



APPLICATION ACCEPTED: August 18, 2015
PLANNING COMMISSION: February 25, 2016
BOARD OF SUPERVISORS: March 15, 2016 @ 3:30 pm

County of Fairfax, Virginia

February 11, 2016

STAFF REPORT
HICKOX LOCAL AGRICULTURAL
AND FORESTAL DISTRICT
AA 2012-SU-001
SULLY DISTRICT



WS

APPLICANT: Jon and Kim Hickox

ZONING: R-C, WS, HD

PARCEL: 64-1 ((4)) 7Z
64-1 ((7)) A

LOCATION: 15950 Lee Highway, Centreville, VA, and
6780 Bull Run Post Office Road

SITE AREA: 80.19 acres (20.94 acres in existing District,
59.19 acres to be added)

PLAN MAP: 0.1 to 0.2 du/ac or public parkland

PROPOSAL: Amendment of Local Agricultural and Forestal
District to add 59.19 acres of land area.

STAFF RECOMMENDATIONS:

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

Michael H. Lynskey, ASLA

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



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

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

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

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

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

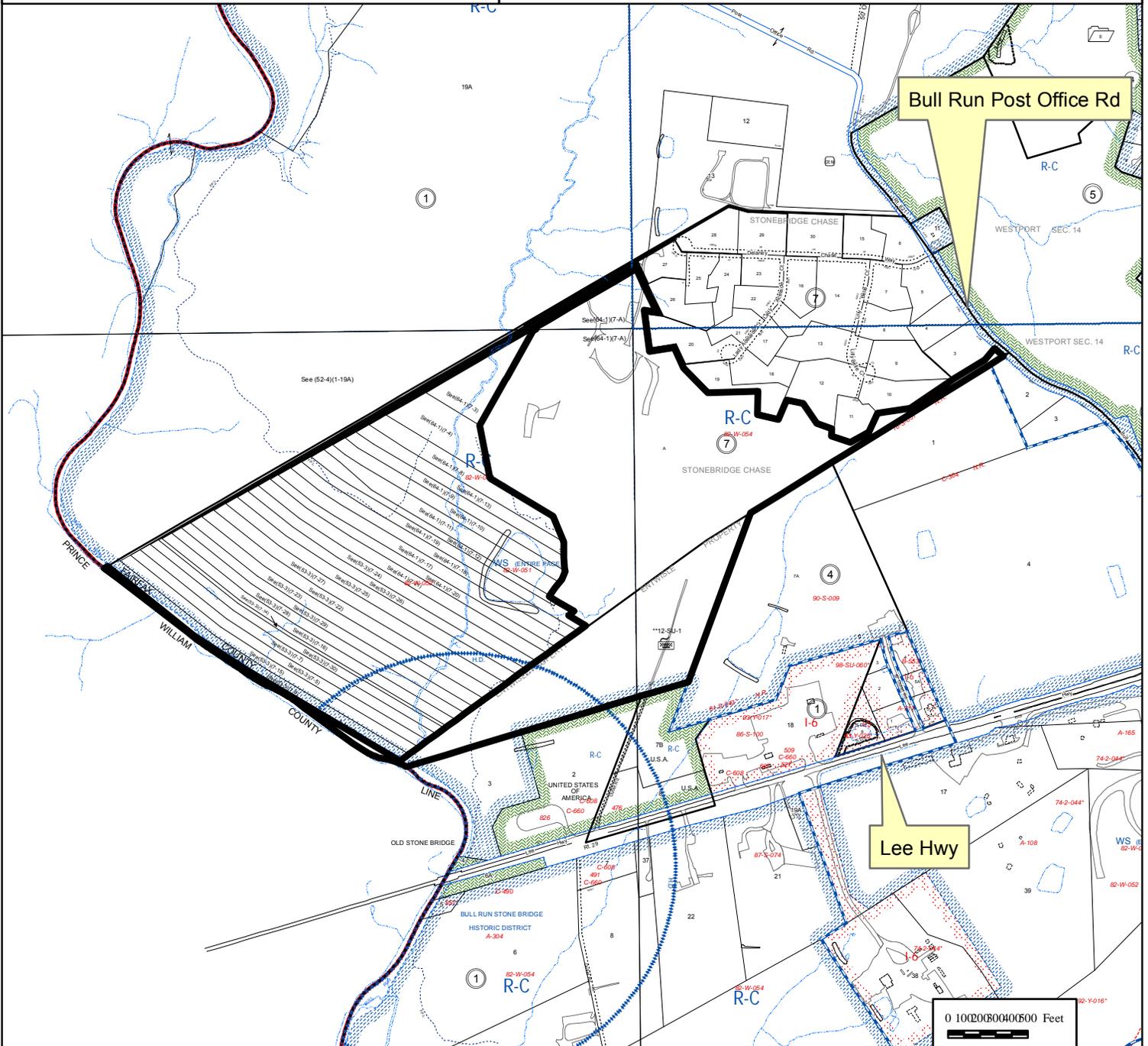
A&F District Amendment

AA 2012-SU-001

Applicant: JON & KIM HICKOX
Accepted: 08/18/2015
Proposed: APPLICATION FOR AMENDMENT OF AF 2012-SU-001 TO ADD ADDITIONAL LAND 80.19 AC OF LAND; DISTRICT - SULLY

Area:
Zoning Dist Sect:
Located: 6780 BULL RUN POST OFFICE ROAD AND 15950 LEE HIGHWAY, CENTREVILLE, VA 20120

Zoning: R- C
Overlay Dist: HD WS
Map Ref Num: 064-1- /04/ /0007Z /07/ / A



DESCRIPTION OF APPLICATION

AA 2012-SU-001 represents a request to amend the 21-acre Hickox Local Agricultural and Forestal (A & F) District to incorporate an additional 59 acres of land area into the district, and to renew the district for an additional eight-year term (under the provisions of Chapter 115 of the Fairfax County Code). A & F Districts encourage the preservation of significant tracts of agricultural and forested land throughout the County by providing a reduced real estate tax assessment in exchange for a commitment to preserve the land for the length of the term. While certain exceptions are permitted, the land is expected to remain in 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.

A copy of the applicant's application is contained in Appendix 2; Proposed Ordinance Provisions are contained in Appendix 1.

PROPERTY LOCATION

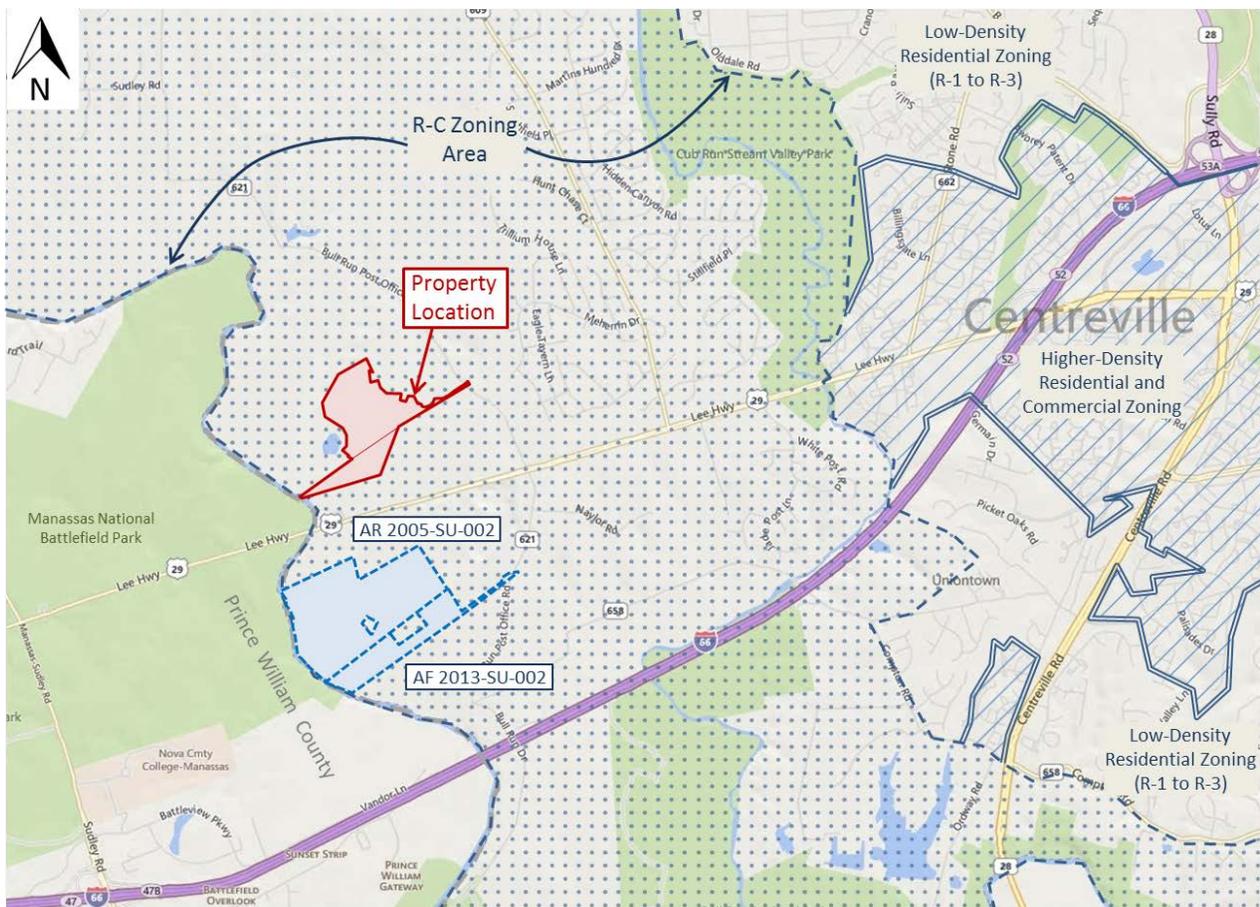


Figure 1: District location map.

SURROUNDING AREA DESCRIPTION

The subject property is located along Bull Run, adjacent to Prince William County and Manassas National Battlefield Park (to the west) and the Vulcan quarry (to the southeast). Federal Forest Service property lies directly to the south (and is traversed by an access easement to the 21-acre parcel and existing winery), and the Fairfax County Park Authority-owned 535-acre Poplar Ford Park lies directly to the north. Two other Local A&F Districts (the Sanders District and the Kulbok District) exist approximately 1/3-mile from this property, on the south side of Lee Highway. The subject parcels and surrounding area are all zoned to the R-C (Residential Conservation) District and are subject to the Water Supply Protection Overlay District (WS). The Bull Run Stone Bridge Historic Overlay District (HD) also applies to the far southwestern corner of this site (and protects the surroundings of the historic Stone Bridge).

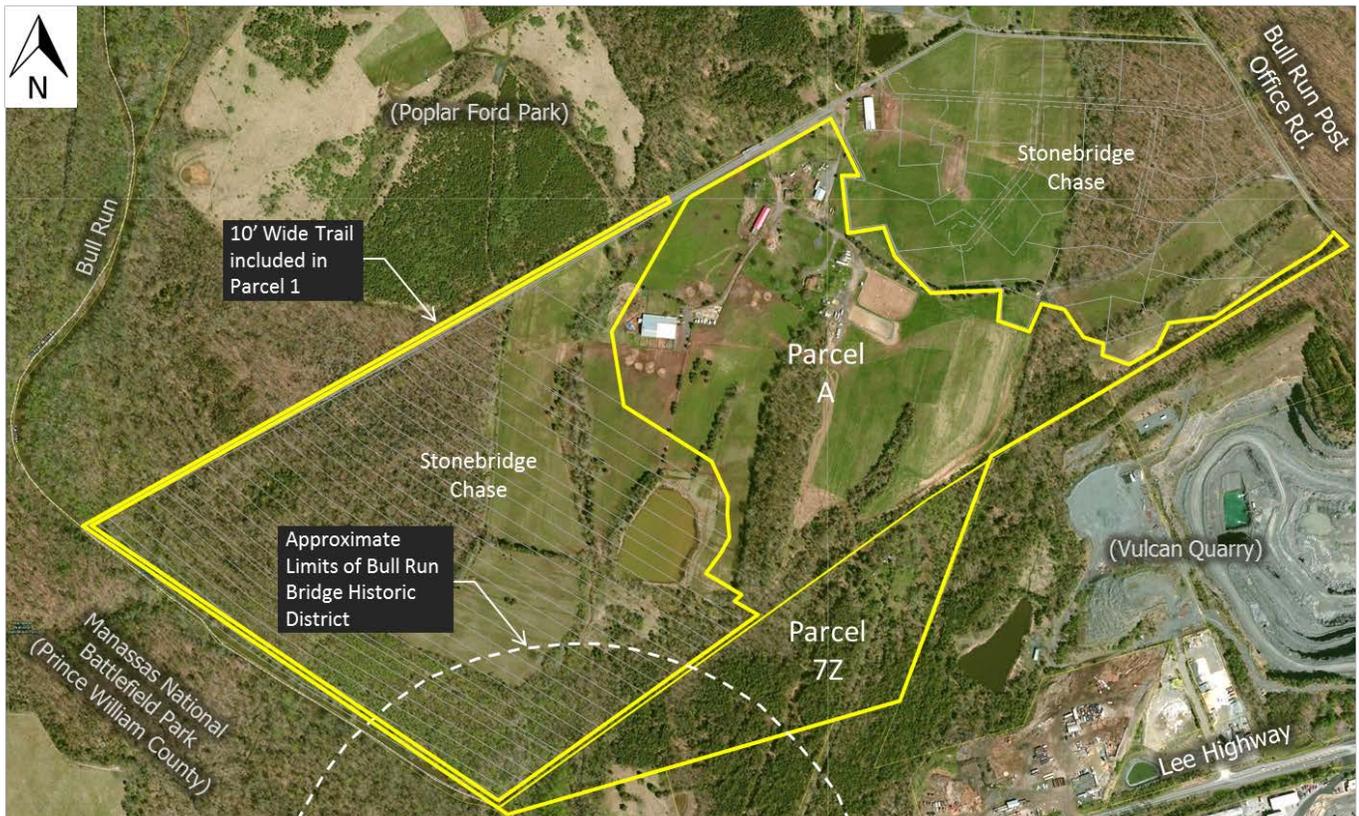


Figure 2: Aerial view of the property.

BACKGROUND

The existing 21-acre District parcel (Parcel 7Z, as depicted on Fig. 2) has been owned by the applicants since 2012, on which the farm winery was established shortly thereafter. The additional 59-acre parcel (Parcel A) was only recently purchased by the applicant, as a portion of a larger 200-acre property that was subsequently divided by the applicant, through recordation of a Deed of Division in the County records, to create 30 five-acre parcels identified as the Stonebridge Chase development. The development located the home sites on roughly the eastern 1/3 of the 200-acre property (along Bull Run Post Office Road), while wrapping around the subject 60-acre parcel (which exists in roughly the center 1/3 of the 200-acre property) to form stacked “flag” portions of each parcel in the western 1/3 of the larger property. The Deed of Division was recorded in the land records in July 2015 and was not subject to the County Subdivision Ordinance, or the shape factor provisions of the Zoning Ordinance (which govern other residential subdivisions).

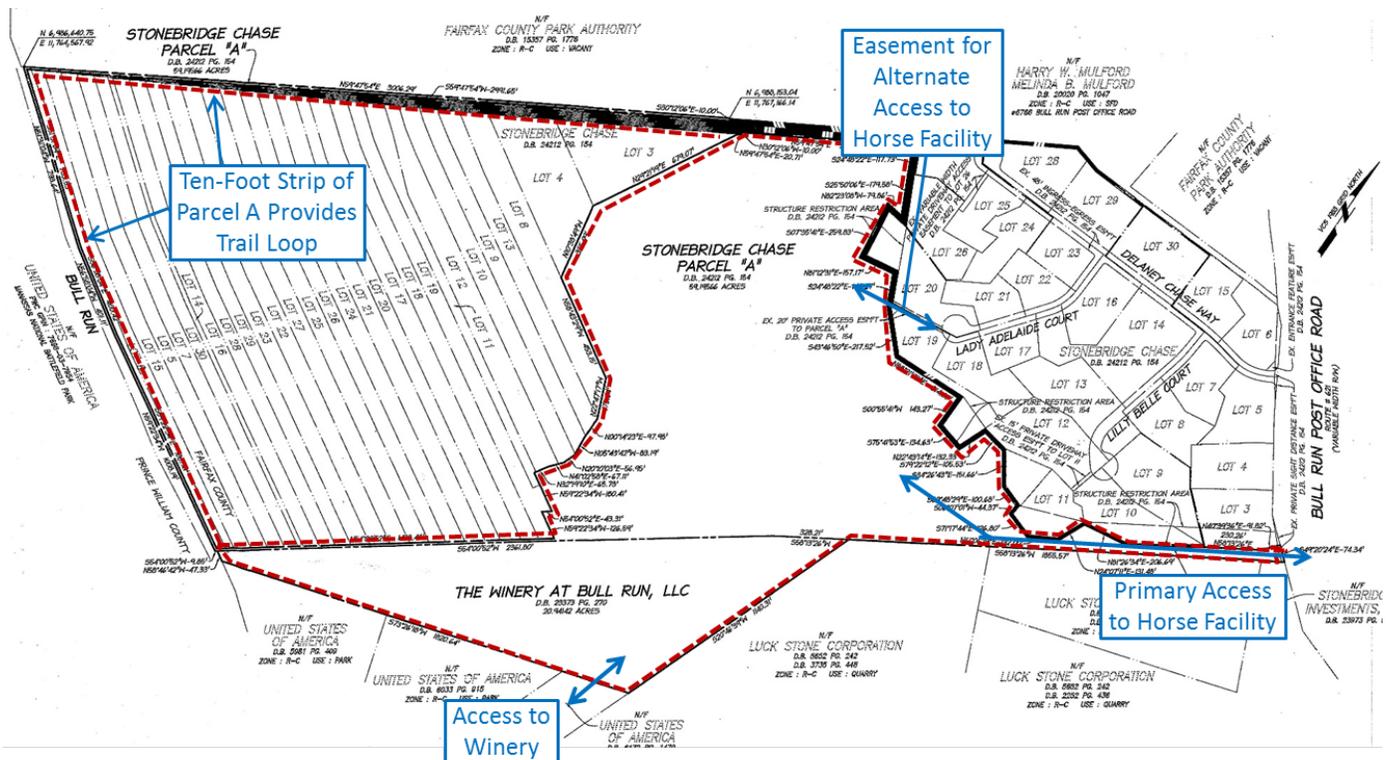


Figure 3: Subdivision Plat for Stonebridge Chase, with access points labeled.

PROPERTY DESCRIPTION

Applicant:	Jon and Kim Hickox
Acreage (rounded):	80 acres (One 21-acre parcel and one 59-acre parcel)
Uses:	<p>Agricultural – 62 acres</p> <ul style="list-style-type: none"> • Grape vineyards (7.75 acres) • Winery facilities (5 acres) • Horse-boarding/pastures (49 acres) <p>Forested – 18 acres</p> <p>Residential – 0.25 acres (two homes)</p>



Figure 4: Detail of south parcel (Parcel 7z).

The existing 21-acre district consists of one triangular parcel (Parcel 7Z), with access from Lee Highway, via an easement across US Forest Service property. Parcel 7Z contains the existing winery building and parking area, two acres of vineyard, and the historic ruins of a circa 1840s house (the Hillwood Mansion House or Entwistle House), which has been converted into an outdoor gathering area/event space. The western portion of the property remains forested and/or undeveloped. An undeveloped portion of the 21-acre parcel lies within the Bull Run Bridge Historic District (see Fig. 2).



Figure 5: Detail of north parcel (Parcel A).

Parcel A currently contains an existing horse riding and boarding facility, consisting of several barn structures, a riding ring, and pasture areas; two existing (occupied) houses; approximately 4.25 treed acres; and approximately 5.75 acres of vineyard on the southern portion of the parcel (recently established by the adjacent winery operation). A ten-foot-wide strip of Parcel A also encircles the western perimeter of the 200-acre property, in order to retain trail access to the adjacent park lands for the use of the horse facility, and a portion of the parcel extends to provide direct access from Bull Run Post Office Road (see Fig. 3).

The horse boarding facility was established on the 200-acre parcel prior to the adoption of the 1978 Zoning Ordinance, which now requires a Special Permit for such uses. The applicant proposes to retain the horse riding and boarding operation on the newly-subdivided 59-acre application parcel, which will now be subject to the Special Permit requirement. A Special Permit application is currently being prepared by the applicant for submission to the County, in order for the horse riding and boarding facility to remain in compliance with the Zoning Ordinance.

Figure 6: Current Structures on the Property			
Parcel:	Structure:	Year Built:	Use:
Parcel 7z:	Winery Barn/Tasting Room	2011	Wine Tasting, Wine Making, Offices, Museum
	“Hillwood House” Ruins	Mid 1800s	Outdoor patio with historical markers
	Smoke House	Mid 1800s	Preserved ruins
Parcel A:	Arena Barn	1970s	Horse Stalls/Indoor Arena
	Barn	1940s	Horse Stalls
	Tool Barn	1980s	Storage/Equipment
	House	1950s	Residential
	House	1960s	Residential
	Ruins of additional house	Unknown	Not usable



Figure 7: Winery tasting room and production facility on Parcel 7Z.



Figure 8: Historic house ruins (1840s)/outdoor gathering space on Parcel 7Z.



Figure 9: Historic smokehouse (mid 1800s) on Parcel 7Z.



Figure 10: View of the vineyards and Battlefield Park to the west (Parcel A).



Figure 11: View of barns and pasture areas on Parcel A.

POSSIBLE FUTURE WINERY EXPANSION

The applicant's plans for the property during the next 8 years (the term of the requested A&F approval) include the possibility of further expanding the existing winery operation onto the newly-acquired Parcel A (beyond the existing vineyards) to also include an additional tasting room or event facility, along with associated parking and infrastructure.



Figure 12: Applicant's site map, including possible future development areas.

While the applicant's plans are likely several years in the future, and currently remain conceptual, the approximate locations of a possible additional tasting room and related parking area are included on the applicant's site map (Figure 12), as well as a possible vehicular connection south to the existing winery facilities. Such an expansion would currently be considered by both the State and County codes as an expansion of the existing agricultural use of the property, and would not conflict with A&F provisions, if such an expansion remains in general conformance with the conceptual plan that has been submitted for A&F review. Any future development will be required to conform to

State and County regulations, at such time as it may be pursued. The horse boarding operation would also remain on a portion of Parcel A and will be subject to review through the Special Permit process (which would not conflict with the A&F District status).

COMPREHENSIVE PLAN PROVISIONS

Plan Area:	Area III
Planning District:	Bull Run
Planning Sector:	BR5 - Stone Bridge
Plan Map:	Residential use at a density of 0.1 to 0.2 du/ac., private open space, and public parks.

STAFF ANALYSIS

Land Use Analysis (Appendix 3)

As mentioned above, current Commonwealth of Virginia and County codes consider farm wineries and associated infrastructure an agricultural use. The current winery operation on Parcel 7Z is a licensed farm winery and therefore is permissible by the Zoning Ordinance as a by-right use in a Residential Conservation District.

A horse riding and boarding facility is defined by the County Zoning Ordinance as a Group 6 - Outdoor Recreation Use, which is subject to a requirement for a Special Permit within the R-C District. The existing horse riding and boarding facility pre-existed the enactment of the 1978 Zoning Ordinance and therefore has not previously been required to obtain a Special Permit (per Sect. 15-101 of the Zoning Ordinance). However, due to the division of the 200-acre property the applicant has changed the existing use, which is now located on a newly-created 59-acre parcel and is required to obtain a Special Permit in order to remain in compliance with the Ordinance. The applicant is currently preparing such an application for submission and review by the Department of Planning and Zoning. Through the Special Permit review process, the use will be evaluated to ensure that it conforms to applicable regulations and has no adverse impacts on surrounding properties.

The Comprehensive Plan for this area recommends low-intensity residential use or public parkland, in harmony with R-C District objectives to protect the environment and water quality goals. Agricultural and forestal uses are specifically recommended by the Plan as alternatives to residential uses in this area, and are encouraged to employ agricultural and forestal methods that are supportive of water quality goals. A portion of Parcel 7Z is also located within the Bull Run Stone Bridge Historic District, which is intended to minimize impacts to the historic Stone Bridge. The affected portion of

Parcel 7Z is currently undeveloped, and the continuation of the A&F District serves to further ensure that the area remains undeveloped and supporting the goals of the Historic District.

Staff feels that the addition of the 59-acre property to this Agricultural and Forestal District would further preserve the rural, scenic, and historic character of the site and surrounding area, while supporting the diversification and viability of agricultural uses in the County.

Environmental Analysis (Appendix 3)

The subject property encompasses approximately 80 acres, located adjacent to the Bull Run stream valley and within the Bull Run watershed. A Resource Protection Area (RPA) and Environmental Quality Corridor (EQC) associated with Bull Run traverses the west edge of the application property in a north south direction along the Bull Run Stream valley. Steeply sloping terrain characterizes the banks along the stream valley. Approximately 1.82 acres of the proposed 59 acre addition is designated as RPA, as defined by the Chesapeake Bay Preservation Ordinance (CBPO), and 6.67 acres of the property is considered EQC, which is more extensive than the RPA. When included with the original 21 acres, the amount of designated RPA in this Agricultural and Forestal District totals to 5.16 acres, and 8.61 acres of EQC. As mentioned in the Land Use Analysis, A&F Districts are encouraged in this area in order to support the water quality protection goals of the Comprehensive Plan.

A proposed Ordinance Provision requires that all RPA and EQC areas remain undisturbed for the life of the A&F District, and implementation of the required Soil and Water and Forest Management Plans further ensure that water quality practices are maintained on the site in support of County environmental goals.

Soil and Water Conservation Analysis (Appendix 4)

A Conservation Specialist from the Northern Virginia Soil and Water Conservation District (NVSWCD) inspected the site and prepared an addendum (dated August 31, 2015) to the previous Soil and Water Quality Conservation Plan (dated September 10, 2012) that includes the additional 59-acre parcel. It was noted that, of the entire 59-acre parcel, approximately 5.75 acres had been planted with grapes, approximately 4.25 acres were treed, and the remaining 49 acres were in use as an existing equine operation (approx. 10 acres of structures and related infrastructure and 39 acres of pasture).

Recommendations were included with regards to nutrient management, pest management, and rotational grazing for the site, and it was recommended that the location of barn waste and manure be relocated outside of RPA areas and be covered to prevent runoff. The applicant has since adopted a system of shipping virtually all of

their manure offsite, to be utilized by a neighboring mulch company, which addresses the NVSWCD Plan recommendation.

A proposed Ordinance Provision requires that the applicant follow the recommendations of the amended management plan, which may be further amended by the Soil and Water Conservation District, if deemed necessary, during the life of the district.

Forestry Analysis (Appendix 5)

A Forester from the Virginia Department of Forestry (VADOF) inspected the property and issued an Addendum (dated August 19, 2015) to the previous Forest Management Plan for the property (dated September 2012). The Forester noted that the applicant had successfully cleared invasive species from the property since the time of the prior plan, and urged him to continue that effort. The addendum assessed the forest resources on the additional property to be added to the district, and found those conditions much the same as on the existing district property, requiring only control of invasive species, and minor thinning of undesirable trees. It was also recommended that horses be fenced out of forested areas, to avoid tree damage.

An Ordinance provision is proposed that would require the applicant to conform to the recommendations of the amended Forest Management Plan, which may be further amended if deemed necessary, for the life of the district.

Parks Analysis (Appendix 6)

Cultural Resources: The application parcels contain Fairfax County Architecture Site 064-1 A02 (the Entwisle House) and Archaeological Site 44FX3647. In addition, other parts of the property have high probability to contain significant Civil War, Native American, and other historic archaeological sites as the parcel is adjacent to the Bull Run Bridge. It also is within and adjacent to both the Manassas National Battlefield Park Historic District and the Fairfax County Bull Run Bridge Historic Overlay District.

The Park Authority supports the establishment of A&F districts as they further goals of the FCPA policy manual *“To protect and preserve the physical, cultural and natural heritage of Fairfax County for the enjoyment and education of the citizenry”*.

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 this application. A proposed new driveway location for the horse boarding facility will be evaluated during the review of the associated Special Permit application.

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.*

With the proposed addition of 59 acres of land area, the district will include approximately 80 acres, 62 acres of which is being utilized for agricultural purposes (winery and equine operation). Eighteen acres of the property are in a conserved forested state, and only 0.25 acres are devoted to residential use. 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) and public parkland. 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.*

All surrounding land is also planned for low-density residential uses, at a density of 0.1 to 0.2 du/ac and public parkland, which satisfies this criterion.

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 contains approximately 62 acres in agricultural use, which satisfies the requirement for a farm district, and both parcels are owned by the applicants. Therefore, this criterion is satisfied.

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

The subject property is considered a farm district, per Criterion 5 above, so this criterion does not apply.

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.*

Based on the NVSWCD reports (Appendix 4), and additional County soils information, more than 2/3 of the soils in the are being utilized for the active growing of grapes are classified as Class I, II, III or IV soils. 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 September 10, 2012 and amended on August 31, 2015 (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.*

A Forest Management Plan for the property was completed by the Virginia Department of Forestry on September 12, 2012, and amended on August 19, 2015. The applicant will be required to implement the Forest Management Plan for at least the life of the A & F District. A Proposed Ordinance Provision in Appendix 1 addresses 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 winery operation on the property is considered an agricultural use (per State and Local regulations), and includes the growing and harvesting of grapes, as well as production of wine and an associated tasting room. With the addition of the 59-acre property, the applicants have expanded their grape production onto the additional property, and have taken over operation of an existing horse riding and boarding facility on that property. The applicants have worked with the Northern Virginia Soil and Water Conservation District to comply with their recommendations on management of the soil and water resources on the expanded site, and continue to invest in improvements to the agricultural enterprises on the property. Staff considers this criterion satisfied.

Criteria Group B:

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

The applicant has produced wine for sale and consumption on the site since 2012, and operates a horse-boarding facility on the site. 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 subject property is directly adjacent to the 5000+ acre Manassas National Battlefield Park, additional Forest Service property to the south, and Park Authority property to the north. The current use of the property is consistent with the historical use of the property, and maintains the rural, scenic nature of its surroundings. The addition of the 59-acre parcel will serve to maintain the current views and scenic character of the area. Staff considers this criterion met.

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.*

As mentioned in the Park Authority analysis, the property contains identified historic architectural and archaeological sites, which the applicant has helped to preserve, and is within and adjacent to both the Manassas National Battlefield Park Historic District and the Fairfax County Bull Run Bridge Historic Overlay District.

In conjunction with the Stonebridge Chase development, the applicant commissioned a Phase I Cultural Resource Survey for the 32.5-acre portion of the original 200-acre parcel that was to be developed into home sites (located directly east of Parcel A), in order to identify any potential resources on that property. The survey indicates that the site is within the National Register of Historic Places eligible boundaries of the First and Second Battles of Manassas, and troop movements and skirmishes are likely to have occurred on the property, but there is no documented evidence of settlement or use of the property for purposes other than agriculture through the historic period. No evidence of historic resources were discovered during the Phase I survey and it was determined that no further investigation is warranted.

Due to the high probability of significant Civil War, Native American, and other historic archaeological sites within this general area, an Ordinance Provision is carried forward with this application that permits the Cultural Resource Management and Protection (CRMP) section of the Fairfax County Park Authority to survey the property and recover artifacts, with the cooperation of the property owner. Due to the applicants' agreement to such a provision, and their continued preservation of the resources on the site, staff considers this criterion satisfied.

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

There are no unique or particularly effective BMPs on the site. Therefore, this criterion has not been satisfied.

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; 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 Group A criteria and four of the criteria in Group B.

AFDAC RECOMMENDATION

On February 23, 2015, The Agriculture and Forestal District Advisory Committee (AFDAC) will review the application and determine a recommendation on the application, which will be forwarded to the Planning Commission and Board of Supervisors prior to the scheduled public hearings. The AFDAC recommendation will also be available after that date by contacting the Zoning Evaluation Division of the Department of Planning and Zoning.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

- Staff believes that the proposal to amend the Hickox Local Agricultural and Forestal District satisfies 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 amend and renew the Hickox 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 9.

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. DPZ Land-Use/Environmental Analysis
4. Soil and Water Quality Conservation Plan
5. VA Department of Forestry Memo
6. FCPA Park Authority Memo
7. FCDOT Transportation Memo
8. Fairfax County Code, Chapter 115 – *“Local Agricultural and Forestal Districts”*
9. State of Virginia Code, Title 58.1, Chapter 32
10. Glossary of Terms

PROPOSED ORDINANCE PROVISIONS
February 11, 2016
AA 2012-SU-001

If it is the intent of the Board of Supervisors to amend the Hickox Local Agricultural and Forestal District as proposed in AA 2012-SU-001 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 64-1 ((4)) 7Z and 64-1 ((7)) A, 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, as generally depicted on Exhibit A to these Provisions, and as remains in conformance with the approved Soil and Water Quality Management and Forest Management Plans for the property, or to prevent the construction of one (1) additional house within the district, where otherwise permissible by applicable law, for either an owner, a member of an owner's family, or for a tenant who farms the land.
- (2) That no parcel added to an already established district shall be developed to a more intensive use than its existing use at the time of addition to the district for eight years from the date of adoption of the original ordinance, subject to continued conformance with the approved Soil and Water Quality Management and Forest Management Plans for the property.
- (3) That land used in agricultural and forestal production within the agricultural and forestal district of local significance shall automatically qualify for an agricultural and forestal value assessment on such land pursuant to Chapter 4, Article 19 of the Fairfax County Code and to Section 58.1-3230 et seq. of the Code of Virginia, if the requirements for such assessment contained therein are, and continue to be, satisfied.
- (4) That the district shall be reviewed by the Board of Supervisors at the end of the 8-year period and that it may by ordinance renew the district or a modification thereof for another 8-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 Forest Management Plan, which was prepared by the Virginia Department of Forestry (VADOF) on September 12, 2012 and amended on August 19, 2015, for the life of the Hickox Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by VADOF.
- (6) 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 (NVSWCD) on September 10, 2012 and amended on August 31, 2015, for the life of the Hickox Local Agricultural and Forestal District. The Soil and Water Conservation Plan may be updated from time to time as determined necessary by NVSWCD.
- (7) Those areas delineated as Resource Protection Areas (RPAs) or Environmental Quality Corridors (EQCs) shall be left undisturbed, with the exception of selective thinning operations and removal of noxious weeds and invasive species 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 VADOF. The boundaries of the RPA/EQC (see Exhibit B) shall be the permanent limits of clearing and grading for the life of the Hickox Local Agricultural and Forestal District.
- (8) The Cultural Resource Management and Protection (CRMP) Section of the Fairfax County Park Authority shall be permitted to survey the property and recover artifacts. Surveys and other similar activities of the CRMP shall be conducted only with prior permission of the property owner and at terms mutually acceptable to both parties established before each occurrence.
- (9) The establishment and continuation of this district depends upon the continuing legality and enforceability of each of the terms and conditions stated in this ordinance. This district may, at the discretion of the Board of Supervisors, be subject to reconsideration and may be terminated if warranted in the discretion of the Board of Supervisors upon determination by a court or any declaration or enactment by the General Assembly that renders any provisions illegal or unenforceable. 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.

- (5) 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.



General Area for Parking

General location of Winery building expansion

Proposed New Roads

New Driveway

Possible Connector Road

HAY Fields

New Fields

New Fields

Winery Property

THE BOUNDARY OF THE WINE GARDEN

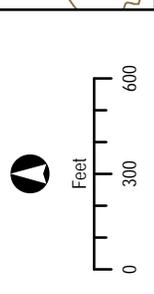
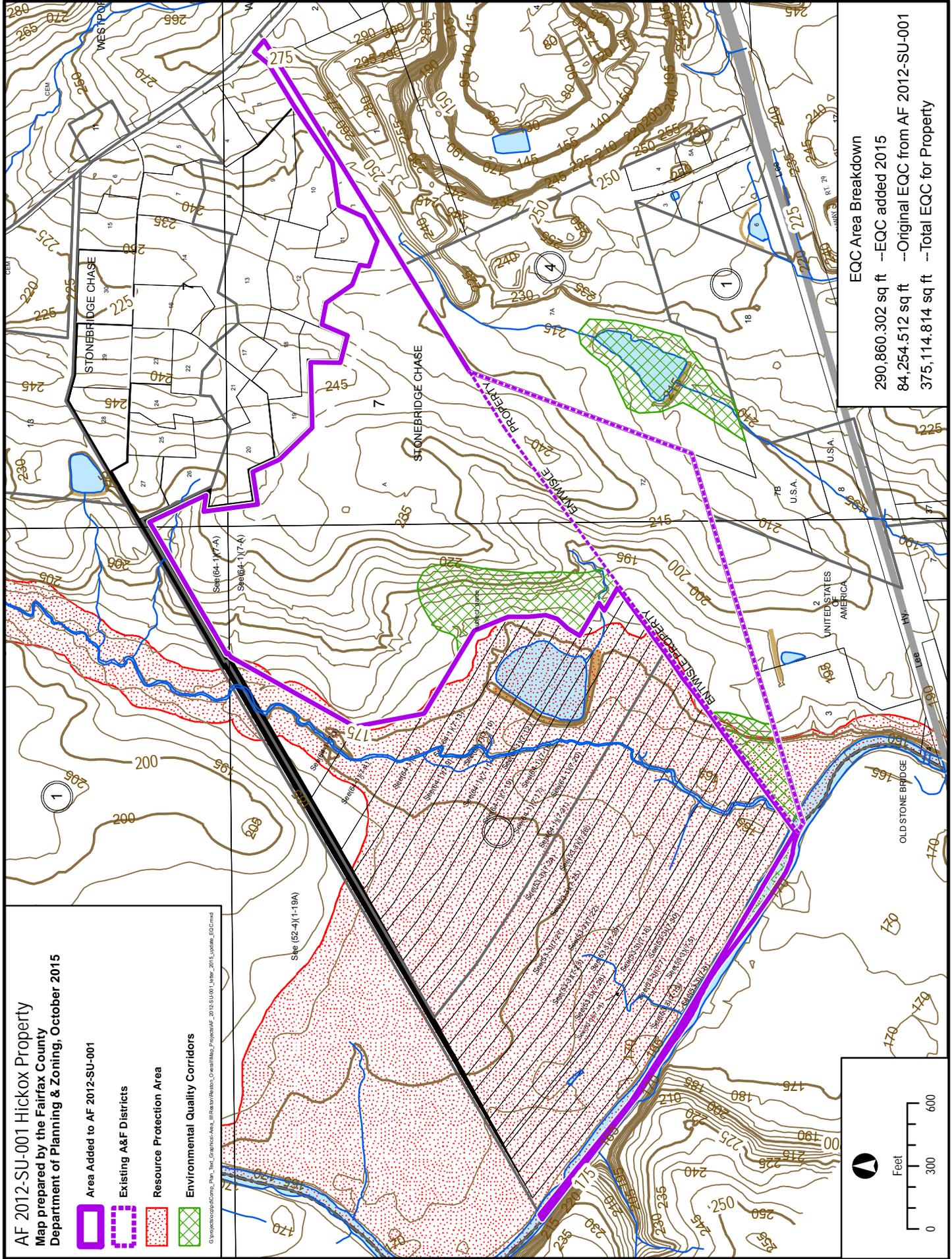
THE BOUNDARY OF THE WINE GARDEN

THE BOUNDARY OF THE WINE GARDEN

AF 2012-SU-001 Hickox Property
Map prepared by the Fairfax County
Department of Planning & Zoning, October 2015

-  Area Added to AF 2012-SU-001
-  Existing A&F Districts
-  Resource Protection Area
-  Environmental Quality Corridors

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EQC Area Breakdown

290,860.302 sq ft	--EQC added 2015
84,254.512 sq ft	--Original EQC from AF 2012-SU-001
375,114.814 sq ft	--Total EQC for Property

Application No. AA 2012-54-001

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

RECEIVED
Department of Planning & Zoning

2011 05 10 3

Zoning Evaluation Division

FAIRFAX COUNTY

- Type of application: Local Statewide
Initial Amendment Renewal
- 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
Jon + Kim Hickox	#0641-04-0007	2008	RC, WS, HD	2 + 20.94
Jon + Kim Hickox	#063-2-01-001 #064-1-07-A	2014	RE RC, WS	60 59.19

- Total acreage in the proposed district: 81 acres.
- Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm 2 forest .

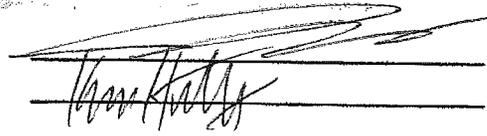
5. Name, address and telephone number of the property owner or representative who will act as a contact person for this application:

Name: George McDonald

Address: 15950 Lee Hwy
Centreville, VA 20120

Telephone: 703-815-2233 ex 106

6. Signature of all property owners:

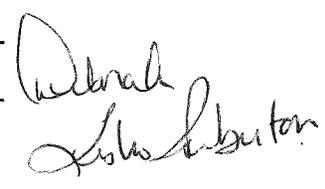


TO BE COMPLETED BY THE COUNTY

Date application accepted: August 18, 2015

Date of action by Board of Supervisors: _____

- Approved as submitted Denied
 Approved with modifications



ALL APPLICANTS

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

Structure	Year built	Use
Arena Barn	1970s	Horse Stall/Arena Barn
Red House	1950s	Tenant Home
Beige House	1960s	Tenant Home
Red Barn	1940s	Horse Stall
Tool Barn	1980s	Storage/Equipment

use additional page(s) if necessary

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

N/A

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

Replaced Fencing & purchased new tractor

4. Is a Soil and Water Conservation Plan on file with the Northern Virginia Soil and Water Conservation District (NVSWCD): yes no

If yes, date prepared: _____

If no, has an application been filed with NVSWCD: yes no

If yes, date submitted: _____

5. List the products and yields from this farm or forest property:

Product	Past year's yield	Average yield for previous 4 years
Grapes	12 tons	0
Hay	16 tons	16

FARM PROPERTY

1. Please check the appropriate description of the farm:

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

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

Active agricultural uses	<u>8.75</u>	acres.	<i>including horse boarding facility based on Special Permits</i>
Forested or undeveloped	<u>72</u>	acres.	
Residential uses	<u>0.25</u>	acres.	
Total acreage	<u>81</u>	acres.	

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

If yes, which roads will be used:

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

10-15 cars, vans and pickup trucks heavy trucks.

FOREST PROPERTY

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

Future timber or pulpwood harvesting	<u> </u> <input type="checkbox"/>	acres
Christmas tree production and harvesting	<u> </u> <input type="checkbox"/>	acres
Firewood production and harvesting	<u> </u> <input type="checkbox"/>	acres
Conservation	<u> </u> <input type="checkbox"/>	acres
Residential uses	<u> </u> <input type="checkbox"/>	acres
Other: <u> </u>	<u> </u> <input type="checkbox"/>	acres
Total acreage	<u> </u> <input type="checkbox"/>	acres

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

STATEMENT OF JUSTIFICATION FOR A&F DISTRICT CRITERIA FOR ARTICLE 5-CHAPTER115

The Winery at Bull Run is applying for an amendment to its initial A&F district application, based on the recent acquisition of the 204 acre property directly adjacent to the 21 acres in the original A&F District application (totaling 225 acres under ownership). The property was acquired by the same owners of the Winery at Bull Run, under a business name of Stonebridge Investments, LLC. The same intentions are in mind, like the winery property, whereas conservation of the historically significant land is first and foremost. Additionally, there are prospective plans of a 144 acre sale to NV Homes, with more than half of that acreage being assigned to a designated conservation area as a requirement of the property sale.

We are sending this application with the intention of amending our current A&F District to add the additional 60 acres to the already approved 21 acres, totaling at 81 acres to be approved. We are currently housing approximately 42 horses on the new property, based on special permit approval, and operating at a \$68,000 annual loss. We may consider in the future, building another facility promoting the Civil War history of the property, as we do on our current property, while selling alcohol per ABC compliance. There are no plans for this in the foreseeable future, but we do reserve the right to expand as such. Proposed uses shown are subject to change, and subject to applicable County use permits.

Specifically regarding the requirements set forth in section 115-5-1 the property meets the following criteria:

Criteria Group A

1. With the purchase of an additional 204 acres adjacent to our original 21 acre Winery at Bull Run property, totaling 225 acres, 144 acres of the 225 is to be sold to NV Homes for residential properties; thus leaving 81 acres, 5.75 of which will be dedicated to a vineyard for agricultural use. The area designated for barn structures is 4 acres and therefore under the 5 acres minimum "other use" limitation. The balance of 50.25 acres is dedicated to forestal and pasture land.
2. All land within the subject property is zoned R-C.
3. The use of the property and dwelling per acre is consistent with the comprehensive plan and is far under the maximum number of allowable dwellings.
4. The majority of the surrounding land within 1/4 mile of the district is in compliance according to the comprehensive plan.
5. The property meets the minimum size of 20 acres of contiguous land. Additionally 50.25 acres are in hay, pastural, and tree farm, meeting the minimum 15 acres of agricultural use.
6. *Note: Since the forest is in pines which can be harvested every 20 years (approximately) then the forest can be classified as a tree farm in agricultural use although this classification may not be necessary for qualification purposes.
7. The property does not exceed 1/3rd of its use in agricultural usage therefore no soil erosion or additional conservation methods are required. Additionally since the agricultural land that is being used is that of a hayfield and a vineyard which do not require any "turning" of the soil (plowing or discing), there are no issues with soil erosion since the ground is not disturbed.
8. See points made in A-7 whereas the ground is not disturbed in the agricultural areas being farmed.

9. Forest land is left undisturbed.
10. The establishment of a 5.75 acre vineyard itself, line posts, protective deer fence, split rail fencing, and overall clearing of brush for agricultural use is the evidence of a history of investment in farm improvements made to the property and established a commitment to agricultural usage for the life of the district.

Criteria Group B

1. Farm products have been planted and produce grapes for harvest every year. Since the property was just recently purchased there isn't a 5 year history. However, we have planted 5.75 acres of grape vines showing a clear intent to invest in and make a long term commitment towards regularly produced grapes harvested on an annual basis.
2. The preserved land, rolling hills, mountain views, and beautifully reconstructed split rail fence rows greatly enhances the aesthetic quality of views to the general public and greatly contributes to maintaining the existing rural character of the area.
3. The property contains both historical and archaeologically significant sites. Through use of private archaeological resources the owners found and preserved many civil war and Native American artifacts now on public display in the main Tasting Room at the Winery at Bull Run. The historical significance being the 1st Battle of Bull Run that took place on property during the Civil War.
4. BMP's methods were followed during the initial clearing with silt fencing along the entire perimeter. However, once the ground was cleared and stabilized with grass, the agricultural practices moving forward do not disturb the ground like traditional farming methods. (see A-7)
5. The land is zoned R-C.
6. The land is not currently in a permanent open space easement. However, a firm commitment to land conservation is in alignment with the business model of The Winery at Bull Run & Stonebridge Investments.

Signed



Date 12/30/15

Ken Hunter

Date 12/30/15





County of Fairfax, Virginia

MEMORANDUM

DATE: November 3, 2015

TO: Barbara Berlin, Director
Zoning Evaluation Division, DPZ

FROM: Denise James, Chief
Environment and Development Review Branch, DPZ

SUBJECT: Land Use Analysis and Environmental Assessment: AA-2012-SU-001
Jon and Kim Hickox

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

DESCRIPTION OF THE APPLICATION

The applicant seeks approval of an amendment to an existing Agricultural and Forestal (A&F) District to increase the original Agricultural and Forestal District size from 21 acres to 80 acres. The property is located within the Stone Bridge Community Planning Sector (BR5) of the Bull Run Planning District of Area III within the Sully Magisterial District. Approximately 12 acres of the site are forested, and the remaining 7 acres are designated for agricultural use and the wine tasting operation. The additional 59 acres is for conservation. The property has been owned by Jon and Kim Hickox since 2008.

LOCATION AND CHARACTER

The subject property is located in the far Western portion of Fairfax County near the Prince William County border and is located in the Bull Run Watershed. The district is surrounded by land which is planned for low density residential use at .1-.2 dwelling units per acre (du/ac) or 5-10 acre lots, and public open space.

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



COMPREHENSIVE PLAN CITATIONS

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

Land Use

Fairfax County Comprehensive Plan 2013 Edition, Area III, Bull Run Planning District, BR5-Stone Bridge Community Planning Sector, as amended through December 2, 2014, on page 70 states:

“Infill development in these neighborhoods should be of a compatible use, type and intensity in accordance with the guidance provided by the Policy Plan under Land Use Objectives 8 and 14....

Occoquan Reservoir Watershed - The entire BR5 Sector is located within the watershed of the Occoquan Reservoir. ...

1. The land on the southwest perimeter of the County, adjacent to Loudoun County and Prince William County, lying generally along Bull Run and the public parkland associated with Bull Run has remained for the most part open and undeveloped and has a rural character. It is planned for residential development at .1-.2 dwelling unit per acre and public parkland. This is in conformance with the findings of the Occoquan Basin Study. The present very low density development which characterizes this area should remain intact to protect its natural wildlife and water quality.
2. Non-residential uses requiring special exception or special permit approval should be rigorously reviewed. In general, these uses, if permitted at all, should only be located at the boundary of Low Density Residential Areas and Suburban Neighborhoods or where their impact on existing residences is minimal. These uses should be granted only if the following conditions are met:
 - Access for the use is oriented to an arterial roadway;
 - The use is of a size and scale that will not adversely impact the character of the area in which it is located; and
 - The use is designed to mitigate impacts on the water quality of the Occoquan Reservoir. ...
3. Agricultural and forestal uses are alternatives to residential uses in Low Density Residential Areas. Such uses, depending upon the techniques used, can have positive impacts on water quality. Careful attention should be paid to ensure that agricultural and forestal techniques are supportive of water quality goals for the Occoquan Reservoir watershed.”

Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Land Use, as amended through April 29, 2014, pages 5-6 states:

“Objective 8: Fairfax County should encourage a land use pattern that protects, enhances and/or maintains stability in established residential neighborhoods.

Policy a: Protect and enhance existing neighborhoods by ensuring that infill development is of compatible use, and density/intensity, and that adverse impacts on public facility and transportation systems, then environment and the surrounding community will not occur.

Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Land Use, as amended through April 29, 2014, pages 9-10 states:

“Objective 14: Fairfax County should seek to achieve a harmonious and attractive development pattern which minimizes undesirable visual, auditory, environmental and other impacts created by potentially incompatible uses.

Policy k: Provide incentive for the preservation of EQCs by allowing a transfer of some density potential on the EQC area to less sensitive portions of a site. The development allowed by the increase in effective density on the non-EQC portion of the site should be compatible with surrounding area’s existing and/or planning land use. It is expressly intended that in stances of severely impacted sites (i.e. sites with a very high proportion of EQC), density/intensity even at the low end of a range may not be achievable.

Comprehensive Plan Map:

Residential use at .1-.2 dwelling units per acre and public open space

Environment

Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Environment, as amended through July 1, 2014, pages 7-9 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 1: In order to augment the EQC system, encourage protection of stream channels and associated vegetated riparian buffer areas along stream channels upstream of Resource Protection Areas (as designated pursuant to the Chesapeake Bay Preservation Ordinance) and Environmental Quality Corridors. To the extent feasible in consideration of overall site design, stormwater management needs and opportunities, and other Comprehensive Plan guidance, establish boundaries of these buffer areas consistent with the guidelines for designation of the stream valley component of the EQC system as set forth in Objective 9 of this section of the *Policy Plan*. Where applicable, pursue commitments to restoration of degraded stream channels and riparian buffer areas."

Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Environment, as amended through July 1, 2014, page 10 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, pages 14-16 states:

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

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

- Habitat Quality: The land has a desirable or scarce habitat type, or one could be readily restored, or the land hosts a species of special interest. This may include: habitat for species that have been identified by state or federal agencies as being rare, threatened or endangered; rare vegetative communities; unfragmented vegetated areas that are large enough to support interior forest dwelling species; and aquatic and wetland breeding habitats (i.e., seeps, vernal pools) that are connected to and in close proximity to other EQC areas.

- Connectivity: This segment of open space could become a part of a corridor to facilitate the movement of wildlife and/or conserve biodiversity. This may include natural corridors that are wide enough to facilitate wildlife movement and/or the transfer of genetic material between core habitat areas.
- Hydrology/Stream Buffering/Stream Protection: The land provides, or could provide, protection to one or more streams through: the provision of shade; vegetative stabilization of stream banks; moderation of sheet flow stormwater runoff velocities and volumes; trapping of pollutants from stormwater runoff and/or flood waters; flood control through temporary storage of flood waters and dissipation of stream energy; separation of potential pollution sources from streams; accommodation of stream channel evolution/migration; and protection of steeply sloping areas near streams from denudation.
- Pollution Reduction Capabilities: Preservation of this land would result in significant pollutant reductions. Water pollution, for example, may be reduced through: trapping of nutrients, sediment and/or other pollutants from runoff from adjacent areas; trapping of nutrients, sediment and/or other pollutants from flood waters; protection of highly erodible soils and/or steeply sloping areas from denudation; and/or separation of potential pollution sources from streams.

The core of the EQC system will be the County's stream valleys. Additions to the stream valleys should be selected to augment the habitats and buffers provided by the stream valleys, and to add representative elements of the landscapes that are not represented within stream valleys. The stream valley component of the EQC system shall include the following elements

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

should be taken at fifty foot intervals beginning at the downstream boundary of any stream valley on or adjacent to a property under evaluation.”

Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Environment, as amended through July 21, 2014, on page 18 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. . . .”

LAND USE ANALYSIS

The proposed addition of land area to the existing Agricultural and Forestal District is compatible with the existing and planned low-density residential character of this site and the surrounding area. The proposal includes 59.19 new acres of adjacent land, of which 5.75 acres will be dedicated to a vineyard for agricultural use, four acres will serve a barn, and the remaining 49.25 acres is to be dedicated to forestal and pasture land. This proposal is in keeping with the specific Plan recommendations that agricultural and forestal uses are alternatives to residential uses in Low Density Residential Areas.

ENVIRONMENTAL ANALYSIS

Water Quality Protection and Forest Preservation

The proposal to add an additional 59 acres to the Agricultural and Forestal District known as The Winery at Bull Run will ultimately encompass approximately 80 acres of land located in western Fairfax County adjacent to the Bull Run stream valley within the Bull Run watershed. A Resource Protection Area (RPA) and Environmental Quality Corridor (EQC) associated with Bull Run traverses the application property in a north south direction along the Bull Run Stream valley. Steeply sloping terrain characterizes the banks along the stream valley. Approximately 1.82 acres of the proposed 59 acre addition is designated as Resource Protection Area (RPA) as defined by the Chesapeake Bay Preservation Ordinance (CBPO), and 6.67 acres of the property is considered EQC, which is more extensive than the RPA. When included with the original 21 acres, the amount of designated RPA in this Agricultural and Forestal District totals to 5.16 acres, and 8.61 acres of EQC.

The statement of justification states that of the 59 new acres, 9.75 acres of the proposed district are in active agricultural use – 5.75 acres of which are devoted to the vineyard and the other 4 acres are cleared or occupied by a barn. The remaining 49.25 acres of the proposed district is in forestland.

Barbara Berlin
AA 2012-SU-001
Page 7

It is staff's understanding that the owner purchased the original 204 acre tract, and reserved 59.19 acres for the Agricultural and Forestal District. A subdivision of 30 lots of the remaining 144 acres has been approved and that a portion of the lot areas for the subdivision that is adjacent to Bull Run is proposed as a conservation area furthering the goal of the Comprehensive Plan in this area of the county.

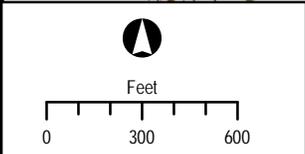
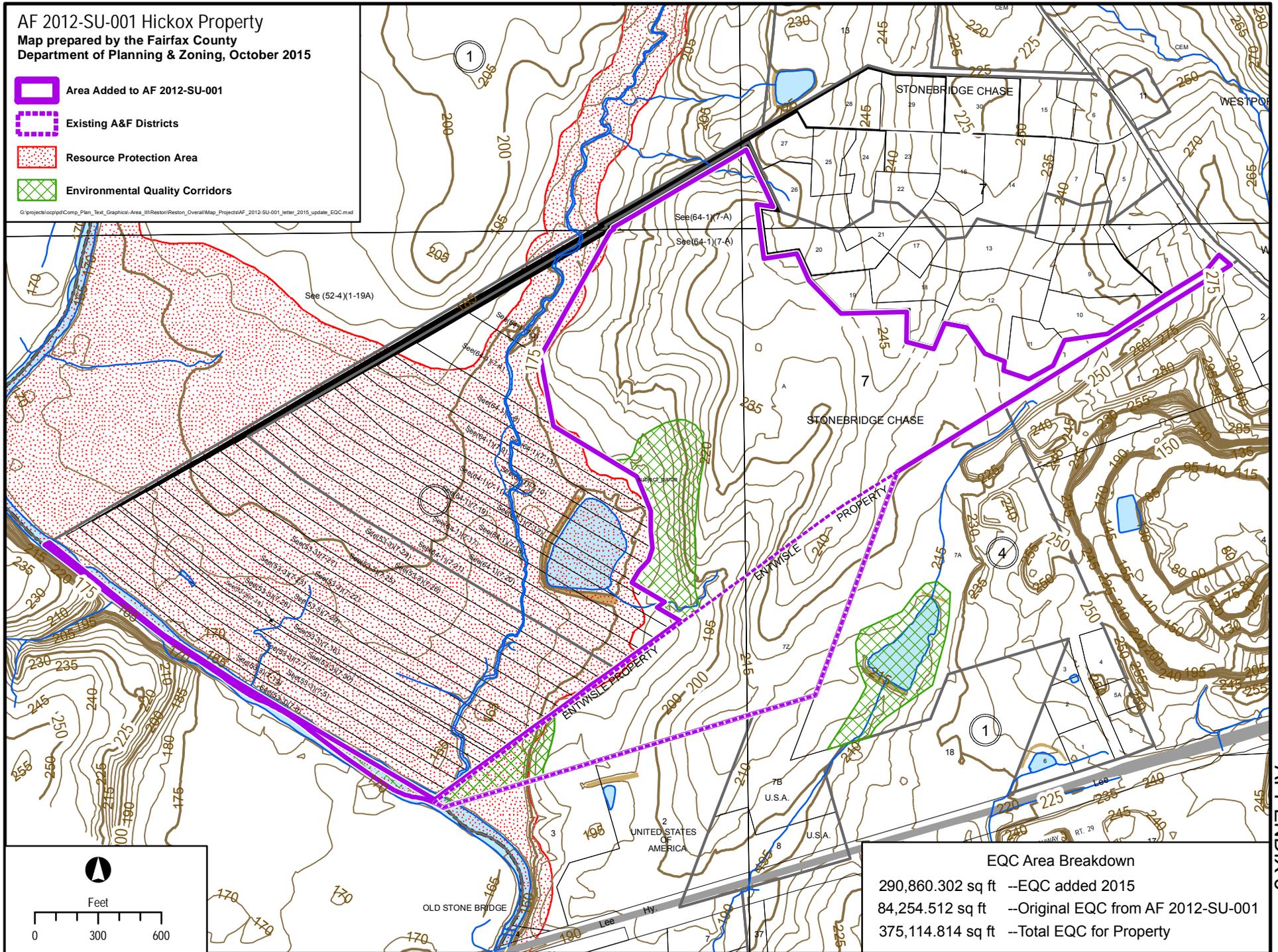
Countywide Trails Map:

The Countywide Trails Plan depicts a Major Regional Trail planned along Bull Run and the Occoquan River. Major Regional Trails are customarily paved, but along Bull Run and the Occoquan River the surface may vary from paved, to natural surface, to stone dust. The Northern Virginia Regional Park authority will determine the type of trail along Bull Run.

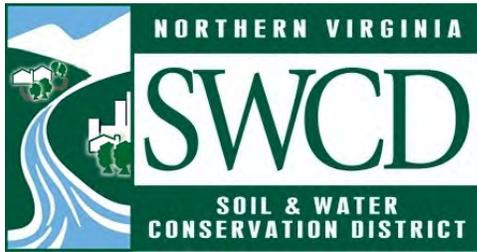
AF 2012-SU-001 Hickox Property
 Map prepared by the Fairfax County
 Department of Planning & Zoning, October 2015

-  Area Added to AF 2012-SU-001
-  Existing A&F Districts
-  Resource Protection Area
-  Environmental Quality Corridors

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EQC Area Breakdown	
290,860.302 sq ft	--EQC added 2015
84,254.512 sq ft	--Original EQC from AF 2012-SU-001
375,114.814 sq ft	--Total EQC for Property



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: 703-324-1421

Soil and Water Quality Conservation Plan

Property Owners/Operators:

The Winery at Bull Run

15950 Lee High Way

Centreville, VA 20120

Jon Hickox- President

Email: jhickox@wineryatbullrun.com

George McDonald – General Manager

Email: gmcDonald@wineryatbullrun.com

Tel: 703-815-2233

www.wineryatbullrun.com

Plan Prepared by:

Willie Woode, Senior Conservation Specialist, NVSWCD

Date:

August 31, 2015

An Addendum to the approved SWQC Plan prepared on April 4, 2014

Assessment:

The previously approved Soil and Water Quality Conservation Plan for a 5.6-acre expansion of the vineyard (Area 2) was cancelled, because the area was considered to be too wet for grape growing.

Recently, the management acquired an adjacent large piece of property towards the north. They plan on adding 60 acres of that parcel to the existing 21-acre listed as an A&F District. Of the sixty acres, 5.75 acres have been planted with grapes (an expansion of the to the existing two-acre vineyard). The rest of the 55.25 acre will be maintained in its original landuse practices – 4.25 acres in trees, and 50.0 acs. as an equine operation.

Two sets of grape fields had been planted at the time of my site visit. Field A consists of approximately 4,600 vines, and Field B had approximately 720 vines.

Both grapes fields are fenced-in. Paths between rows of grape vines were grassed to minimize erosion. The stems of vines were protected from damage using short tree

shelters. All other perimeter areas within and outside of the protected area are kept grassed.

The area devoted to the equine operation consists of the following: Forty acres in pasture, the Head Quarters (consisting of parking spaces, outdoor riding, and offices), take up about eight acres, and the barn, sacrifice/heavy use area, and manure piling area takes up another two acres.

Manure management practice as observed, needs to be improved.

Practices:

1) Nutrient Management (590):

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

In the case of the grape field, conversion of nutrient rates provided in lbs. per acre will be as such; 40-50 lbs./acre of say, Nitrogen will be equivalent to 0.4 -0.6 ounces of Nitrogen applied around each vine within an acre plot. This is after the required amount has been subtracted from the partial amount originally added to the soil surface.

Areas	Amount	Planned		Applied	
		Month	Year	Amount	Date
Grape Fields A & B	5.75 acs.	9	2015		
Pasture Fields	40.0 acs.	9	2015		
Total	45.75 acs.				

2) Pest Management (595):

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

Controlling weeds require:

- i) Scouting for new growth population and mowing it down.
- ii) Frequent mowing of weeds, especially before flowering.
- iii) Maintaining the right soil pH and nutrient levels, and over-seeding with a pasture seed mix of your choice, will allow grasses to grow tall and dense, and choke out the weeds.
- iv) Preventing over-grazing of pastures.

Other pests can be addressed if they begin to reach the threshold level

Fields	Planned Amount Year	Month		Applied Amount	Date
Grape field	7.75 acs.	9	2015		
Barn and Sacrifice areas	2.0 acs.	9	2015		
Pasture	40.0 acs.	9	2015		
Wooded Areas	4.25 acs.	9	2015		
Total	60.0 acs.				

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

The green shaded area on your site map is the county delineated Chesapeake Bay Resource Protection Area (RPA). The RPA is the final barrier through which pollutants contained in runoff from adjacent land areas are filtered.

Most of this area is outside of the area of equine activities and is planned to be kept as a conservation area. The only exception is the portion behind the barn and sacrifice area, used as the manure piling areas. This area appears to encroach into the RPA and needs to be moved or a clear demarcation established to ensure no encroachment.

RPAs are required to be kept vegetated to enhance surface filtration and soil infiltration.

Fields	Planned Amount Year	Month		Applied Amount	Date
Barn and Sacrifice Areas	120 ln. ft.	9	2015		
Total	120 ln. ft.				

4) Rotational Grazing

Graze appropriate number of fields in a rotational manner, by adjusting the pasture recovery period through the grazing season. The grazing period may vary. Grazing heights and appropriate recovery periods will be observed throughout the grazing season. Include the sacrifice area as part of the rotational program. In this area hay will be fed to the horses, while pasture recovers or while pasture is kept stress free during adverse weather conditions.

Fields	Planned Amount	Month	Year	Applied Amount	Date
Pasture	40.0 acs.	9	2015		
Sacrifice & Barn Areas	2.0 acs.	9	2015		
Total	42.0 acs.				

5) Waste Management

Waste from cleaned out barn is piled in an area close to the barn. Waste management practice should be improved to having a covered storage structure. Relocation may be necessary to ensure that waste management activities does not encroach into the RPA.

Fields	Planned Amount	Month	Year	Applied Amount	Date
Manure piling area	1.0 ac.	9	2015		
Total	1.0 ac.				

6) Record Keeping

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

Fields	Planned Amount Year	Month		Applied Amount	Date
Grape Field	5.75 acs.	9	2015		
Pastures	40.0 acs.	9	2015		
Head Quarter	8.0 Acs.	9	2015		
Sacrifice & Barn Areas	2.0 acs.	9	2015		
Wooded Areas	4.25 acs.	9	2015		
Total	60.0 acs.				

**SIGNATURES OF PARTICIPANTS – The Winery at Bull Run
A&F District Expansion – AA 2012-SU-001**

Land Owner / General Manager:

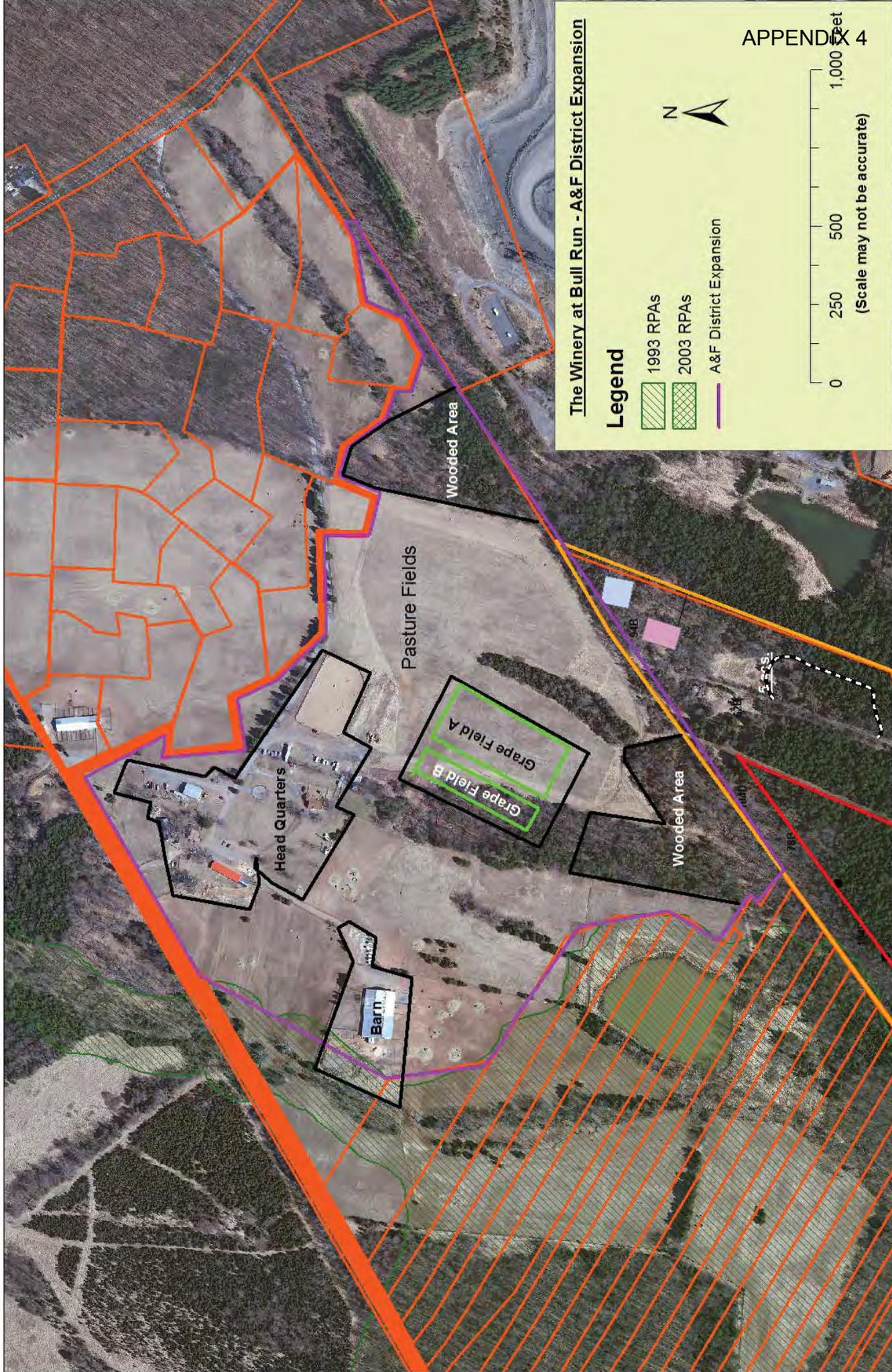
Jon Hickox/George McDonald **Date**

Planner:

Wilfred D. Woode **Date**

District Authority:

Chairman **Date**



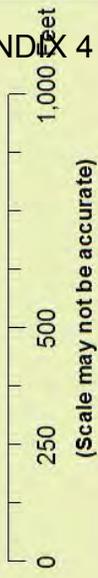
The Winery at Bull Run - A&F District Expansion

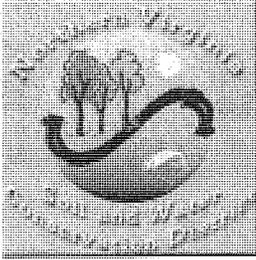
Legend

- 1993 RPAs
- 2003 RPAs
- A&F District Expansion



APPENDIX 4





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:

The Winery At Bull Run
 15950 Lee Hwy, Centreville, VA 20120
 Jon Hickox - President
 Tel: 703-815-2233
 Email: jhickox@Wineryatbullrun.com

Plan Prepared by:

Willie Woode, Senior Conservation Specialist, NVSWCD

Date:

September 10, 2012

Summary of operation:

“The Winery At Bull Run” is principally a vineyard, wine making and wine tasting operation on a 21-ac. property in Bull Run Watershed, located at 15950 Lee Highway in Centreville. Seven of the 21-acre property is devoted to the winery and vineyard operation. The remaining fourteen acres is kept in natural wooded vegetation. Currently, two acres of the parcel is in use as vineyard. The grapes will be harvested and used in wine production at maturity. Should the vineyard prove to be productive, the area of operation may be expanded. The wooded vegetation consists of mainly pine trees and some hard woods in the far south-western corner. The land slopes in two directions toward the SE & SW. The land owner intends to enlist the property as an Agricultural and Forestal District.

Approximately, 570 linear feet of Chesapeake Bay Resource Protection Area (RPA) exist within the property. Current agricultural activities do not encroach into the RPA.

Interpretive historical markers on the property are open to the public, and the entire facility is open to the public seven days a week for tours, wine tasting, purchasing and relaxation.

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

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

Conversion of nutrient rates provided in lbs. per acre will be as such; 40 – 50 lbs./acre of say Nitrogen will be equivalent to 0.4 – 0.6 ounces of Nitrogen applied around each vine within an acre plot.

Fields	Planned amount	Date		Applied Amount	Date	
Vineyard	2.0 ac.	9	2012			
Total	2.0 ac.					

2) Pest Management (595)

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

Fields	Planned amount	Date		Applied Amount	Date	
Vineyard	2.0 ac.	9	2012			
Wooded	14.0 ac.	9	2012			
Wine Barn, Picnic Parking Areas, etc.	5.0 ac.	9	2012			
Total	21.0 ac.					

3) Buffer Management - Chesapeake Bay Resource Protection Area (RPA)

The shaded area on your site map is the County delineated Chesapeake Bay Resource Protection Area (RPA) - it is the limits of a minimum of 100-ft. wide buffer starting from the edge of the stream. It may appear wider in some areas where it encounters other environmentally sensitive features, such as connected wetland or major flood plain. This area is regarded as the last area/barrier that provides opportunity for filtration of pollutants contained in runoff from adjacent land, before such polluted water enters state waters. This area is required to be kept vegetated.

Permitted modifications to the vegetated buffer areas include those that will aid in maintaining the core functional values of the buffer area, such as, i) creating

access paths to provide general woodlot management as may be provided by the VA Department of Forestry, ii) pruning or removal of **approved** potentially destructive or deceased trees or to provide sight line and vistas, on condition that where tree are removed, they will be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution in runoff.

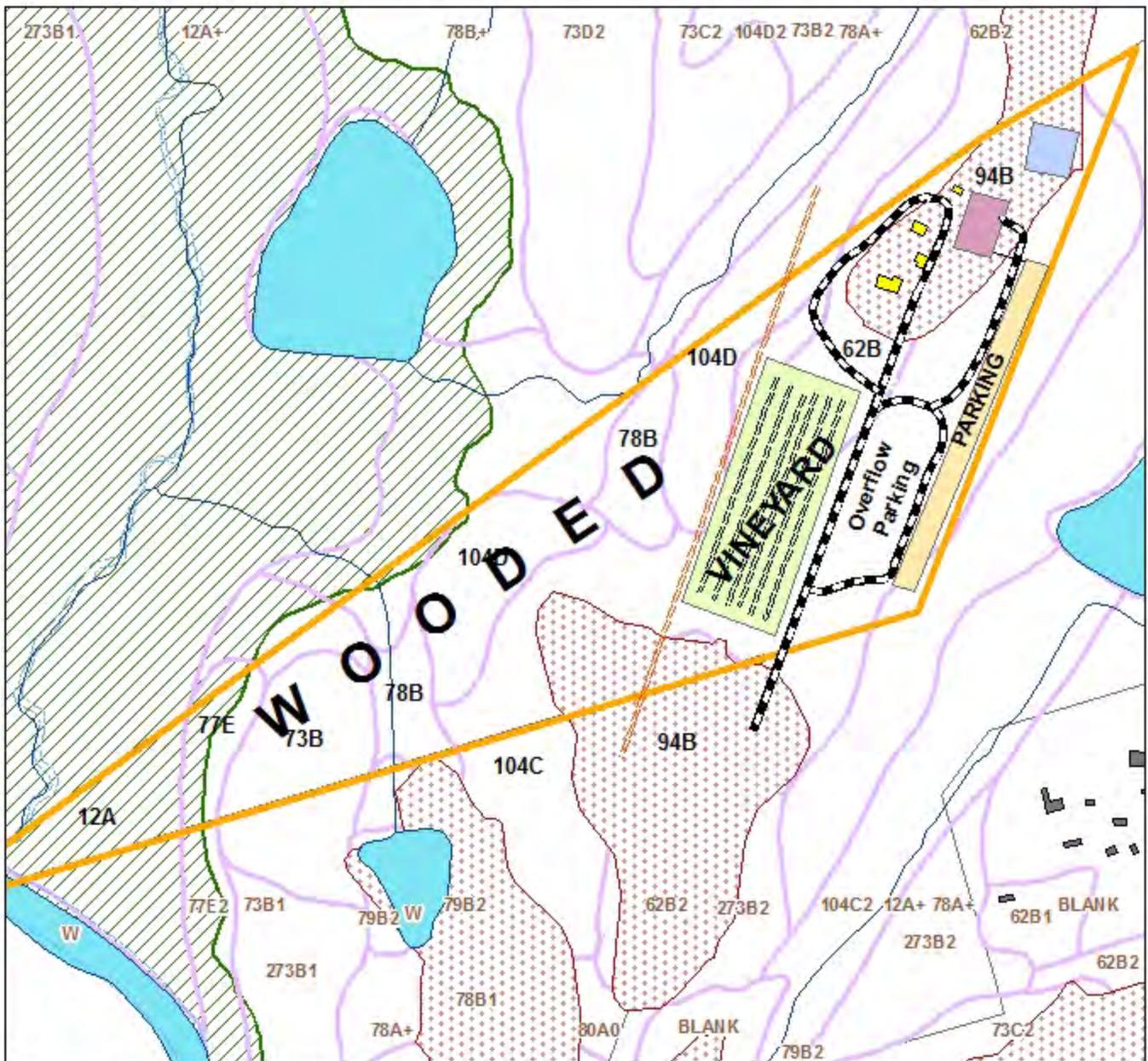
Field	Planned amount	Date		Applied Amount	Date	
Wooded	570 ft.	9	2012	570ft.	9	2012
Total	570 ft.					

4) Record Keeping

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

Fields	Planned amount	Date		Applied Amount	Date	
Vineyard	2.0 ac.	9	2012			
Wooded	14.0 ac.	9	2012			
Wine Barn, Picnic Parking Areas, etc.	5.0 ac.	9	2012			
Total	21.0ac.					

The Winery at Bull Run - 15950 Lee Highway, Centreville



Legend

Prepared by Willie Woode - NVSWCD
Using Fairfax County GIS Layers

— Water Features 4000 (line)

— Stream

Water Features 4000 (polygon)

Perennial Streams (line)

1993 RPAs

2003 RPAs

Driveway

House/Tasting Parlor

Septic Field

Property Limits

Powerline Easement

Soil Types

12A - Chantilly

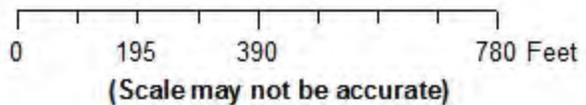
73B - Lindside

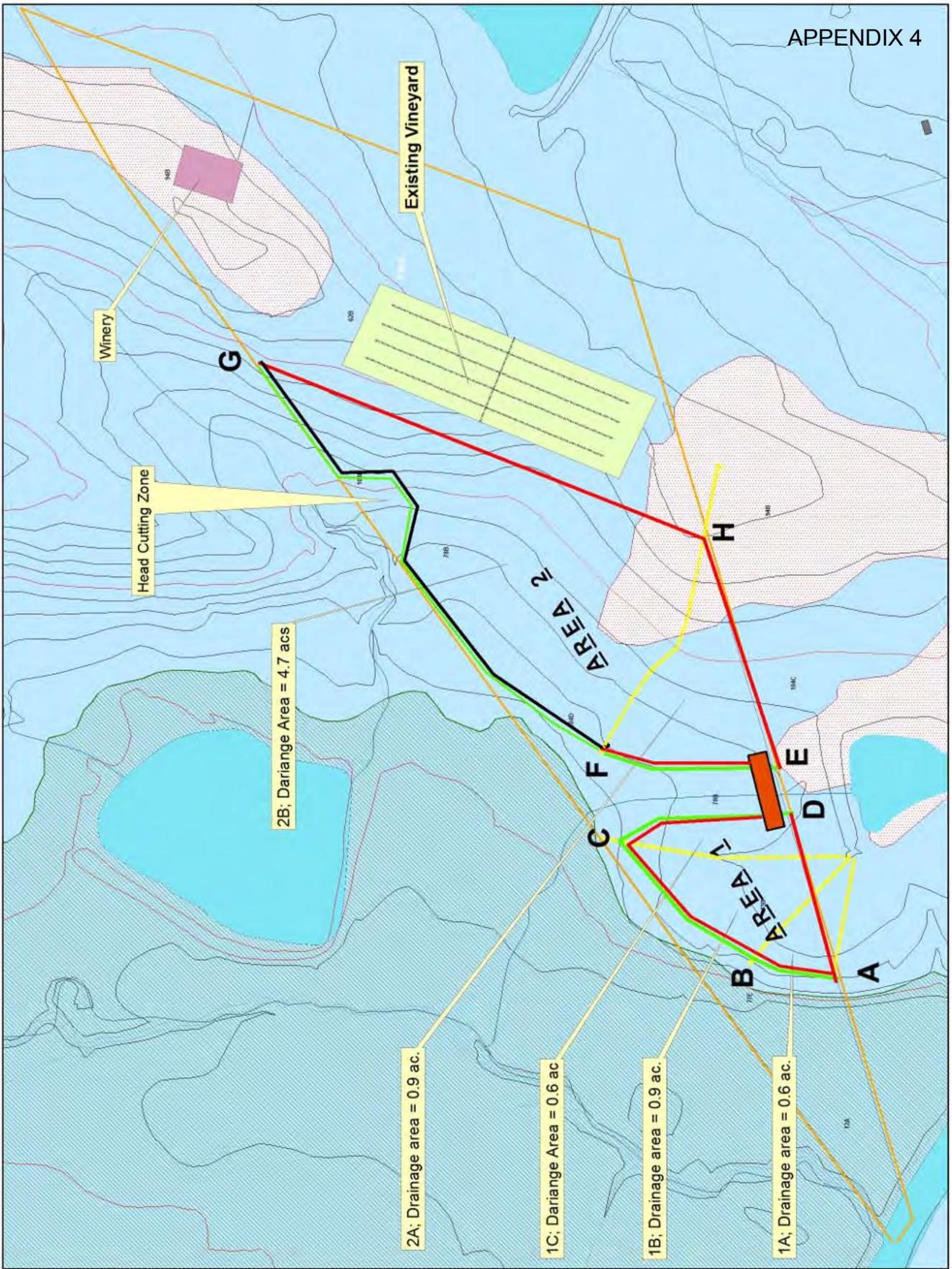
77E - Mattapex

78B - Meadowville

94B - Sycolline-Kelly Complex

104C - Wheaton-Fairfax Complex





The Winery at Bull Run E&E Controls for Vineyard Expansion

Legend:

-  Sub-sited Divides
-  Limits of Clearing
-  Super-silt Fences
-  Silt Fences
-  Wet Area Crossing



MAP LEGEND

- Area of Interest (AOI)**
 - Area of Interest (AOI)
- Soils**
- Soil Rating Polygons**
 - Capability Class - I
 - Capability Class - II
 - Capability Class - III
 - Capability Class - IV
 - Capability Class - V
 - Capability Class - VI
 - Capability Class - VII
 - Capability Class - VIII
 - Not rated or not available
- Soil Rating Lines**
 - Capability Class - I
 - Capability Class - II
 - Capability Class - III
 - Capability Class - IV
 - Capability Class - V
 - Capability Class - VI
 - Capability Class - VII
 - Capability Class - VIII
 - Not rated or not available
- Soil Rating Points**
 - Capability Class - I
 - Capability Class - II

- Capability Class - III
 - Capability Class - IV
 - Capability Class - V
 - Capability Class - VI
 - Capability Class - VII
 - Capability Class - VIII
 - Not rated or not available
- Water Features**
- Streams and Canals
- Transportation**
- Rails
 - Interstate Highways
 - US Routes
 - Major Roads
 - Local Roads
- Background**
- Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:12,000. Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
 Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Fairfax County, Virginia
 Survey Area Data: Version 12, Sep 23, 2014

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Data not available.

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Nonirrigated Capability Class

Nonirrigated Capability Class— Summary by Map Unit — Fairfax County, Virginia (VA059)				
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
1A	Albano silt loam, 0 to 2 percent slopes	4	4.5	5.3%
11C	Catlett gravelly silt loam, 7 to 15 percent slopes	4	7.2	8.4%
11D	Catlett gravelly silt loam, 15 to 25 percent slopes	6	8.9	10.4%
25B	Chantilly-Penn complex, 2 to 7 percent slopes	2	1.0	1.1%
25C	Chantilly-Penn complex, 7 to 15 percent slopes	4	5.8	6.8%
27B	Chantilly-Sycoline-Kelly complex, 2 to 7 percent slopes	2	0.9	1.1%
34A	Dulles silt loam, 0 to 2 percent slopes	4	9.5	11.1%
34B	Dulles silt loam, 2 to 7 percent slopes	4	2.9	3.4%
63B	Jackland and Haymarket soils, 2 to 7 percent slopes	3	0.4	0.5%
63C	Jackland and Haymarket soils, 7 to 15 percent slopes	3	0.8	0.9%
65B	Kelly silt loam, 2 to 7 percent slopes	4	1.9	2.2%
80E	Nestoria channery silt loam, 25 to 45 percent slopes	6	1.5	1.8%
85B	Penn silt loam, 2 to 7 percent slopes	3	6.8	7.9%
85C	Penn silt loam, 7 to 15 percent slopes	4	13.1	15.3%
89A	Rowland silt loam, 0 to 2 percent slopes, frequently flooded	3	4.8	5.6%
94B	Sycoline-Kelly complex, 2 to 7 percent slopes	2	15.6	18.2%
Totals for Area of Interest			85.7	100.0%

Description

Land capability classification shows, in a general way, the suitability of soils for most kinds of field crops. Crops that require special management are excluded. The soils are grouped according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to management. The criteria used in grouping the soils do not include major and generally expensive landforming that would change slope, depth, or other characteristics of the soils, nor do they include possible but unlikely major reclamation projects. Capability classification is not a substitute for interpretations that show suitability and limitations of groups of soils for rangeland, for woodland, or for engineering purposes.

In the capability system, soils are generally grouped at three levels—capability class, subclass, and unit. Only class and subclass are included in this data set.

Capability classes, the broadest groups, are designated by the numbers 1 through 8. The numbers indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows:

Class 1 soils have few limitations that restrict their use.

Class 2 soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.

Class 3 soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both.

Class 4 soils have very severe limitations that reduce the choice of plants or that require very careful management, or both.

Class 5 soils are subject to little or no erosion but have other limitations, impractical to remove, that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.

Class 6 soils have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.

Class 7 soils have very severe limitations that make them unsuitable for cultivation and that restrict their use mainly to grazing, forestland, or wildlife habitat.

Class 8 soils and miscellaneous areas have limitations that preclude commercial plant production and that restrict their use to recreational purposes, wildlife habitat, watershed, or esthetic purposes.

Rating Options

Aggregation Method: Dominant Condition

Component Percent Cutoff: None Specified

Tie-break Rule: Higher

Bettina Ring
State Forester



COMMONWEALTH of VIRGINIA

DEPARTMENT OF FORESTRY

12055 Government Center Parkway

Suite 904

Fairfax VA 22035

703-324-1489

August 19, 2015

AF 2012-SU-001
DOF# FAX08004

Mr. George McDonald
General Manager
The Winery at Bull Run
15950 Lee Highway
Centerville VA 20120

Dear Mr. McDonald,

Thank you for inviting me out to the winery to review the current operations and the proposed expansion of the property. I was particularly pleased by the efforts you have made to remove or control invasive plant species on the property and how you turned these efforts to the advantage of the winery; cleaning out the invasive undergrowth in stand A and turning it into a family area was inspired. I would urge you to continue these efforts as the property expands and pay particular attention to autumn olive, which can seed into the turf in the pastures and vineyards.

This letter serves as an addendum to the Forest Management plan I wrote for the property in September 2012. The attached map is a very rough approximation of the expanded property. The extant forest resources on the addition are much less than shown in the dated aerial view of the map. We did determine that the large pond would not be part of the addition to the existing A&F district. The two new stands, D1 and G, reflect my understanding of what we viewed on the ground.

The forest resources here are very similar to those in stands B and D on the original winery property. They are largely mixed cedar and hardwood, but stand D1 has a greater hardwood component than stand B and D, and stand G has even more hardwood and a large amount of mockernut hickory (*Carya alba*). My recommendation for these stands is the same as for stands B and D: control invasive plants and thin or remove cedars as needed. I would also recommend that you fence horses out of wooded areas as they will chew the bark and damage trees. Also monitor forest edges that horses can approach to keep out cherry and other trees that can harm horses that browse on them.

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

If it is Mr. Hickox intention to keep the land undeveloped, as you suggested in our conversation, I would encourage you to speak to the Northern Virginia Conservation Trust or the Virginia Outdoors Foundation about establishing a conservation easement on the property.

For your convenience I will provide a copy of this letter to the Department of Planning and Zoning to be included in your application. If you have any questions about this plan or trees in general, please don't hesitate to contact me.

Respectfully,

James McGlone
Urban Forest Conservationist

cc: file; DPZ



The Winery at Bull Run

Map for expanded A&F District 2012-SU-001



Boundaries are approximate; not for property determination. Extensive changes in land use since picture was taken.

Map By: James M. McGlone

Report Date: Wednesday, August 19, 2015

Carl E. Garrison III
State Forester



COMMONWEALTH of VIRGINIA

DEPARTMENT OF FORESTRY

12055 Government Center Parkway

Suite 904

Fairfax VA 22035

www.dof.virginia.gov

(703) 324-1489

September 12, 2012

AF 2012-SU-001
DOF# FAX08004

Mr. Jon Hickox
5962 14th Street N.
Arlington VA 22205

Mr. Hickox,

It was a pleasure to walk your property and see the forest resources you have.

Enclosed is a forest management plan for your property, which has been prepared based on your objectives and sound forest management practices. Your property has many natural resource features and outstanding forest resources making it a valuable addition to the Agriculture and Forestal program in Fairfax County.

The aerial photo map accompanying this plan is intended to support the recommendations made and clarify the areas of your property discussed in the plan. They are not intended for determining property boundaries.

If you have any questions about this plan, please contact me.

I am also including a Department of Forestry service agreement for the plan preparation fee. Please sign the form and mail it, along with a check in the addressed envelope included.

Thank You,

James McGlone
Urban Forest Conservationist



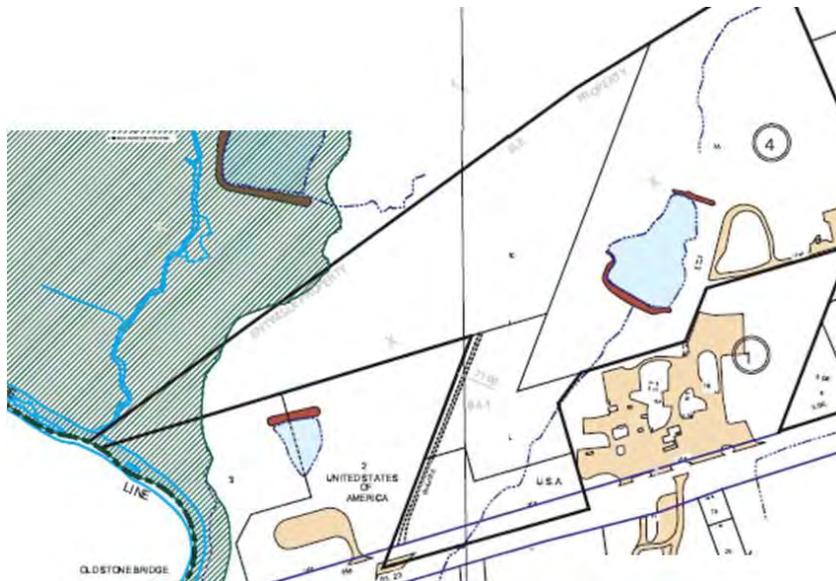
REPORT ON FORESTLANDS
OF
Jon Hickox
5962 14th Street North
Arlington VA 22205

Location: The property is north of the National Park Service Manassas Battlefield, Stone Bridge Unit where U.S. 29 crosses the Fairfax –Prince William county line. This property is A&F number AF 2012-SU-001 and DOF number FAX08004

Examined by: James McGlone, Urban Forest Conservationist

Landowner's Objectives: To maintain a healthy forest that supports wildlife and protects water quality in nearby Bull Run.

Introduction: This is a 21 acre tract that is partly wooded, but contains a vineyard and a winery. The forested area is both bottomland hardwood forest and pioneer eastern red cedar. The property is the Culpeper Triassic basin, is triangular in shape and slopes from the eastern edge to Bull Run at the western point. The western portion is designated as a resource protection area under the Fairfax County Chesapeake Bay Ordinance (see map inset below). This restricts the use of this land and the management of vegetation. See <http://www.fairfaxcounty.gov/dpwes/navbar/faqs/rpa.htm> for more information.



Hickox Property showing Resource Protection area

Land form and Soils: The property is located in the Culpeper Triassic Basin. Triassic basins formed along the mid-Atlantic when the North American continental plate pulled away from the African plate during the breakup of Pangaea. This caused a stretching and cracking of the continental crust, which allowed an upwelling of magma into the crust. Prior to the magma intrusion, the area was covered in sedimentary rock; the magma 'baked' the nearby existing sandstone into metamorphic hornfels. Once the magma cooled, this created a modern geology of the original sandstone, igneous diabase rock dikes and the transitional metamorphic hornfels. This property is located on one of the transitions from a diabase sill, which is being quarried on the south side of US 29 and the original sandstone (see attached soil parent material map).

The upland portion of the site is underlain by Catlett gravelly silt loam and Sykoline-Kelly complex soils. These soils all weathered from the metamorphic hornfels and differ in that the Catlett soils are shallower, stonier, and somewhat better drained than the Sykoline-Kelly soils. The Sykoline-Kelly soils are in the northeast point under the winery and a small lobe on the southern boundary that straddles the power line.

The Bull Run floodplain in the western part of the property is underlain by Rowland soils, which are weathered from sedimentary rock, are deep moderately well to poorly drained, and periodically inundated. There is a section of the north-central part of the property between the floodplain and the ridge that is relatively flat and underlain by Albano soil. Albano soil is poorly drained and can be identified by tall sparse grass in the genus *Elymus* in the forest.

All of these soils are fair to moderately productive and will support pioneer (Virginia pine and eastern red cedar) and mixed hardwood forests.

Water Quality: no erosion was observed on the property. The forest is doing a very good job of protecting water quality by protecting riparian areas along Bull Run.

Invasive species: Overall this forest is generally free of non-native invasive species, but some areas are heavily invaded. The power line is covered in Japanese stiltgrass (*Microstegium vimineum*), which is moving into the forest on either side. This plant seems to be more of an opportunist than an invader and takes advantage of forest sites that are browsed clean of native plants.

Two plants that may be of concern to the winery operation are porcelain berry (*Ampelopsis brevipedunculata*) and autumn olive (*Elaeagnus umbellata*). Both plants are capable of germinating in turf grass, both produce berries that are attractive to birds and both may compete with grape vines, so will need to be weeded out of the vineyard as they occur. In addition, porcelain berry is capable of killing mature trees. I would suggest that these and other non-native invasive species be removed from the property when they occur. I have attached fact sheets on the non-native invasive plants I observed on the property

Deer: the absence of tree regeneration is an indicator of excessive deer browse. Deer management is currently being done on the property to reduce the size of the herd and affect its behavior. More aggressive management will be necessary to improve the condition of the forest. One potential non-lethal strategy to improve wildlife habitat and forest regeneration is discussed in the stand recommendations. If you wish to increase management of the deer herd, contact my office.

Wildland Fire: the presence of eastern red cedar (*Juniperus virginiana*) can significantly increase the wildland fire danger on this property. Green cedar burns well, but is slow to ignite. Standing dead cedar ignites easily and burns very well. Once dead cedar is in contact with the ground, moisture wicked from the soil and soil fungi and bacteria quickly decompose the fine branches and needles, which are the main fire hazard. Clearing or thinning failing cedar stands is a fire mitigation strategy. I should note that the cleared areas and turf grass around the winery building should be competent fire breaking and the danger from the cedar should they ignite would be from blowing embers and sparks.

Developed Area

This area consists of the road, winery, vineyard and parking lot.

There is an alley of pin oaks (*Quercus palustris*) along the road. This is a poor species choice for this site. Pin oaks are a riparian species and not well suited to dry ridge tops. The trees appear to be in poor condition with small crowns and small leaves because of the site. If these trees are replaced I would recommend white oak (*Q. alba*), chestnut oak (*Q. prinus* or *Q. Montana*), post oak (*Q. stellata*) or black oak (*Q. velutina*). As an aside, the wood of pin oak and other members of the red oak group are not suitable for barrel making; the wood is porous and the barrels will leak.

A few of the black cherries (*Prunus serotina*) along the alley are infested with fall web worm. This is a native, generally innocuous pest similar to the eastern tent caterpillars that infest cherries in the spring. In general they do not kill the tree, although repeated and heavy infestations may reduce the vigor of the tree. Nothing needs to be done in response to these pests, although the webs can be pruned out and destroyed for aesthetic reasons.

There are planted trees in the picnic/turf area west of the winery. At present the western exposure of the winery is fully exposed to afternoon sun. I noted with some irony that the two planted trees that are dying are cherries and black cherry is the only tree currently regenerating on the property. Any of the oaks listed above would be suitable for this site, but are fairly slow growing. A fast growing hardwood that should do well here is London planetree (*Platanus × acerifolia*). London planttree is more resistant to some of the diseases that affect sycamores (*P. occidentalis*) in urban areas.

The buffer along the parking lot is in generally good condition. If you wish to plant along the parking lot to improve aesthetics, I would suggest consulting a landscaper.

Recommendation: The trees along the alley and around the winery should be placed under the care of a certified arborist. These trees add to the value of the property, but if they are allowed to become unhealthy, they can become a liability.

Stand A

Forest Type: mixed hardwood, dominated by black walnut (*Juglens nigra*) and black cherry. Heavily infested with autumn olive and porcelain berry.

Quality/Size: The walnuts are mature and may have been planted here. The cherries are young and appear to be volunteers. None appear to be merchantable.

Forest Health: No signs of pests or disease were observed and the existing trees are generally healthy. Walnut twig beetle, the insect vector for thousand cankers disease, has been found in Fairfax County. These walnuts should be monitored for signs of die back and sprouting on lower branches. There is no cure for Thousand Canker Disease, nor does it affect any other tree species, the concern is that if the trees become infected they may become hazards.

The bigger forest health issue is the presence of autumn olive and porcelain berry. These non-native invasive species should be treated to improve the health and viability of the stand.

Recommendation: remove autumn olive and porcelain berry; and monitor the walnuts.

Stand B

Forest Type: Eastern red cedar (*Juniperus virginiana*) with scattered pin oaks and cherries.

Quality/Size: The composition and quality of the forest is poor. Too much competition is impairing the health of the trees.

Forest Health: The cedars are overcrowded and failing. The hardwoods are struggling. There is some regeneration of black cherry in the few opening in the cedars.

Discussion: The cedars are creating a buffer between this property and the next and therefore may be performing as the landowner wishes. One concern with the cedars is that they are very good bird habitat and may attract birds that will then feed on the grapes in the vineyard. The cedars are very crowded and shading each other to the extent that the trees are all slowly dying.

Regardless of the considerations for birds or privacy, they should be thinned out using a crop tree release method. In crop tree release you select the trees with the most live foliage and remove all trees touching them. This gives the selected or crop trees more room to grow. Crop tree release can also be used to improve the vigor of the hardwoods already present in the stand.

If privacy is not an issue, the cedars can be removed to speed up and control succession. They are about 10 years from removing themselves from the landscape as they stand. As the cedars die naturally from windthrow or competition they remain standing and are an extremely good wildland fire fuel.

One thing of note about the stand is the absence of invasive plant species and the presence of many native herbaceous plants.

Recommendation: Thin or remove the cedars depending on the need for a visual buffer.

Stand C

Forest Type: Mixed bottom land hardwood forest. Predominantly pin oak, red maple (*Acer rubrum*) and tulip poplar (*Liriodendron tulipifera*). This forest stand has many of the characteristics of a riparian forest because of the poorly drained Albano soil in this stand.

Quality/Size: Saw timber size of good to poor quality.

Forest Health: the trees here are in good condition, but there is little or no regeneration of the forest. There is some stiltgrass, but few non-native invasives species.

Discussion: The forest here is in generally good shape and meeting the landowner's goals. The lack of regeneration is an indication of overabundant deer.

Recommendation: reduce deer browse in this stand.

Stand D

Forest Type: Eastern red cedar (*Juniperous virginiana*) with widely scattered pin oaks and cherries. Similar to stand B, but more invasive plants, especially stiltgrass spreading off the power line and fewer pin oaks and other hard woods mixed into the stand.

Quality/Size: The composition and quality of the forest is poor. Too much competition is impairing the health of the trees.

Forest Health: The cedars are overcrowded and failing. The few hardwoods are struggling. There is some regeneration of black cherry in the few opening in the cedars.

Discussion: Again, one concern with the cedars is that they are very good bird habitat and may attract birds that will then feed on the grapes in the vineyard. The cedars are very crowded and shading each other to the extent that the trees are all slowly dying.

As in stand C, the cedars should be thinned out using a crop tree release method. Crop tree release can also be used to improve the vigor of the hardwoods already present in the stand. An additional management strategy that can be used here to promote hardwood succession is a modified group select. This involves clearing patches of cedar and instead of removing them from site as would usually be done, stacking them around the edges of the clearing to form a biodegradable fence to keep the deer out until the trees can get established.

As with stand B, the cedars are about 10 years from removing themselves from the landscape as they stand. Removing them now will not materially affect the forest value of the site and will remove a significant fire threat.

Recommendation: Thin or remove the cedars. Where continued forest cover is desirable consider using downed cedars as a biodegradable deer fence.

Stand E

Forest Type: Mixed bottom land hardwood forest. Predominantly pin oak, red maple and tulip poplar. This stand is essentially the same as stand C, except that it is in the Resource Protection Area along Bull Run.

Quality/Size: Saw timber size of good to poor quality.

Forest Health: the trees here are in good condition, but there is little or no regeneration of the forest. There is some stiltgrass, but few non-native invasives species.

Discussion: The forest here is in generally good shape and meeting the landowner's goals. The lack of regeneration is an indication of overabundant deer.

Recommendation: reduce deer browse in this stand.

Stand F

Forest Type: Mixed non-native invasive woody plants.

Quality/Size: Extremely poor quality.

Forest Health: The trees and shrubs here are all considered non-native invasive species.

Discussion: This is a small stand on the west side of the power line next to the vineyard and picnic area. The forest here has no value. These woody plants can be removed mechanically or through the cut stump method, where the plant is cut down and the stump is immediately painted with an herbicide.

Recommendation: Completely clear this area to remove several problem species before they spread.



The Winery at Bull Run

Hickox A&F district AF 2012-Su-001; DOF Tract FAX08004



Boundaries are approximate for illustrative purposes only.

Map By: James M. McGlone

Report Date: Monday, August 27, 2012



FAIRFAX COUNTY PARK AUTHORITY

M E M O R A N D U M

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

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

DATE: 10 September 2015

SUBJECT: AA 2012-SU-SU-001, Jon & Kim Hickox
Tax Map Number: 64-1((4)) 7C

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

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

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

Cultural Resources Impact:

The parcel contains Fairfax County Architecture Site 064-1 A02 (the Entwisle House) and Archaeological Site 44FX3647. In addition, other parts of the property have high probability to contain significant Civil War, Native American, and other historic archaeological sites as the parcel is adjacent to the Bull Run Bridge. It also is within and adjacent to both the Manassas National Battlefield Park Historic District and the Fairfax County Bull Run Bridge Historic Overlay District. If the parcels are ever subject to rezoning or other ground disturbing activities, Fairfax County Policy 204 would require the Applicant to submit an Archaeological Survey Data form and conduct a Phase I archaeological survey.

FCPA Reviewer: Andrea Dorlester / Paul Ngo
DPZ Coordinator: Michael Lynskey

Copy: Cindy Walsh, Director, Resource Management Division
Liz Crowell, Manager, Cultural Resource Management & Protection Section
Michael Lynskey, DPZ Coordinator
Chron File
File Copy



County of Fairfax, Virginia

MEMORANDUM

DATE: October 16, 2015

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: AA 2012-SU-001

SUBJECT: Transportation Impact

REFERENCE: AA 2012-SU-001; Jon & Kim Hickox
Land Identification Map: 63-1, 63-2

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

cc: Michael H. Lynskey, DPZ

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

ARTICLE 1.

In General.

Section 115-1-1. Short title.

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

Section 115-1-2. Policy and purpose.

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

Section 115-1-3. Authority.

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

ARTICLE 3.

District Applications.

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

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

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

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

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

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

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

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

ARTICLE 5.

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

Section 115-5-1. Criteria.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GLOSSARY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FLOODPLAIN: Those land areas in and adjacent to streams and watercourses subject to periodic flooding; usually associated with environmental quality corridors. The 100 year floodplain drains 70 acres or more of land and has a one percent chance of flood occurrence in any given year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RESOURCE PROTECTION AREA (RPA): That component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline or water's edge that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation of the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments from runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. New development is generally discouraged in an RPA. See Fairfax County Code, Ch. 118, Chesapeake Bay Preservation Ordinance.

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

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

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

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

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

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

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

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

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

WETLANDS: Land characterized by wetness for a portion of the growing season. Wetlands are generally delineated on the basis of physical characteristics such as soil properties indicative of wetness, the presence of vegetation with an affinity for water, and the presence or evidence of surface wetness or soil saturation. Wetland environments provide water quality improvement benefits and are ecologically valuable. Development activity in wetlands is subject to permitting processes administered by the U.S. Army Corps of Engineers

TIDAL WETLANDS: Vegetated and nonvegetated wetlands as defined in Chapter 116 Wetlands Ordinance of the Fairfax County Code: includes tidal shores and tidally influenced embayments, creeks, and tributaries to the Occoquan and Potomac Rivers. Development activity in tidal wetlands may require approval from the Fairfax County Wetlands Board.

Abbreviations Commonly Used in Staff Reports

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