Condition Amendment	ZPRB	Zoning Permit Review Branch
PD	Planning Division		
PDC	Planned Development Commercial		