



**APPLICATION ACCEPTED:** June 25, 2014  
**PLANNING COMMISSION:** November 6, 2014  
**BOARD OF SUPERVISORS:** December 2, 2014 @ 4:30 pm

## County of Fairfax, Virginia

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October 22, 2014

**WS**

### STAFF REPORT

#### FOSTER BRITT LOCAL AGRICULTURAL AND FORESTAL DISTRICT RENEWAL

#### APPLICATION AR 89-S-004-03

#### SPRINGFIELD DISTRICT

**APPLICANT:** Hope Foster Britt  
**ZONING:** R-C, WS  
**PARCEL:** 66-3 ((1)) 3Z, 4Z, 5Z, 6Z, 21Z  
**LOCATION:** 13315 Twin Lakes Drive, Clifton  
**SITE AREA:** 25.51 acres  
**PLAN MAP:** 0.1 to 0.2 du/ac  
**PROPOSAL:** Renewal of Local Agricultural and Forestal District

#### STAFF RECOMMENDATIONS:

Staff recommends that Appendix F of the Fairfax County Code be amended to renew the Foster Britt Local Agricultural and Forestal District subject to the proposed Ordinance Provisions contained in Appendix 1.

Michael H. Lynskey, ASLA

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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/](http://www.fairfaxcounty.gov/dpz/)



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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.

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

# A&F District Renewal

AR 89-S -004-03

Applicant:  
Accepted:  
Proposed:

HOPE FOSTER BRITT  
06/25/2014  
AGRICULTURAL AND FORESTAL DISTRICT RENEWAL

Area:

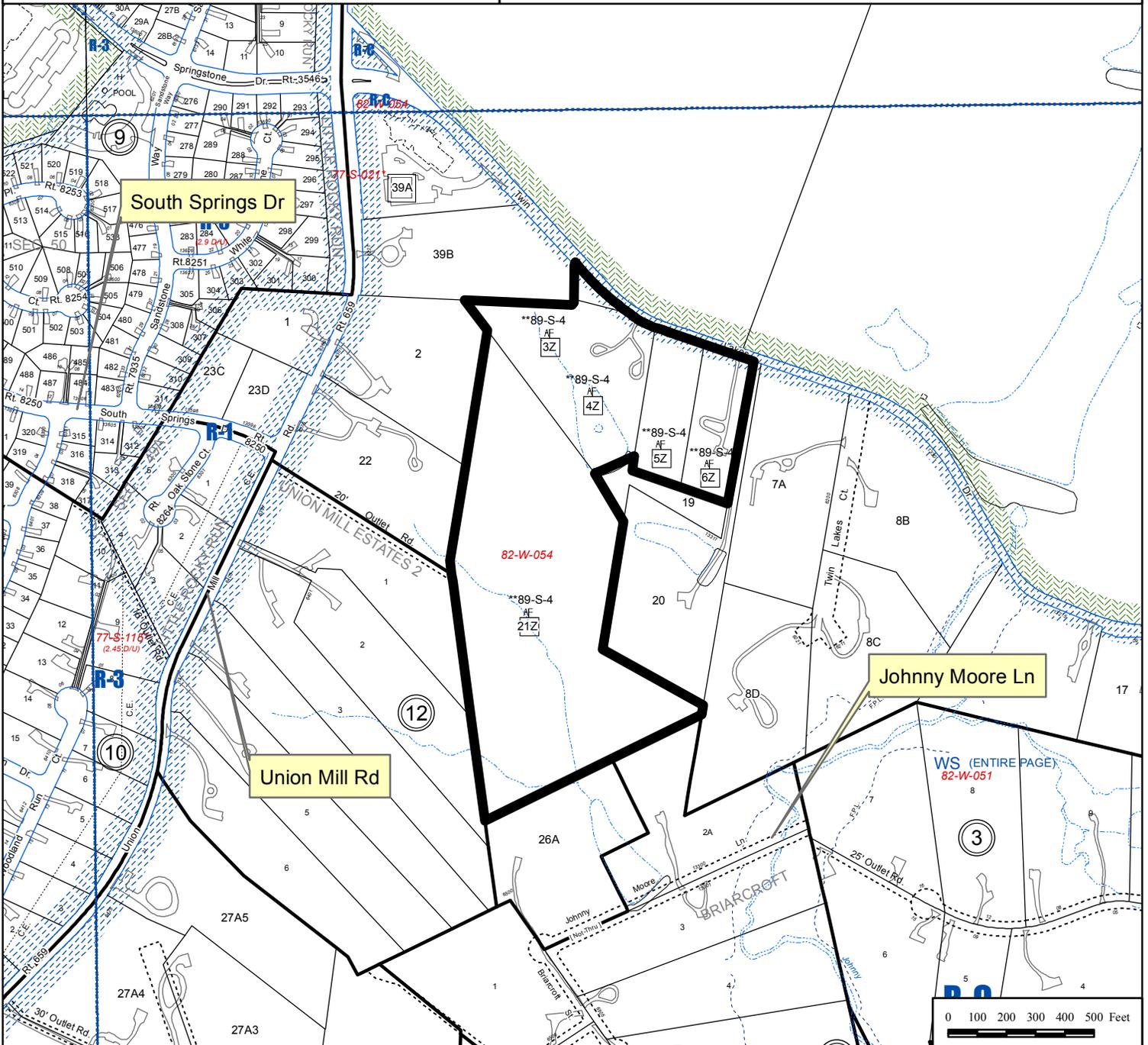
25.51 AC OF LAND; DISTRICT - SPRINGFIELD

Zoning Dist Sect:  
Located:

13315 TWIN LAKES DRIVE, CLIFTON, VA 20124

Zoning:  
Overlay Dist:  
Map Ref Num:

R- C  
WS  
066-3- /01/ /0003Z /01/ /0004Z /01/  
/0005Z /01/ /0006Z /01/ /0021Z



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

**DESCRIPTION OF APPLICATION**

AR 89-S-004-03 is a request to renew the existing Foster Local Agricultural and Forestal (A & F) District for an additional eight-year term (under the provisions of Chapter 115 of the Fairfax County Code) to now be referred to as the Foster Britt Local Agricultural and Forestal District. 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:** Hope Foster Britt
- Acreage:** 25.51 acres
- Uses:** Active agriculture – 6.5 acres  
Forested or undeveloped – 16 acres  
Residential – 3 acres

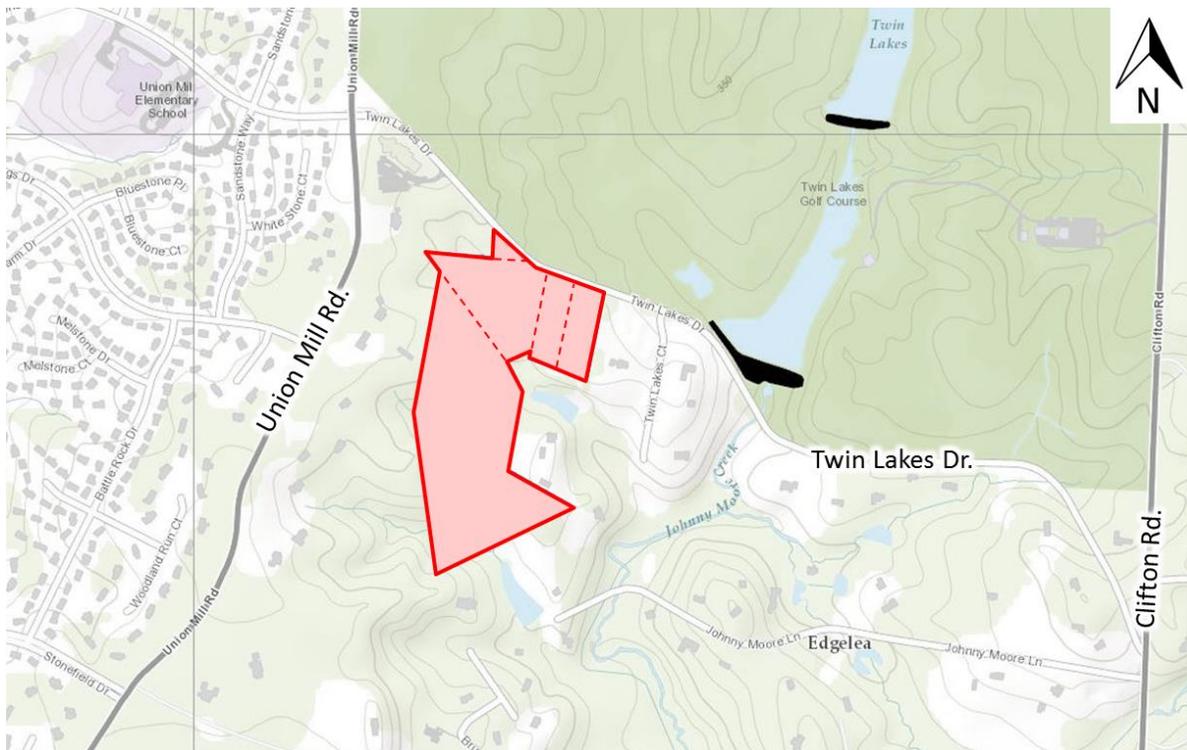


Figure 1: District location map.

The subject property is located on the south side of Twin Lakes Drive, between Clifton Road and Union Mill Road, in the Springfield District. A copy of the applicant's application is contained in Appendix 2; Staff's Proposed Ordinance Provisions are contained in Appendix 1.

## BACKGROUND

The 25.51 acre Foster Local Agricultural and Forestal District was originally approved by the Board of Supervisors on May 14, 1990, and was renewed for another eight year term on June 29, 1998, and again in 2006. The acreage of the district has remained unchanged and there has been no change to the district during the previous eight year term.

## LOCATION AND CHARACTER

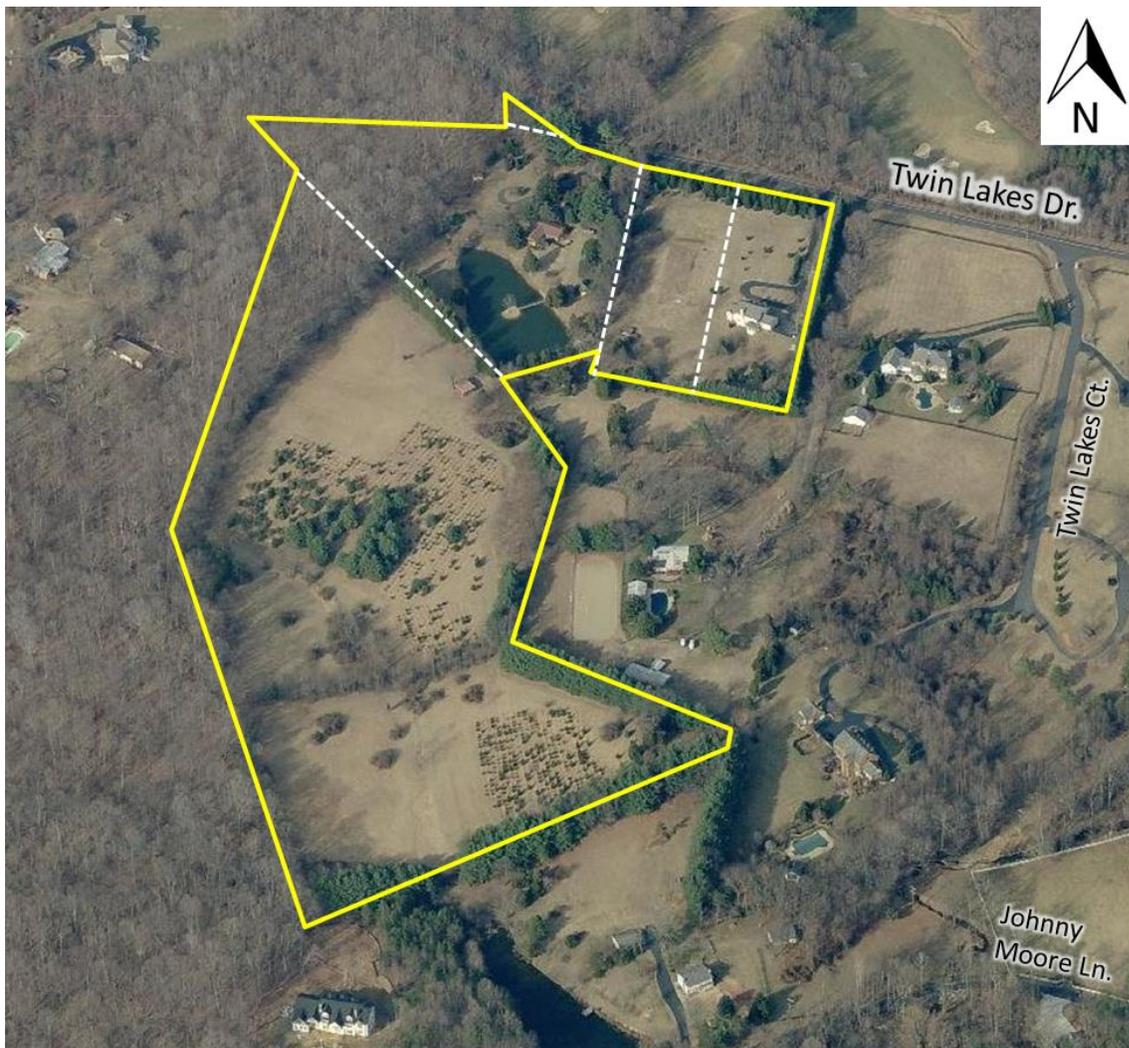


Figure 2: Aerial view of District.

### Surrounding Area Description:

The subject property and adjacent properties are zoned R-C (Residential Conservation) and WS (Water Supply Protection Overlay) and planned for residential use at 0.1-0.2 dwelling unit per acre. The surrounding land is characterized by large-lot, single family detached residential development. There is an area of R-1 and R-3 zoning to the west of the subject site, on the west side of Union Mill Road, and a golf course is located to the north of the subject property.

### Property Description:

The 25.51 acre district is located in the Pohick Planning District of Area III. The subject property consists of five parcels, three of which have frontage on Twin Lakes Drive and are located opposite the Twin Lakes Golf Course. According to the applicant, the property is utilized for Christmas tree production and harvesting and the production of vegetables, fruit, honey and nuts for personal consumption. Two homes are located in the District: one home for the owner of the property (built in 2006), and one rental home (dating to 1989); there are also several outbuildings dedicated to storage and farm use.

<b>Figure 3: Structures on the Property</b>		
<b>Structure</b>	<b>Year Built</b>	<b>Use</b>
Main House	2006	Residential
Barn	1975	Tractor Storage
Garden House	1989	Tool Storage
House	1958	Residential
Storage Sheds (2)	1994	Storage



*Figure 4: Owners home on parcel 6Z.*



*Figure 5: Second home on parcel 4Z.*

## **COMPREHENSIVE PLAN PROVISIONS**

<b>Plan Area:</b>	Area III
<b>Planning District:</b>	Pohick
<b>Planning Sector:</b>	Johnny Moore Community Planning Sector (P3)
<b>Plan Map:</b>	Residential use at a density of 0.1 to 0.2 dwelling unit per acre (du/ac).

## **STAFF 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)

The site contains three separate streams that drain into stormwater management ponds located on and offsite, and eventually drain into Johnny Moore Creek. These streams are returning to their natural state and also appear to contain the characteristics of intermittent headwater streams. Headwaters, whether perennial or intermittent are protected under Environmental Quality Corridor (EQC) designation outlined in Objective 2, Policy I in the Environment section of the Fairfax County Comprehensive Plan. The applicant should ensure that any areas located onsite that are designated as EQC are not disturbed. As a headwater EQC, the drainageway which traverses the district midway on the western boundary and flows in a southerly direction through the central portion of the district presents an opportunity for buffer restoration and enhancement, which would provide a valuable water quality benefit to the larger stream system.

Approval of this Agricultural Forestal District is consistent with the goals of the Comprehensive Plan to preserve and protect this environmentally sensitive area of Fairfax County. Staff recommends that the applicant work closely with the Northern Virginia Soil and Water Conservation District (NVSWCD) to establish the proposed buffer enhancement with native species and to implement the recommendations provided in the current Soil and Water Quality Conservation Plan. An Ordinance Provision has been proposed to address this concern.

### **Transportation Analysis** (Appendix 7)

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. There are no transportation-related concerns with the application.

**Parks Analysis**

The Park Authority supports the establishment of A&F districts as they further goals of the FCPA policy manual.

**Forestry Analysis** (Appendix 5)

The Area Forester inspected the property and found conditions largely the same as during the previous renewal (in 2006), with a few additional suggestions regarding pest management, invasive species management, and deer control. Otherwise, the Area Forester recommended that the Applicant continue to follow the recommendations of the previous Forest Management Plan. An Ordinance Provision has been proposed to require continued conformance with the current Forest Management Plan.

**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 August 20, 2014, and found the property in reasonably good condition. There were several suggestions to address erosion control, weed and invasive control, and additional protection of EQC areas, which would further improve site conditions. A proposed Ordinance Provision is included requiring that the applicant follow the recommendations of the revised 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.*

This property contains both forested land which is suitable for forestal use and open land which has been used for agricultural uses and forestal production, including the production and harvesting of Christmas trees. The remainder of the open land is also suitable for agricultural uses and an expansion of the forestal uses, with the exception of the home sites. Therefore, staff believes that this criterion has been satisfied.

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

The property is zoned R-C; 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 0.1 to 0.2 dwelling unit 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 to 0.2 units per acre, or private/public park purposes. 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 subject property consists of five (5) parcels under the same ownership which total 25.51 acres. Approximately 6.5 acres of land is devoted to agricultural uses such as vegetable gardens, fruit and nut trees and production of honey. Since the minimum acreage for agricultural production is not satisfied, the District is not considered a farm (per the provisions of this Ordinance), and this Criterion does not apply; the District has been evaluated per Criterion No. 6, below.

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 property contains a total 25.51 acres, and consists of five contiguous parcels under a single owner, which satisfies this 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.*

Although this is a forestall district, it is noted that all of the soils within this district are characterized as Classes II-IV soils; therefore, this criterion is satisfied.

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

A Soil and Water Conservation Plan was prepared by the Northern Virginia Soil and Water Conservation District for the subject property on August 20, 2014 (Appendix 4). The applicant will be required to implement the Soil and Water Conservation Plan for at least the life of the A&F District. A Proposed Ordinance Provision in Appendix 1 addresses this issue.

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 must be in compliance with the current Forest Management and Conservation Plan (Appendix 5). The applicant has been advised that the plan should be implemented for at least the life of the A&F District. Proposed Ordinance Provisions in Appendix 1 address this issue.

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

The property has been in the A & F program since 1990, and the Applicant continues to produce and sell Christmas trees on the property, and maintains forested and undeveloped portions of the property in a natural state. Staff considers this criterion met.

#### Criteria Group B:

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

An average of 150 Christmas trees have been sold from the property during the past four years. Therefore, this criterion has been satisfied.

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

The property provides scenic vistas and helps to maintain the rural character of the surrounding area. Therefore, this criterion has been satisfied.

3. *The property contains an historically and/or archaeologically significant site which would be preserved in conjunction with the establishment of a district. A site that is listed on the Federal Registry of Historic Places, the State Registry of Historic Places and/or the County Inventory of Historic Places will be considered historically*

*and/or archaeologically significant. A property which contains a site that is historically and/or archaeologically significant by the County Archaeologist, or is located in an area with a high potential for archaeological sites, provided that the property owner has agreed to permit the County Archaeologist access to the site, may also be considered historically and/or archaeologically significant.*

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

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

There are no unique 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-C. Therefore, this criterion is satisfied.

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

The subject property is not located within a permanent open space easement; 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 criteria in Group A and at least two criteria in Group B should be satisfied. It is the opinion of Staff that this application satisfies all of the criteria in Group A and three (3) of the criteria in Group B.

#### **AFDAC RECOMMENDATION** (Appendix 8)

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 included as Appendix 1 of this report.

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **Staff Conclusions**

Staff believes that the renewal application of the Foster Britt Local Agricultural and Forestal District meets the applicable criteria contained in Sect. 115-5-1 of Chapter 115 of the County Code; exceeds the minimum acreage requirement; and is in conformance with the Comprehensive Plan.

### **Staff Recommendations**

Staff recommends that Appendix F of the Fairfax County Code be amended to renew the Foster Britt Local Agricultural and Forestal District subject to the proposed Ordinance Provisions contained in Appendix 1.

It should be noted that approval of an agricultural and forestal district application does not automatically qualify a property for land use value assessment. Following Board action on an application, the Department of Tax Administration must independently determine if the subject property meets the definition of either agricultural and/or forestal use, as well as the appropriate guidelines for either use, as required by Chapter 58 of the Code of Virginia, which is found in Appendix 10.

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 / Statement of Justification
3. AR 89-S-004-02 Approved Ordinance (previous renewal)
4. Soil and Water Quality Conservation Plan
5. VA Department of Forestry Memo (2014) and Plan (2006)
6. Land-Use/Environmental Analysis
7. FCDOT Transportation Memo
8. Agricultural and Forestal District Advisory Committee Recommendation
9. Fairfax County Code, Chapter 115 – *“Local Agricultural and Forestal Districts”*
10. State of Virginia Code, Title 58.1, Chapter 32
11. Glossary of Terms

## ORDINANCE PROVISIONS

October 22, 2014

AR 89-S-004-03

If it is the intent of the Board of Supervisors to renew the Foster Local Agricultural and Forestal District as proposed in Application AR 89-S-004-03 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 Parcels 66-3 ((1)) 3Z, 4Z, 5Z, 6Z and 21Z, 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 applicants shall implement and abide by the recommendations of the Soil and Water Conservation Plan, which was prepared by the Northern Virginia Soil and Water Conservation District on August 20, 2014, for the life of the Foster Local Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to time as determined necessary by the Northern Virginia Soil and Water Conservation District.

- (6) The applicants shall implement and abide by the recommendations of the Forest Management Memo, dated August 11, 2014, and the Forest Management Plan which was prepared by the Area Forester on April 6, 2006 for the life of the Foster 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) 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 Foster Britt Local Agricultural and Forestal District (see attached map).

**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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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**§ 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.

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## 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		

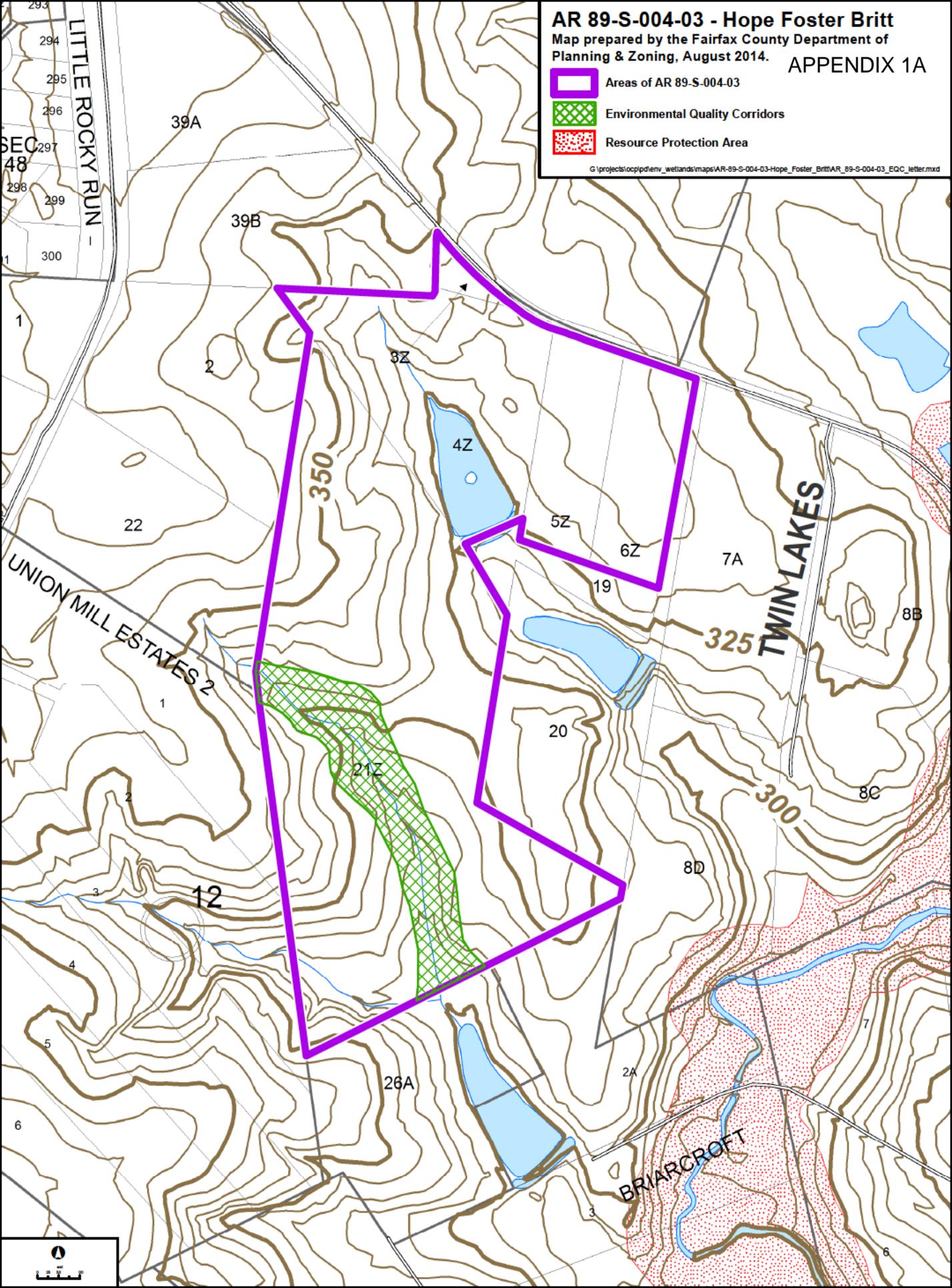
# AR 89-S-004-03 - Hope Foster Britt

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

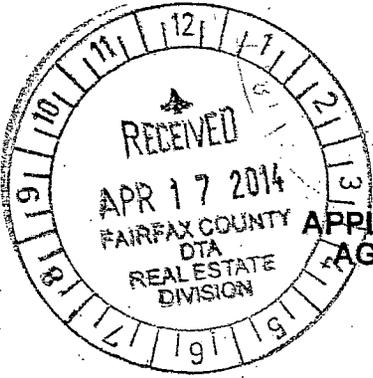
APPENDIX 1A

-  Areas of AR 89-S-004-03
-  Environmental Quality Corridors
-  Resource Protection Area

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Formerly known as "Foster AdF District"  
 Eugene & Virginia Foster APPENDIX 2



Application No. AR 89-S-004-03

**APPLICATION FOR THE ESTABLISHMENT OF A  
 AGRICULTURAL AND FORESTAL DISTRICT**

RECEIVED  
 Department of Planning & Zoning

MAY 09 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
Hope Foster Britt	0663 01 0004	(1961)		5
13315 Twin Lakes Dr	0663 01 0003	(1970)		.2879
Clifton, VA 20124	0663 01 00212	(1973)		16.4221
	0663 01 0005Z	(1986)		1.9005
	0663 01 0006Z	(1986)		1.9005

3. Total acreage in the proposed district: 25.5110 acres.
4. Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm 3 forest 2.

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

Name: Hope Foster Britt  
Address: 13315 Twin Lakes Dr.  
Clifton, VA 20124  
Telephone: 703-220-0345

6. Signature of all property owners:

Hope Foster Britt Hope Foster Britt  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TO BE COMPLETED BY THE COUNTY

Date application accepted: June 25, 2014

Date of action by Board of Supervisors: \_\_\_\_\_

Approved as submitted       Denied

Approved with modifications

*Deborah Leeks*  
*Submitt*

**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
house	1958	residence
barn	1975	tractor garage
garden house	1989	tool storage
house	2006	residence
storage shed(x2)	1994	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:

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

vegetable garden fenced in.

pond dam repaired.

Scotch pine trees removed to control pine bark beetle infestation.

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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: 12/1/01

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
Christmas trees	75	150
fruit	3 bushels	6 bushels
chestnuts	1 bushel	3 bushels
garden vegetables	0	1000 lbs.



### **Regarding Criteria Group A**

- (1) All district acreage is currently devoted to agricultural and forestal use, with the exception of the two houses on the land, and the minimal acreage upon which they sit.
- (2) All lands are zoned R-C.
- (3) The district is consistent with the Comprehensive Plan, which was first implemented in 1989. Private Recreation, Private Open Space, Agriculture, Forest, and Wildlife Preservation are all part of this district.
- (4) There are no conflicts with surrounding uses. In fact, much of the surrounding properties are bordered on this district by forest and/or pasture.
- (5) The district is comprised of 25.51 acres, all owned by the same person: Hope Foster Britt. Together this district represents 5 tax map numbers. Three of those parcels: 0663 01 0003, 0663 01 0021Z, and 0663 01 0005Z, totaling 18.6105 acres, are devoted to agricultural and forestal use in their entirety. The remaining two properties, 0663 01 0004 and 0663 01 0006Z, are dedicated to agricultural and forestal use as well, with the exception of the land upon which the houses sit. This adds approximately an additional 5 acres to the 18.6105 outlined above.
- (6) As previously stated, the district is comprised of 25.51 acres.
- (7) Improvement of soil erosion has been a particular area of focus in the past few years, with regard to the pond on the property.
- (8) Brush, woody growth, and noxious weeds are in the process of being contained on land dedicated to pasture.
- (9) Forest land is being kept in an undisturbed state, as is much of the undeveloped pasture land.
- (10) Some minor equipment has been purchased since the last renewal of the district. Christmas trees have been sold on an annual basis, and new seedlings planted approximately every 2-3 years. As noted in the application, fruit and vegetables continue to be harvested, and the land continues to be used for recreational purposes.

### **Regarding Criteria Group B**

- (1) As noted above, products (Christmas trees) have continuously been sold from the property during the last five years.
- (2) The land decidedly "provides scenic vistas" and contributes to maintaining the existing rural character of the area.
- (3) With regard to archaeological significance, it should be noted that quite a few Civil War artifacts have been recovered within the property, and it lies in close proximity to what was once Union Mill.
- (4) The district attempts to control water pollution and erosion, much of which was brought on by the establishment of the church at the corner of Twin Lakes Drive and Union Mill Road. We continue to work with VDOT to control the runoff onto our property.
- (5) The land is zoned R-C.

F-28. Foster Local Agricultural and Forestal District  
(AR 89-S-004-02)

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

Owners	Fairfax County Tax Map Parcel Number	Acreage
Eugene D. and Virginia N. Foster	66-3 ((1)) 3Z, 4Z, 5Z, 6Z and 21Z	25.51 acres

(b) The Foster Local Agricultural and Forestal District is established effective July 31, 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 applicants shall implement and abide by the recommendations of the Soil and Water Conservation Plan which was prepared by the Northern Virginia Soil and Water Conservation District on May 26, 2006, for the life of the Foster Local Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to time as determined necessary by the Northern Virginia Soil and Water Conservation District.

- (6) The applicants shall implement and abide by the recommendations of the Forest Management Plan which was prepared by the Area Forester on April 6, 2006 for the life of the Foster 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.



**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:**

Ms. Hope Foster Britt  
 Agricultural & Forestal District – AR 89-S-004-03  
 13315 Twin Lakes Drive  
 Clifton, VA 20124  
 Tel: 703-220-0345 (h)  
 Email: Hopebritt@verizon.net

**Plan prepared by:**

Willie Woode, Senior Conservation Specialist, NVSWCD

**Date:**

August 20, 2014

**Summary of operation:**

This Soil and Water Quality Conservation Plan is for a 25.5-acre property, located at 13315 Twin Lakes Drive in Clifton, pending renewal of its agricultural and forestall district status. The property consists of five parcels that can be identified in the Fairfax County Tax Map System as, 66-3 ((1)) -3Z, -3.4Z, -5Z, -6Z and -21Z. Its watershed address is the Popes Head Creek Watershed (PL-46).

There are two residential use areas within the property. Additionally, approximately 3.5 acres of the property is dedicated to Christmas Tree farming, consisting of Blue Spruce, Norway Spruce and Scotch Pines. The latter is not grown for Christmas tree sales. Nine acres are in hay-type ground cover; and seven acres are kept as wildlife preserve.

There is a 0.5-acre farm pond within the northern half of the property, fed by an intermittent stream. On the southern section of the property is another natural drainage that may be considered to be ephemeral. Both drainages flow in general NW-SE direction, feeding Johnny Moore Creek at an offsite location.

There is no Chesapeake Bay Resource Protection Area (RPA) delineated within the property limits.

**Assessment:**

Aside from a few areas of concern, the Britt's property is maintained in reasonably good manner. Areas of concern include:

- i) Sites showing signs of active erosion:
  - a) The lee side of the dam appears have a critters den;
  - b) A section of the ephemeral stream undergoing "Head-Cutting" (an upstream trending erosive condition, usually caused by a sudden change channel bed elevation) – see map.
- ii) Christmas tree farm showing need for improvement - weed control and thinning of trees.
- iii) The farm pond showing signs of erosion at certain locations.
- iv) Hay fields and wooded areas with high percentage of weeds and invasive plants.

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

If nutrient application is implemented, it will enhance grass growth that will choke-out some weeds and improve the quality of the Christmas trees. Any such applications must be based on soil test results to provide balanced nutrition for better health and growth. The soil analyses indicate that the nutrient levels are in the low to medium range and the soil pH is in an acidic range for both the trees and hay fields. Therefore, application of nutrients and lime are recommended.

All nitrogen (N) applications in the tree farm should be completed two or three months before the onset of freezing weather. This ensures that the trees have adequate time to "harden-off" before freezing weather occurs. A tree that has had lush growth late in the season is often more likely to suffer low temperature damage than one that has not. In addition to the N rate, Phosphorus (P) and Potash (K) levels must also be maintained according to the soil test results and recommendations.

Tree growth can be boosted by applying the appropriate amount of fall/spring split applications of N. Spring applications about two weeks prior to bud break allow for adequate movement of the fertilizer into the rooting zone. Fertilizer (P & K) should be uniformly applied in 2- to 3- foot band-widths between trees and along planted rows.

**Recommended N rate of 50lb/ac. is equivalent to about half an ounce of nitrogen per tree assuming 5 ft. X 5 ft. spacing.** See attached chart showing corresponding quantities of split applications for various species and ages of trees.

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
Tree Fields	3.5 acs.	9	2014		
Hay Field #1	3.1 acs.	9	2014		
Hay Field #2	4.7 ac.	9	2014		
Total	11.3 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. Weeds and tall grass growth in the tree farm area should be controlled by regularly mowing to minimize competition.

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Tree Fields	3.5 acs.	9			
Hay Field #1	3.1 acs.	9	2014		
Hay Field #2	4.7 acs.	9	2014		
Residential 1 (including Garden)	4.0 acs.	9			
Residential 2	3.0 acs.	9	2014		
Wooded, Wildlife Preserve	6.7acs.	9	2014		
Pond	0.5 ac.	9	2014		
Total	25.5 acs.				

**3) Upland Forest Management (666):**

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. An invasive tree species (Ailanthus/ tree of heaven) that is beginning to establish itself should be cut down and the exposed section of the stump, should be treated with 2,4-D, to prevent sprouting of new saplings from its underground root system.

Area	Planned			Applied	
	Amount	Month	Year	Amount	Date
Wooded Wildlife Preserve	6.7 acs.	9	2014		
Total	6.7 acs.				

**4) Potential Environmental Quality Corridor (EQC) area vegetation enhancement:**

The area indicated in the map that borders the lower drainage is recommended to have a vegetative buffer enhancement, using deer-resistant native vegetation (shrubs and small trees). Tremendous ecological and environmental benefits will be derived from such an improvement. Such a vegetative buffer will provide cover and connectivity for wildlife migration from the expanse of wooded tract on the west through to existing water sources (Pond and Johnny Moore Creek) on the south-east of the Britt's property.

Deer resistant plants you may consider can include native plants already growing within this zone. Other plants to consider include; Alder, button bush, silky dogwood, Virginia sweetspirer, red maple, hickory, sweet gum, etc.

New plants should be introduced in open areas, near existing vegetation mature vegetation.

Areas	Planned			Applied	
	Amount	Month	Year	Amount	Date
EQC Corridor	1.5 ac.	9	2014		
Total	1.5 ac.				

**5) Pond Maintenance (399):**

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, extraction of nutrients in upper level ground water, and to reduce shoreline erosion. Types of vegetation you may consider include; Red Osier dogwood shrubs, Grey dogwood, Pussy willow, Warm Season Grasses (such as Big Blue stem and switch grass), witch-hazel, and ink berry.

Aquatic weeds observed that may be of concern in the spring and summer include: Water Chestnut, Yellow Primrose, and hydrilla. Information on controlling these weeds can be provided upon request.

Additionally, deepening the inflow area and edges of the pond by dredging, may reduce the overall weed population.

Erosive site on the lee side of the dam should be addressed soon. A deep hole appears to be a critter's den needs to be collapsed, compacted and filled with clayey soil in lifts of 6 to 10 inches and further compacted.

Mature trees that have established on the lee side of the dam should not be cut down, rather branches should be pruned to allow winds to play through during storm events, keeping it from toppling over and taking a chunk of the dam with its root system. Saplings 2-3 inches diameter at chest height should be completely removed.

Areas	Planned			Applied	
	Amount	Month	Year	Amount	Date
Pond	0.5 ac.	9	2014		
Total	0.5 ac.				

**6) Drainage Erosion Control (580):**

The ephemeral drainage on the southern side of the property (see map) is showing signs of active erosion, in the form of ‘Head-Cut.’ This only gets worse as it migrates upstream, deepens and widens. It can be address by shaping nick-point of the actively eroding site, so that the change in elevation does not have a canopy or a sudden drop. Rather, the site should have a gentle slope after it has been re-shaped. A geotextile fabric should then be laid on the bare reshaped soil. Adequately sized riprap should be hand-placed to form a stable “step-down” structure for runoff to cascade over, whenever there is flowing water in the channel. The sides of the channel should also be armored with similar sized rocks. Basically, there should be two rock sizes – the larger “Stabilizers” and the relatively smaller “Fillers.”

Areas	Planned			Applied	
	Amount	Month	Year	Amount	Date
Channel	25 linear feet	9	2014		
Total	25 Linear feet				

**7) Record Keeping (991):**

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

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Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Tree Fields	3.5 acs.	9			
Hay Field #1	3.1 acs.	9	2014		
Hay Field #2	4.7 acs.	9	2014		
Residential 1 (including Garden)	4.0 acs.	9			
Residential 2	3.0 acs.	9	2014		
Wooded, Wildlife Preserve	6.7 acs.	9	2014		
Pond	0.5 ac.	9	2014		
Total	25.5 acs.				

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**SIGNATURES OF PARTICIPANTS of the Hope Foster Britt  
A&F District AR 89-S-004-03**

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Landowner/Operator:	
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<b>Hope Foster Britt</b>	<b>Date</b>

Planner:	
-----	-----
<b>Wilfred D. Woode</b>	<b>Date</b>

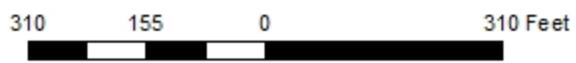
District Authority:	
-----	-----
<b>Chairman</b>	<b>Date</b>



Map prepared by Willie Woode - NWSCD  
Using Fairfax County's 2013 Pictometry and GIS Layers

**Legend**

-  Area for Potential Environmental Quality Corridor (EQC) Vegetation Enhancement
-  Property limits
-  Field limits
-  "Head-cutting" - Erosive Trend



(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

August 11, 2014

Hope Foster Britt  
13315 Twin Lakes Dr.  
Clifton VA 20124

Dear Hope,

It was nice seeing you again last week and visiting your property. In general, the forest conditions are the same as they were when I visited the property in 2006. You should continue to follow the plan I wrote at that time. I have enclosed a copy for your convenience.

While I was there we spoke about a number of issues.

I found this information regarding deer control with firearms on-line at <http://www.fairfaxcounty.gov/living/animals/wildlife/management/deer-management/options.htm>

## Firearms Use On Private Property

There are strict firearms restrictions in Fairfax County. A private property owner must have 20 acres or larger property in [Appendix J area](#) of Fairfax County to legally discharge a firearm. The private property owner must obtain a firearm discharge permit from the [Fairfax County Police Department](#).

A valid hunt permit, kill permit (year-round) or Damage Control Assistance Program (DCAP) permit must be obtained from the [Virginia Department of Game and Inland Fisheries](#). Below are general local firearm ordinances for hunting on private property in Fairfax County:

No rifles larger than .22 for hunting.

No hunting with firearms of game species from within 100 yards of a road.

All rifles, pistols, or shotguns loaded with slugs prohibited for any hunting.

It is unlawful to feed deer September 1<sup>st</sup> through January 1<sup>st</sup> each year during the hunting season in Virginia.

Your property lies within the Appendix J area, so you would need to get a permit from FCPD to use firearms for deer management and follow DGIF rules on hunting permits.

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

The tree on the island is an ash and I found signs of emerald ash borer in it. I also found hemlock woolly adelgid in the hemlocks near the other house. Both pests are fatal only to the trees in their names and endemic to Fairfax County. Both can be treated with a systemic pesticide applied as a root soak or injected into the trunk. The root soak is available over the counter. You would need to hire an arborist with specialized equipment to do stem injections. I have included information on these pests.

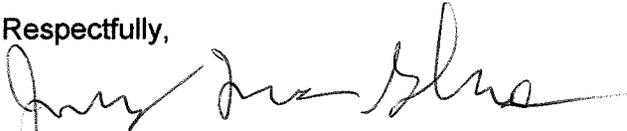
We also discussed non-native species on the property. I have included information on ailanthus and autumn olive. As I said both can be controlled using a cut stump treatment where concentrated herbicide is painted directly on the stump of the plant immediately after it is cut. I also spoke with a contact about the mile-a-minute weevil. She indicated that the weevil release has been very successful and they have been found throughout the county. Apparently Japanese beetles also eat mile-a-minute leaves and you can check for the presence of the weevils by looking for stem damage. She also said if you don't have weevils, she can get you some infected vines.

Finally I have attached a business card for the Beekeepers Association of Northern Virginia. This is the only contact I have for beekeepers, but they should be able to help find someone who is looking for a place for their hives.

For your convenience, I have copied the Zoning Evaluation Division on this letter as an update to your A&F District Forest Management Plan.

If you have any questions, please contact me.

Respectfully,



James McGlone  
Urban Forest Conservationist

cc: file, ZED



REPORT ON FORESTLANDS  
OF  
Mr. Eugene and Mrs. Virginia Foster  
13401 Twin Lakes Dr.  
Clifton, VA 20124

**Location:** The property is approximately 600 feet east of the intersection of Twin Lakes Dr. and Union Mill Road. This property is an existing A&F AR89-S-004-02, which VDOF has on record.

**Examined by:** James McGlone, Urban Forest Conservationist

**Landowner's Objectives:** To maintain Agricultural and Forestal District as a Christmas tree and vegetable farm, forest health, recreation, wildlife and soil and water conservation.

**Introduction:** The upland forest portion of the property makes up about 8 acres out of 25.5 acres. The Christmas tree farm occupies another 8 acres and the remaining 9.5 acres comprise the home site, vegetable garden and grass. A new home is being built on parcel 066-01-0006Z. The forest and Christmas trees are healthy and the property is generally well managed.

## AREA 1

**The upland forested** portion is represented by the red outline on the attached aerial photo, and represents approximately **8 acres** of the total property. It is broken up into two areas, mixed hard woods and a detached pine woods.

**Forest Type:** In the mixed hard wood forest American Beech, Red Oak, White Oak, Tulip Poplar, Cherry, and Hickory are the common species. The pines are scotch and white pine Christmas trees that have been allowed to grow and are now 6" to 10" BDH.

**Quality/Size:** The timber quality of the mixed hardwood forest on the property is good. The trees vary in size from 6" to 32" a good saw timber size. The area is not overstocked.

**Wildlife Habitat:** The beech nuts and acorns provide great food for wild turkey. The hard mast is also good for deer forage. The American beech provide ground cavities, as well as, higher nest areas for wildlife. The ground cavities serve the need for fox dens. Owl and woodpecker and squirrels use the higher cavities for nesting. There are several logs in varying states of decay that provide food and/or shelter for insect eating birds and mammals and provide habitat for snakes and turtles. There are also some snags in area that show signs of woodpecker activity. The pines provide shelter and nesting area for edge dwelling birds, many of which are insect eaters like mocking birds.

**Recreation / Aesthetics:** this forest 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. This can be related to the heavy deer browse and extreme shade. As the forest moves to more of a climax stage of succession, gaps will open and allow light onto the forest floor this may help with the regeneration process. A deer management brochure produced by Fairfax County has been included with this report.

Open woodland like this is susceptible to invasion by exotic species like multiflora rose and Japanese honeysuckle observed else where on the property. These should be removed either by pulling or by careful application of glyphosphate herbicide when they are first observed to prevent infestation. Woodland edges and fence lines present on the property are also good habitat for porcelain berry, a vine that can kill trees.

### **Forest Health:**

Forest diseases prevalent in the Northern Virginia area: Gypsy moth (oak trees), Woolly adalgid (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.

**Forest Fire Control:**

The protection of this property from wildfire is essential. Wildfire rapidly destroys valuable timber, wildlife habitat and property. Open fires are not permitted in Fairfax County without a permit from Air Quality Control. Report all fire on your property promptly to emergency response (911).

## AREA 2

The portion identified as Area 2 is a Christmas tree farm.

**Forest Type:** Planted Spruce and Fir.

**Quality and Size:** All trees in this area are small and in good condition.

**Wildlife Habitat:** The well spaced trees may provide some food and shelter for birds and other animals living in the woods.

**Recreation and Aesthetics:** The openness of the area makes it a good place to watch edge species of birds that may forage among the Christmas trees. Replanting and shearing the trees may also be considered active recreation.

**Recommendations:** The Christmas tree crop has moved from white pine to spruce and fir. The trees look healthy and well managed. Follow nutrient plan recommendations from Northern Virginia Soil and Water Conservation District in this area. Bag worms were observed on one of the trees. Bag worms over winter as eggs. The eggs hatch in early to mid May and larvae feed on foliage until late August, when they pupate into adults. Adult females have no wings or legs. Females remain in the bag in which they pupate and lay their eggs in the same bag. Bag worms can be controlled by removing bags during the winter or early spring before eggs hatch. Left untreated, bag worms will eventually kill a tree through repeated defoliation, but otherwise healthy trees should be unaffected by minor infestations.

### AREA 3

The portion identified as Area 3 is open land, a vegetable garden and home sites.

**Forest Type:** Planted fruit and chestnut trees, red cedar and landscape trees; scattered autumn olive.

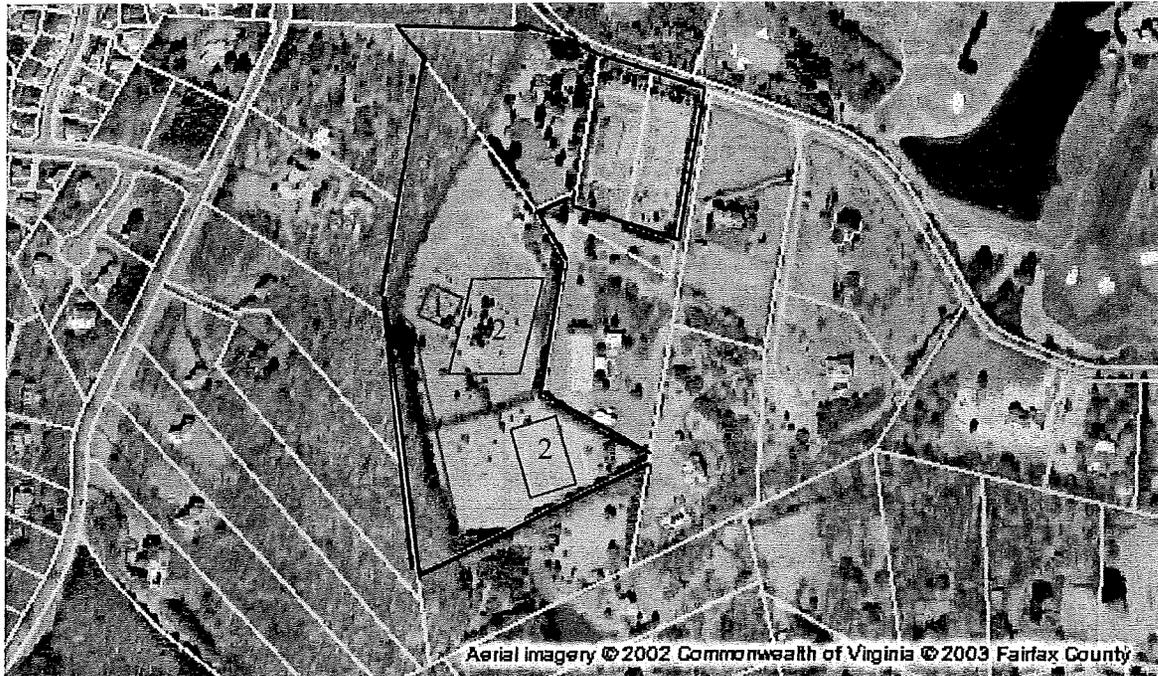
**Quality and Size:** All trees in this area are well maintained and in good condition. The autumn olive are overgrown and infested with other invasive species.

**Wildlife Habitat:** The field, fence row scattered trees and pond provide an excellent mosaic landscape for many types of wildlife. The pond is also good habitat for fish, water fowl, frogs and turtles. The fields are a good place for nature walks, wildlife watching and hunting. The pond can be used for boating and fishing.

**Recreation and Aesthetics:** The fields are a good place for nature walks, wildlife watching and hunting. The pond can be used for boating and fishing.

**Recommendations:** . Autumn olive is growing in this area, frequently accompanied by Japanese honeysuckle and multiflora rose. All three are considered exotic invasive plants and are threats to the forest and the Christmas trees. All three can be controlled with foliar application of glyphosphate herbicide or by applying glyphosphate directly to cut stumps. All three will resprout from root stock, so the entire root system must be either removed or killed. The autumn olive may be replaced with any soft mast native plant like shrub dogwoods, viburnums, winter berry holly, serviceberry, sumacs, or spice bush. I have included facts sheet from DCR on autumn olive, honeysuckle, and multiflora rose.

Establishing and maintaining a shrub/brush border around the pond that is at least as tall as an adult goose will make the pond less attractive to resident Canada geese. Shrub dogwood, viburnums, and button bush will all grow next to the pond and can be maintained as a low hedge to discourage geese. A 2 to 3 foot wide growth of herbaceous plants – grasses, sedges, and/or native wetland wildflowers – will also discourage geese.



Area 1: Upland Forest

Area 2: Christmas Trees



# County of Fairfax, Virginia

## MEMORANDUM

October 9, 2014

**TO:** Barbara Berlin, Director  
Zoning Evaluation Division, DPZ

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

**SUBJECT:** LAND USE ANALYSIS & ENVIRONMENTAL ASSESSMENT for:  
Ms. Hope Foster Britt **AR 89-S-004-03**

This memorandum, prepared by Domenic Scavuzzo and 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 25.5-acre Agricultural and Forestal (A & F) District which encompasses five parcels located in the Pohick Planning District. The proposed district is traversed by tributaries associated with the Johnny Moore watershed in the northern and southwestern sections of the subject property. The property is used for Christmas tree production and harvesting, conservation, and residential uses.

### LOCATION AND CHARACTER

The subject property is located in northern Fairfax County within the Johnny Moore Watershed. The proposed district is bounded to the west, south and east by land which is planned for residential use at .1-.2 dwelling unit per acre (du/ac) or one dwelling unit per 10-5 acres; and on the north by land which is planned for Public Park use, more specifically, the Twin Lakes Golf Course.

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

### COMPREHENSIVE PLAN CITATIONS

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

### **Land Use**

The Fairfax County Comprehensive Plan, 2013 Edition Area III, Pohick Planning District, as amended through April 29, 2014, under the heading “District-wide Recommendations, Environment” pages 9 & 10 state:

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

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

The following guidelines are suggested to achieve this objective:

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

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

### **Environment**

In the Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Environment, as amended through July 1, 2014, on pages 7-10, the Plan states:

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

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

- redevelopment complies with the County's best management practice (BMP) requirements. . . .
- Policy c. Minimize the application of fertilizers, pesticides, and herbicides to lawns and landscaped areas through, among other tools, the development, implementation and monitoring of integrated pest, vegetation and nutrient management plans.
- Policy d. Preserve the integrity and the scenic and recreational value of EQCs....
- Policy l. In order to augment the EQC system, encourage protection of stream channels and associated vegetated riparian buffer areas along stream channels upstream of Resource Protection Areas (as designated pursuant to the Chesapeake Bay Preservation Ordinance) and Environmental Quality Corridors....

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

In the Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Environment, as amended through July 1, 2014, on page 10-11, 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. . . .”

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**

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

The application requests approval for an Agricultural and Forestal District renewal which encompasses 25.51 acres of land located in the County’s Occoquan watershed, the Chesapeake Bay watershed and the Johnny Moore Creek watershed. The statement of justification indicates that 10.5 acres are maintained as conservation; approximately 10 acres are used for Christmas tree production and harvesting; 3 acres are used for residential purposes and 2 acres for other purposes.

## **Water Quality Protection**

The subject district is characterized predominately by a large expanse of rolling grassland bounded on the west and the south by wide swaths of mature deciduous forest land and narrower swaths of coniferous vegetation along the southeastern and eastern periphery. The site contains 3 separate streams that drain into stormwater management ponds located on and offsite. They appear to eventually drain into Johnny Moore Creek located in close proximity to the subject property. These streams are returning to their natural state and also appear to contain the characteristics of intermittent headwater streams. Headwaters, whether perennial or intermittent are protected under Environmental Quality Corridor (EQC) designation outlined in Objective 2, Policy 1 in the Environment section of the Fairfax County Comprehensive Plan. The applicant should ensure to not disturb any areas located onsite that are designated as EQC.

As a headwater EQC, the drainage way which traverses the district midway on the western boundary and flows in a southerly direction through the central portion of the district presents an opportunity for buffer restoration and enhancement. This intermittent stream feature is the headwater of the larger system south of the district. The land area which surrounds this headwater EQC is not currently in active agricultural, nor is it in active silvicultural use on the property. Therefore, buffer enhancement would provide a valuable water quality benefit to the larger stream system. A third, smaller drainage

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swale is located in the southwestern corner of the district and that feature is returning to a natural state.

Staff recommends that the applicant work closely with the Northern Virginia Soil and Water Conservation District (NVSWCD) to establish the proposed buffer enhancement with native species and to implement the recommendations provided in the current Soil and Water Quality Conservation Plan.

Staff encourages the applicants to develop a current Forestry Management Plan for the subject property in order to address the silvicultural health of the district, and particularly that portion of the district which is devoted to Christmas tree production and harvesting. Silvicultural activities comply with the Chesapeake Bay Preservation Ordinance (CBPO) through the development of a Forestry Management Plan as prescribed by the Virginia Department of Forestry's Best Management Practices Handbook for Forestry Operations and prepared in conjunction with the Virginia Department of Forestry.

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

PGN: DAS

Attachment



## County of Fairfax, Virginia

**MEMORANDUM**

DATE: August 1, 2014

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

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

**FILE:** 3-4 (AF 89-S-004)

**SUBJECT:** Transportation Impact

**REFERENCE:** AR 89-S-004-3; Hope Foster Britt  
Land Identification Map: 066-3 ((1)) 3Z, 4Z, 5Z, 6Z, 21Z

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, 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 Foster Britt Local Agricultural and Forestal District; Application AR 89-S-004-03

The Agricultural and Forestal Districts Advisory Committee met on October 7, 2014, to review the application to renew the Foster Britt Local Agricultural and Forestal District (Application AR 89-S-004-03). The Committee found the following:

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