



APPLICATION ACCEPTED: April 8, 2016
PLANNING COMMISSION: September 29, 2016
BOARD OF SUPERVISORS: October 18, 2016 @ 3:30 p.m.

County of Fairfax, Virginia

September 14, 2016

**STAFF REPORT
KROP LOCAL AGRICULTURAL
AND FORESTAL DISTRICT
AR 99-D-002-02
DRANESVILLE DISTRICT**



APPLICANT: Lawrence A. Krop
ZONING: R-E
PARCEL: 007-3 ((1)) 30Z, 35Z, 38Z, 42Z, 43Z
LOCATION: 910 Utterback Store Road
SITE AREA: 22.13 acres
PLAN MAP: Residential 0.2 to 0.5 du/ac
PROPOSAL: Renewal of Local Agricultural and Forestal District

STAFF RECOMMENDATIONS:

Staff recommends that Appendix F of the Fairfax County Code be amended to renew the Krop 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/



Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

It should be noted that, while approval of an agricultural and forestal district application qualifies a property for land use value assessment, pursuant to Chapter 115-4-8.c of the County Code, the Department of Tax Administration (DTA) must independently determine, via a separate application filed directly with DTA, if the subject property meets the definition of either agricultural and/or forestal use, and meets the appropriate guidelines contained in Title 58.1 of the Code of Virginia, which is found in Appendix 10.

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

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

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

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

A&F District Renewal

AR 99-D -002-02



Applicant:
Accepted:
Proposed:

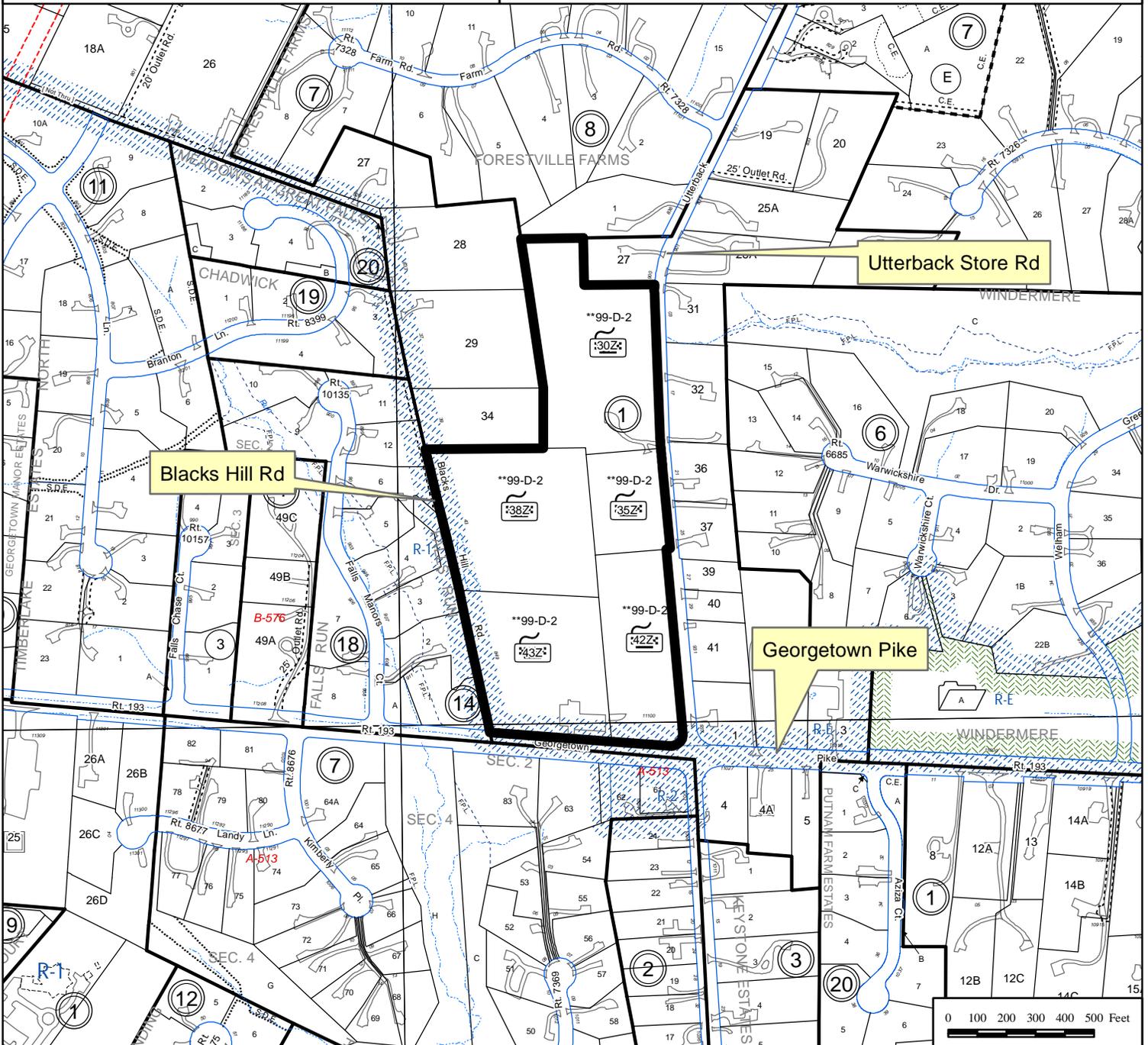
LAWRENCE A. KROP
04/08/2016
RENEWAL OF AGRICULTURAL AND FORESTAL
DISTRICT AF 99-D-002
Area:
22.13 AC OF LAND; DISTRICT - DRANESVILLE

Zoning Dist Sect:
Located:

910 UTTERBACK STORE ROAD, GREAT FALLS, VA 22066

Zoning:
Overlay Dist:
Map Ref Num:

R- E
007-3- /01/ /0030Z /01/ /0035Z /01/
/0038Z /01/ /0042Z /01/ /0043Z



DESCRIPTION OF APPLICATION

AR 99-D-002-02 is a request to renew the Krop Local Agricultural and Forestal (A&F) District for an additional eight-year term (under the provisions of Chapter 115 of the Fairfax County Code). A & F Districts encourage the preservation of significant tracts of agricultural and forested land throughout the County by providing a reduced real estate tax assessment in exchange for a commitment to preserve the land for the length of the term. While certain exceptions are permitted, the land is expected to remain at its present use and development intensity for the extent of the eight-year term. Removal of the district before the conclusion of the term is subject to a penalty and payment of roll back taxes, per the terms in Article 6 of Chapter 115.

Applicant:	Lawrence A. Krop
Acreage:	22.13 acres
Uses:	Active agriculture – 5 acres Forested or undeveloped – 15.13 acres Residential – 2 acres

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

LOCATION AND CHARACTER

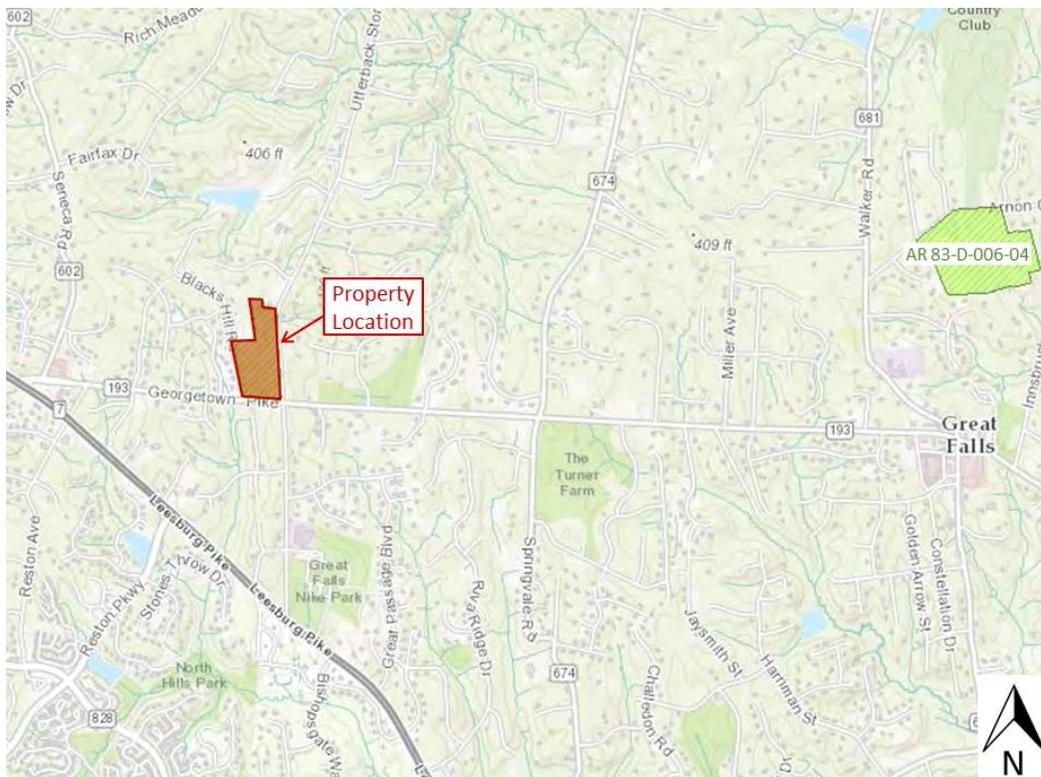


Figure 1: District location map, also showing other nearby A&F Districts.

The 22-acre property consists of five contiguous parcels located along the north frontage of Georgetown Pike (which is designated Virginia Scenic and Historic Byway) and the west frontage of Utterback Store Road, in the Great Falls area.

BACKGROUND

The subject property formed a portion of a large dairy farm until 1977, when the applicant acquired the property and began growing Christmas trees on the property. The applicant operates a seasonal cut-your-own Christmas tree operation and sells produce and eggs from the property at a roadside farm stand. The Krop Agricultural and Forestal District was created on July 26, 1999 and renewed in 2008 for an additional eight-year period. The property has not been substantially altered since the creation of the District.



Figure 2: Aerial view of the property.

Approximately five acres of the site are in agricultural use, 15 acres remain forested or in Christmas tree production, and 2 acres are devoted to the owner’s residence. The farm stand and seasonal Christmas tree lot are located along Georgetown Pike, while the residence is located to the north, with access from Utterback Store Road.



Figure 3: The farm stand, greenhouse, and seasonal Christmas tree lot along Georgetown Pike.

Figure 4: Structures on the Property (from Application Form)		
Structure:	Year Built:	Use:
Owner’s Residence	1976	Residence
Garage	1976	Storage
Chicken House (2)	1980/1998	Hens/Eggs
Tool Shed (2)	1976/2013	Tools
Barns (3)	1976/1996	Hay/Tractors/Mowers
Windmill	1980	Water for Crops



Figure 5: The residential portion of the property and barn.



Figure 6: The farm stand and windmill.

COMPREHENSIVE PLAN PROVISIONS

Plan Area:	Area III
Planning District:	Upper Potomac Planning District
Planning Sector:	UP2 - Springvale
Plan Map:	Residential use at a density of 0.2 to 0.5 du/ac

STAFF ANALYSIS**Land Use Analysis (Appendix 3)**

The Comprehensive Plan generally supports the establishment of agricultural and forestal districts, in order to further Plan goals of preserving the rural and scenic character of low-density areas of the County. The Area Plan for this section of the County calls for it to remain developed with large-lot residential properties and open space, to maintain its existing low-density residential character. Staff feels that continuation of this A&F District would help satisfy the goals of the Comprehensive Plan.

Environmental Analysis (Appendix 3)

The subject property is located in the Nichols Run watershed as well as within the Chesapeake Bay Preservation Area, per the Chesapeake Bay Preservation Ordinance (CBPO). No Resource Protection Areas or Environmental Quality Corridors exist on the site. Agricultural activities within Chesapeake Bay Preservation Areas comply with the CBPO through the development and implementation of a Soil and Water Quality Conservation Plan, in conjunction with the Northern Virginia Soil and Water Conservation District (NVSWCD), and forest management activities comply with the CBPO through development and implementation of a Forest Management Plan, in cooperation with the Virginia Department of Forestry (VADOF) (see the following sections of this report for further analysis of the management plans).

Ordinance Provisions associated with this application require continued conformance with the approved Soil and Water Quality Conservation Plan and Forest Management Plan for the life of the District, which ensures that the natural resources on the site are managed properly and support the environmental goals of the Comprehensive Plan.

Soil and Water Conservation Analysis (Appendix 4)

A Conservation Specialist from the Northern Virginia Soil and Water Conservation District (NVSWCD) visited the site and prepared an updated Soil and Water Quality Conservation Plan for the property (dated June 21, 2016). The Plan contains recommendations for nutrient management, waste disposal, grazing, pest management, and other Best Management Practices (BMPs).

A proposed Ordinance Provision requires continued conformance with the approved Soil and Water Quality Conservation Plan (as may be amended over time) for the life of the District, and specifically requires that the applicant work with NVSWCD to further develop a program to address all recommendations labeled as “critical” in the Conservation Plan within one year of the approval of this application.

Forestry Analysis (Appendix 5)

A Forester from the Virginia Department of Forestry (VADOF) visited the property and found no substantial changes to the site since the last renewal. Continued conformance with the previous Forest Management Plan (dated January 9, 2008) shall be required by the Ordinance Provisions of this renewal.

Transportation Analysis (Appendix 7)

This application does not represent any conflict with the Countywide Plan transportation recommendations and would have no traffic impact. No projects that would affect the site are included in current construction programs. There are no transportation-related concerns with the application.

Parks Analysis (Appendix 8)

The Park Authority supports the renewal of this A&F district as it furthers the Park Authority objective *“to protect and preserve the physical, cultural and natural heritage of Fairfax County for the enjoyment and education of the citizenry”*.

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.*

All district acreage is currently devoted to either agricultural or forestal use, with the exception of approximately two acres of residential use. Therefore, 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-E; therefore, this criterion is satisfied.

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

The property is planned for residential use at a density of 0.2 to 0.5 dwelling unit per acre (du/ac); therefore, this criterion has been satisfied.

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

The Comprehensive Plan designates the surrounding land within one-quarter mile of the district for low density residential use at 0.2 to 0.5 du/ac, 0.5 to 1.0 du/ac, or public parkland. Therefore, this criterion has been satisfied.

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

This property includes only 5 acres in agricultural use (Christmas tree production is considered a forestal use), so the district would not be considered a farm district, and this criterion does not apply (see Criterion 6, below).

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

The district contains 22 acres, comprised of five contiguous parcels under common ownership; therefore this criterion is satisfied.

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.*

The entire site consists of soils of Capability Classes II and III; therefore, this criterion is satisfied.

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

An Ordinance Provision would be carried forward requiring the District to continue to conform to the approved Soil and Water Quality Management Plan for the District (now dated June 21, 2016), which may be updated by the Northern Virginia Soil and Water Conservation District, as needed, for the life of the District. Staff considers this criterion satisfied.

9. *Forest land and undeveloped land in the district should be kept in an undisturbed state, or if periodically harvested or experiencing erosion problems, shall be used in a planned program of soil management, soil conservation, and pollution control practices which are intended to reduce or prevent soil erosion, maintain soil nutrients, and reduce non-point source pollution. Exceptions to this criterion may*

be made only for those lands which upon initial application for the establishment of a district are not used in such a program but for which a conservation plan is being prepared or has been requested from the Northern Virginia Soil and Water Conservation District or the Virginia Division of Forestry.

The District is subject to the recommendations of a Forest Management Plan prepared by the Virginia Department of Forestry (dated January 9, 2008), and would continue to be required to follow that plan with this approval; therefore this criterion is satisfied.

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

The applicants continue to grow Christmas Trees and vegetables on the property for sale to the public, and maintain the site in agricultural and forestal use. 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 produces Christmas trees, vegetables, and eggs on the property for sale to the public; therefore, this criterion is satisfied.

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

The property provides scenic vistas and contributes to the rural, agrarian character of the area. The preservation of approximately 650 feet of frontage on Georgetown Pike (which is a Virginia Scenic Byway), and 1600 feet of frontage on Utterback Store Road serves to protect view sheds from both transportation corridors. The applicant also collaborated with the County to create a portion of the Trail Blazers Horse Trail along the property frontage in 2015. Staff feels that this criterion is satisfied.

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

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

Due to the low density development in the region and the proximity to known heritage resources, there is the potential for undisturbed heritage resources on the site. The District is also adjacent to Georgetown Pike, which was Virginia's first designated Scenic and Historic Byway, and is listed on both the National Register of Historic Places and the Fairfax County Inventory of Historic Sites. The preservation of this District contributes to the rural character of that resource; however, there are no sites within the District which have been identified as historically or architecturally significant, so this criterion is not applicable.

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

The District does not currently feature any unique or particularly effective BMPs. Staff does not consider this criterion satisfied.

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

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

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

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

As previously noted, these criteria serve as a guide in determining whether or not an agricultural district should be established; they are not a prerequisite for establishing a district. It is recommended that all of the criteria in Group A and at least two criteria in Group B should be satisfied. It is the opinion of Staff that this application satisfies all of the Group A criteria and two of the criteria in Group B. Staff considers the guidelines satisfied.

AFDAC RECOMMENDATION

The Agriculture and Forestal District Advisory Committee (AFDAC) will meet on September 20 to review the current application and make a recommendation to the Planning Commission and Board of Supervisors.

CONCLUSIONS AND RECOMMENDATIONS

Staff Conclusions

Staff finds that the proposal to renew the Krop Local Agricultural and Forestal District satisfies the criteria contained in Sect. 115-5-1 of Chapter 115 of the County Code; exceeds the minimum acreage requirement; and remains in conformance with the Comprehensive Plan.

Staff Recommendations

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

It should be noted that, while approval of an agricultural and forestal district application qualifies a property for land use value assessment, pursuant to Chapter 115-4-8.c of the County Code, the Department of Tax Administration (DTA) must independently determine, via a separate application filed directly with DTA, if the subject property meets the definition of either agricultural and/or forestal use, and meets the appropriate guidelines contained in Title 58.1 of the Code of Virginia, which is found in Appendix 10.

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

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

APPENDICES

1. Proposed Ordinance Provisions
2. Application Form / Statement of Justification
3. DPZ Land-Use/Environmental Analysis
4. Soil and Water Quality Management Plan
5. Forest Management Plan
6. DPZ Heritage Resources Memo
7. FCDOT Transportation Memo
8. FCPA Park Authority Memo
9. Fairfax County Code, Chapter 115 – “Local Agricultural and Forestal Districts”
10. State of Virginia Code, Title 58.1, Chapter 32
11. Glossary of Terms

PROPOSED ORDINANCE PROVISIONS
September 14, 2016
AR 99-D-002-02

If it is the intent of the Board of Supervisors to renew the Krop Local Agricultural and Forestal District, as proposed in AR 99-D-002-02 and pursuant to Chapter 44 of Title 15.2 of the Code of Virginia and Chapter 115 of the Fairfax County Code, on Tax Map Parcels 7-3 ((1)) 30Z, 35Z, 38Z, 42Z and 43Z, 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 represented on the application materials associated with this approval and as remains in conformance with the approved Soil and Water Quality Management Plan and Forest Management Plan 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 Plan and Forest Management Plan 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 satisfied.
- (4) That the district shall be reviewed by the Board of Supervisors at the end of the eight-year period and that it may by ordinance renew the district or a modification thereof for another eight-year period. No owner(s) of land shall be included in any agricultural and forestal district of local significance without such owner's written approval.

Additional Provisions

- (5) The applicants shall implement and abide by the recommendations of the Soil and Water Quality Management Plan, prepared by the Northern Virginia Soil and Water Conservation District (NVSWCD) on June 21, 2016 for the life of the Krop Local Agricultural and Forestal District. The Soil and Water Quality Management Plan may be updated from time to time as determined necessary by NVSWCD. The applicant shall also, within one year of approval of this application, work with NVSWCD to develop a supplemental plan to specifically address all recommendations designated as "critical" in said Soil and Water Quality Conservation Plan, to the satisfaction of NVSWCD.
- (6) The applicants shall continue to implement and abide by the recommendations of the Forest Management Plan, prepared by the Virginia Department of Forestry (VADOF) on January 9, 2008, for the life of the Krop Local Agricultural and Forestal District. The Forest Management Plan may be updated from time to time as determined necessary by VADOF. If the applicants choose to harvest the timber on the lands within this Agricultural and Forestal District, such harvesting shall be in coordination with the State Forester, to ensure that appropriate techniques designed to protect water quality are utilized.
- (7) 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.
- (5) 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.

APR 01 2016

Zoning Evaluation Division

Application No. AR 99-D-002-02

APPLICATION FOR THE ESTABLISHMENT OF A
AGRICULTURAL AND FORESTAL DISTRICT

FAIRFAX COUNTY

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

Owner's Name & Address	Tax Map Number	Year Acquired	Zoning District	Acres
LAWRENCE A. KROP	7-3(11)302	1976	RE	6.0
	7-3(11)352	1982	RE	2.0
	7-3(11)382	1984	RE	5.76
	7-3(11)422	1993	RE	3.55
	7-3(11)432	1984	RE	4.82

3. Total acreage in the proposed district: 22.13 acres.
4. Using the definitions on the instruction sheet, indicate the number of properties included in this application: farm _____ forest _____.

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

Name: LAWRENCE A. KROP
Address: 910 UTTERBACK STORC Rd.
GREAT FALLS, VA 22066
Telephone: 703-430-8632

6. Signature of all property owners:


Shirley Donato
Anthony J Donato
Romyne Evami


TO BE COMPLETED BY THE COUNTY

Date application accepted: April 8, 2016 *mpe 4/8/16*

Date of action by Board of Supervisors: _____ *Debrah...*

- 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
RESIDENCE	1976	LIVE IN
GARAGE	1976	STORAGE
CHICKEN HOUSE (2)	1980/1998	HENK/EGGS
TOOLS HED (2)	1976/2013	TOOLS
BARN (3)	1976/1996	HAY/TRACTORS/MOWERS
WINDMILL	1980	WATER FOR CROPS

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:

BARN

HEN HOUSE

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: MAY 18, 1999

If no, has an application been filed with NVSWCD: ___yes ___no

If yes, date submitted: _____

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

Product	Past year's yield	Average yield for previous 4 years
CHRISTMAS TREES		
CORN		
TOMATOES		
POTATOES		
SQUASH, BEANS		
PEPPERS, CUCUMBERS		

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>5</u>	acres.
Forested or undeveloped	<u>15</u>	acres.
Residential uses	<u>2</u>	acres.
Total acreage	_____	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:

___ 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	_____	acres
Christmas tree production and harvesting	<u>15</u>	acres
Firewood production and harvesting	_____	acres
Conservation	_____	acres
Residential uses	<u>2</u>	acres
Other: <u>LOW CROPS</u>	<u>5</u>	acres
Total acreage	<u>22</u>	acres

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

GEORGETOWN PIKE

APR 01 2016

Zoning Evaluation Division

10 March 2016

**Lawrence A. Krop
910 Utterback Store Road
Great Falls, VA 22066**

Department of Planning and Zoning
Zoning Evaluation Division, DPZ
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035-5509

Attn. Mr. Michael H. Lynskey, ASLA

Reference: Expiration of the Krop Local Agricultural and Forest District (AR 99-D-002)

Dear Michael,

Please accept this letter as the required statement of justification to accompany the application to renew my Local Agricultural and Forest District. Please note that we meet all of the applicable listed in "Criteria Group A" and at least two of the criteria in "Criteria Group B" listed in Article 15 of Chapter 15 of the Fairfax County Code.

With reference to the criteria as listed in "Criteria Group A" of Chapter 115, Local Agricultural and Forest Districts, under Article 5, Criteria for Establishment, Modification, Renewal, or Termination of a District, our farm is slightly over 22 acres in size and is currently devoted to agricultural use, except for our residence and other buildings related to agricultural use and occupies less than 5 acres. The land is zoned R-E and is considered appropriate for a district by being zoned 2-5 dwelling units per acre, Agriculture. The majority of land within one quarter mile of ours is planned according to the Comprehensive Plan for uses identified in (a) (3) of Criteria Group A. Although the farm covers several parcels, they are all contiguous, owned by a member of the same immediate family and contain at least 15 acres of land in agricultural use. A conservation plan has been prepared by the Northern Virginia Soil and Water District, and implemented over the past sixteen years. Our farm has been in agricultural use for the past 20 years, showing a history and a commitment to continue as an agricultural district.

With reference to the criteria as listed in "Criteria Group B" of Chapter 115, Local Agricultural and Forest Districts, under Article 5, Criteria for Establishment, Modification, Renewal, or Termination of a District, the farm's products have been produced and sold from the property during the past 20 years. The property also provides an aesthetic quality of views from county roads and contributes to maintaining the existing rural character of the area.

Furthermore, with regards to maintaining a professional and cooperative relationship with Fairfax County, the Krop family participated and cooperated in full with the construction of the Trail Blazers Horse Trail that was built along our property that expands Georgetown Pike in the spring of 2015. The construction project was managed by Fairfax County and constructed by Avon Construction. The area is shown in red ink as a dash line.

With regards to the lack of signature by Mr. Brian M. Kelly, Mr. Brian M. Kelly is deceased.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence Krop", with a large, stylized flourish at the end.

Lawrence Krop

Primary Land Owner of all Parcels



/// = CHRISTMAS TREE PROPERTY
 /// = ALL OTHER USES
 - - - = HOSE TRAIL



RECEIVED
 Department of Planning & Zoning
 12/14/2010
 Zoning Council Meeting



County of Fairfax, Virginia

MEMORANDUM

DATE: September 6, 2016

TO: Barbara Berlin, Director
Zoning Evaluation Division, DPZ

FROM: Denise M. James, Chief *DMJ*
Environment and Development Review Branch, DPZ

SUBJECT: **Land Use and Environmental Assessment for:** AR 99-D-002-02
Lawrence A. Krop

This memorandum, prepared by Mary Ann Welton, includes citations from the Comprehensive Plan that provide guidance for the evaluation of the above referenced application and lists and explains land use guidance and environmental policies for this property. The extent to which the proposed use, intensity, and development plan are consistent with the land use and environmental guidance contained in the Comprehensive Plan is noted.

DESCRIPTION OF THE APPLICATION

The application requests renewal the Lawrence A. Krop Agricultural and Forestal District which is within the Dranesville Magisterial District. The approximately 22.13 acre property is located in the Nichols Run watershed in northwestern Fairfax County in the Springvale Community Planning Sector (UP2) of the Upper Potomac Planning District.

This district is comprised of five contiguous parcels which have been established as an agricultural forestal district since 1999. There is a house, garage, two chicken houses, a tool shed, three barns, and a windmill on the property. The district produces Christmas trees, corn, tomatoes, potatoes, squash, beans, peppers, cucumbers, and pumpkins. It is noted that five acres are in active agricultural uses, fifteen acres are forested or undeveloped, and two are used for residential purposes.

LOCATION AND CHARACTER

The subject property is located in the northern portion of Fairfax County in the Nichols Run watershed and it is zoned R-E (Residential-Estate). The subject property planned for residential use at .2-.5 dwelling units per acre or one dwelling unit per 2-5 acre lots. It is surrounded by land to the north, west and east which is generally planned for residential use at 0.2-0.5 dwelling unit per acre, except for a strip of land situated immediately east of the district which is planned for

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



Barbara Berlin
AR 99-D-002-02
Page 2

residential use at 1-2 dwelling units per acre. Land south of the subject property and Georgetown Pike is predominately planned for residential use at .5-1 dwelling units per 1-2 acre lots.

COMPREHENSIVE PLAN CITATIONS

Plan Map: Residential use at 0.2 to 0.5 du/ac (2 to 5-acre lots)

In the Fairfax County Comprehensive Plan, Area III Volume, 2013 Edition, Upper Potomac Planning District Overview, as amended through October 20, 2015 under the heading, "District-wide Recommendations, Environment," beginning on page 10, the Plan states:

"The northern and southeastern parts of the planning district have a semi-rural character, with a large number of stream valleys and other high quality plant and animal habitat areas meriting preservation. ..."

In the Fairfax County Comprehensive Plan, Area III Volume, 2013 Edition, Upper Potomac Planning District, UP2-Springdale Community Planning Sector, as amended through October 20, 2015 under the heading, "Land Use," beginning on page 38, the Plan states:

- "1. Land use in this sector should continue to reflect and support the established low density residential character of one dwelling unit per two and five acre lots. Public parkland and low density residential uses at .1-.2 dwelling unit per acre and .2-.5 dwelling unit per acre are planned for the area as shown on the Plan map. Several older residential areas along Georgetown Pike are planned at a density of 1-2 dwelling units per acre as a reflection of the typical densities that exist in these areas...."

The Fairfax County Comprehensive Plan, Policy Plan, 2013 Edition, Environment section as amended through July 1, 2014, page 7-8 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 b. Update BMP requirements as newer, more effective strategies become available.

Policy c. Minimize the application of fertilizers, pesticides, and herbicides to lawns and landscaped areas through, among other tools, the development, implementation and monitoring of integrated pest, vegetation and nutrient management plans.

Barbara Berlin
AR 99-D-002-02
Page 3

The Fairfax County Comprehensive Plan, Policy Plan, 2013 Edition, Environment section 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. . . .”

In the Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, Environment, as amended through July 1, 2014, on pages 19 -21 the Plan states:

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

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

LAND USE ANALYSIS

The proposed renewal of this Agricultural and Forestal District is consistent with the goal of the Comprehensive Plan which seeks to maintain the low density residential character of this portion of the County.

ENVIRONMENTAL ANALYSIS

Water Quality Protection and Tree Preservation

There are no Resource Protection Areas (RPA) or Environmental Quality Corridors (EQC) on this property. The applicant indicates that approximately five acres of the property are in active agricultural use, fifteen acres are maintained as a Christmas tree farm and the remaining two acres are in residential use.

Agricultural activities within the County’s Chesapeake Bay Preservation Area comply with the Chesapeake Bay Preservation Ordinance (CBPO) through the development of a Water Quality Management Plan as implemented and administered by the Northern Virginia Soil and Water Conservation District (NVSWCD). A current Soil and Water Conservation Plan has been prepared for this property in coordination with the NVSWCD to accompany the renewal of the district. The applicant has worked with the NVSWCD since the district was created in 1999.

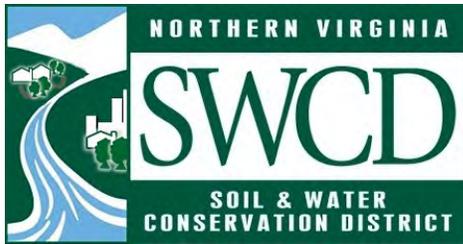
The current plan provides a number of important recommendations related to nutrient management and containment, pasture rotation and pasture improvement techniques, weed management, integrated pest management and record keeping. Staff encourages the applicant to implement the recommendations in the plan to ensure the health and diversity of the district.

Barbara Berlin
AR 99-D-002-02
Page 4

Silvicultural activities comply with CBPO through the development of a Forestry Management Plan as prescribed by the Virginia Department of Forestry's Best Management Practices Handbook for Forestry Operations and prepared in conjunction with the Virginia Department of Forestry. Staff encourages the applicant to work with the Virginia Department of Forestry to ensure that the Forestry Management Plan has been updated for this renewal. The proposed renewal of this Agricultural and Forestal District is consistent with the environmental goals and objectives of the Comprehensive Plan.

Renewal of this Agricultural and Forestal District is consistent with the environmental goals and objectives of the Comprehensive Plan.

DMJ: MAW



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:

Lawrence Krop
910 Utterback Store Road
Great Falls, VA 22066
703-623-7993 (Mobile)

Plan Prepared by:

Willie Woode, Senior Conservation Specialist, NVSWCD

Date:

June 21, 2016

Summary of operation:

This is a 22-acre property located at 910 Utterback Store Road in Great Falls in the Nichol Run Watershed (PL 23). It is mainly kept in Christmas Tree Farm operation. Over the years, fields of Canaan Fir, Douglas fir and Blue Spruce are maintained, harvested and replanted.

Other subsidiary uses include a small vegetable garden, chickens (layers), horse keeping, and Fire wood and mulch production operations. Sales of some of the products are conducted in an onsite store, in the southern most area that fronts Georgetown Pike.

No Chesapeake Bay Resource Protection Area (RPA) is delineated within the property limits. A small dug-out pond exists on site and is maintained. It mainly served the function of trapping sediment, and minor flood control.

An improve horse waste management system should be considered. Manure is currently piled unprotected next to the barn. Pasturing filed for the horses was overgrazed at the time of my visit. Improve pasture and weed management is needed.

Recommended best management practices in this plan include:

- 1) Improved manure management and reuse recommendations, including design recommendations for constructing a multi-cell composting facility
- 2) Techniques for improving pasture management
- 3) Stabilization and grading measures for Heavy Use/Sacrifice Areas.
- 4) Improved nutrient management practices
- 5) Integrated Pest Management (IPM) techniques
- 6) Record keeping recommendation

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

Nutrients will be applied based on soil test results to provide balanced nutrition for best health and growth. Fall/spring split application of fertilizer for older Christmas trees if needed. Spring applications about two weeks prior to bud break allow for adequate movement of the fertilizer into the rooting zone, and should be followed by weed control. Fertilizer should be uniformly applied in 2- to 3- foot band widths between trees along planted rows. **Recommended N rate of 110lb/ac. is equivalent to one ounce of nitrogen per tree assuming a 5 ft. X 5 ft. spacing.** See attached chart showing corresponding quantities of split applications for various species and ages of trees.

For the pasture field recommended fertilizer should be broadcasted preferably in fall

This plan was developed and signed by a Nutrient Management Planner, certified by the Commonwealth of Virginia's Nutrient Management Program.

Fields	Planned			Applied	
	Amount	Month	Year	Amount	Date
Douglas, Canaan Fir Field	2.5 acs.	08	2016		
Canaan Fir and Blue Spruce Field	3.7 acs.	08	2016		
Fir Field	2.0 acs.	08	2016		
Pasture Field	2.0 acs.	08	2016		
Total	10.2ac.				

2) Prescribed Grazing (CRITICAL):

Sub-divide pasture area as illustrated in the farm plan. Graze sections in an intensive rotational manner. Adjust the pasture recovery periods through the grazing season. The grazing period may range from one half to several days. Grazing heights and appropriate recovery periods will be observed throughout the grazing season. Incorporate your Sacrifice area into the rotational system especially when pasture needs a resting period, too soggy and during drought periods. The following recommendations will support a successful prescribed grazing system:

- Use existing sacrifice areas as an essential component of your rotational grazing system. This area must be maintained as described in the attached document to provide safe and healthy use, during drought or saturated soil conditions or during pasture 'rest' periods.
- "Drag" waste on the fields as you see necessary, to help disperse the pile and achieve an even grazing pattern.
- Sub-dividing field as shown in floor plan of farm should help with improving and controlling grazing habits.

Fields	Planned		Year	Applied	
	Amount	Month		Amount	Date
Pasture Field	2.0 acs.	06	2016		
Barn & Sacrifice Areas	0.1 ac.	06	2016		
Total	10.2acs.				

3) Pest Management (595) (Critical)

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		Year	Applied	
	Amount	Month		Amount	Date
Douglas, Canaan Fir Field	2.5 acs.	06	2016		
Canaan Fir &					

Blue Spruce Field	3.7 acs.	06	2016		
Fir Field	2.0 acs.	06	2016		
Veg. Stand & Parking Area	2.5 acs.	06	2016		
Veg. Garden Area	2.0 ac.	06	2016		
Pasture Field	2.0 acs.	06	2016		
Resid. Area	1.5 acs.	06	2016		
Conservation Area #2	1.9 acs.	06	2016		
Pond	0.1 ac.	06	2016		
Chicken coop & Run	0.2 ac.	06	2016		
Barn & Sacrifice Area	0.1 ac.	06	2016		
Total	22.0 acs.				

4) Waste Storage Facility (RECOMMENDED):

Consider constructing a composting facility at the location suggested. Included in this plan is a multi-cell composter that advises of the size for up to six horses, together with an operation and management plan. Properly composting stable-generated waste, and spreading the composted material on the fields as indicated in the nutrient management plan. Properly composted waste has several advantages. It significantly reduces the end volume of waste to be spread; kills pathogens, bacteria, and weed seeds; improves the tilth and water holding capacity of the soil, while also recycling plant nutrients. Spreading of waste on pasture fields should be scheduled at such intervals that ensure the composting facility does not overflow. Spreading should be done only on fields with established pasture, and at a time when pasture growth is at its peak i.e., early spring and fall. Spreading should not be done on snow or frozen soil.

Areas	Amount	Planned		Applied	
		Month	Year	Amount	Date
Composter	One Unit	6	2016		
Total	One Unit				

5) Heavy Use Area stabilization (RECOMMENDED):

Consider incorporating design specifications into the construction of your heavy-use area to ensure good drainage and footing material

protection. Features such as gutters and extended down spouts, geotextiles, kick-board etc. are a few of the specifications to consider. See document on sacrifice area construction and maintenance.

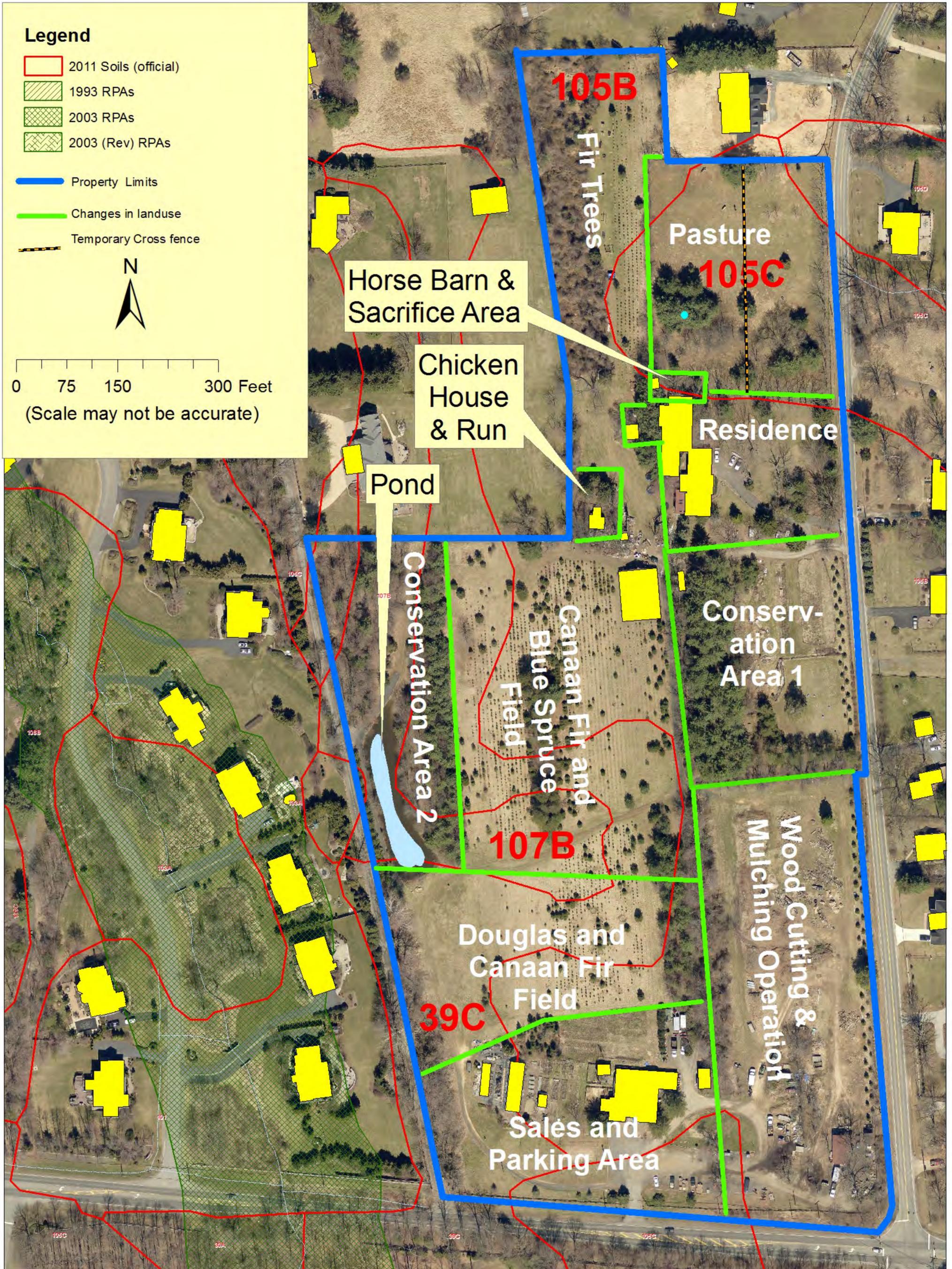
Areas	Amount	Planned		Applied	
		Month	Year	Amount	Date
B & S/A	0.1 ac.	6	2016		
Total	0.1 ac.				

6) Record Keeping (Recommended):

A system of records indicating the dates and applications of nutrients, or pesticides should be developed and maintained.

Fields	Planned Amount Year	Month		Applied Amount Date	
Douglas, Canaan Fir Field	2.5 acs.	06	2016		
Canaan Fir & Blue Spruce Field	3.7 acs.	06	2016		
Fir Field	2.0 acs.	06	2016		
Veg. Stand & Parking Area	2.5 acs.	06	2016		
Veg. Garden Area	2.0 ac.	06	2016		
Pasture Field	2.0 acs.	06	2016		
Residential Area	1.5 acs.	06	2016		
Conservation Area #2	1.9 acs.	06	2016		
Pond	0.1 ac.	06	2016		
Chicken coop & Run	0.2 ac.	06	2016		
Barn & Sacrifice Area	0.1 ac.	06	2016		
Total	22.0 ac.				

Krop A&F District - 910 Utterback Store Road, Great Falls



Bettina Ring
State Forester



COMMONWEALTH of VIRGINIA

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

May 24, 2016

Mr. Lawrence A. Krop
910 Utterback Store Rd.
Great Falls VA 22066

Dear Mr. Krop,

It was nice meeting with you today and walking your property. Based on my notes and the plan I wrote for you in 2008, it appears that not much has changed on the property since my last visit. I did not notice any wild pear this visit, which is good. You should continue to follow the plan I wrote for you in 2008 with two additions.

First, walnut twig beetle has been identified in Fairfax County. This beetle carries a fungus that causes thousand canker disease in black walnuts. At present there is no treatment for this disease and I saw no symptoms in your trees. I have enclosed information on thousand canker disease for you to be aware of. If you do see symptoms in your trees, please contact me so we can document its presence in Fairfax County.

Second we discussed Japanese honeysuckle and blackberries growing in your Christmas tree field. I mentioned that we use triclopyr based herbicides to control broadleaf weeds, shrubs and trees in pine plantations. While triclopyr is relatively safe for conifers, especially the non-pine conifers, it should only be applied after the terminal buds have hardened off in late summer or early fall. Triclopyr is available in over the counter formulations, but these may contain other chemicals that are harmful to conifers. Read the label of any product carefully and completely to be sure it is safe for conifers before buying or applying it to your fields. Follow all label directions carefully and completely; failure to do so is a violation of the law and can result in fines and/or jail time.

If you have any questions about this plan or tree management please contact me.

Respectfully,



James McGlone
Urban Forest Conservationist

cc: DPZ, file
enc.

JAN 10 2008

Zoning Evaluation Division

January 9, 2008

AR 99-D-002
DOF# FAX99002

Mr. Lawrence A Krop
910 Utterback Store Road
Great Falls, VA 22066

Dear Mr. Krop,

It was a pleasure to meet you and walk your property.

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 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.

At the end of the report I have included information about leaf mulching. If you have any questions about this plan, please contact me.

Sincerely,

James McGlone
Urban Forest Conservationist



REPORT ON FORESTLANDS
OF

Mr. Lawrence A. Krop
910 Utterback Store Road
Great Falls, VA 20124

Location: The property is on the northwest corner of the intersection of Georgetown Pike and Utterback Store Road. This property is A&F number AR 99-D-00202

Examined by: James McGlone, Urban Forest Conservationist

Landowner's Objectives: To maintain property as an Agricultural and Forestal District, growing Christmas trees and firewood production.

Introduction: This is a 22.13 acre property Great Falls. It is or has largely been planted in Christmas trees. There are also 5 acres under cultivation.

Soils: The property is underlain by soil series (20) Meadowville, (24) Elioak, and (55) Glenelg. These are deep, well-drained, acidic soils suitable for growing trees, particularly oak (*Quercus* spp.), red maple (*Acer rubrum*), black walnut (*Juglans nigra*), tulip poplar (*Liriodendron tulipifera*) and Virginia pine (*Pinus virginiana*)

Forest Type: The forest resource is dominated by pine, spruce and fir planted as Christmas trees. There are also black walnut, black locust (*Robinia pseudoacacia*), black cherry (*Prunus serotina*), apple (*Malus* spp.) and callery pear (*Pyrus calleryana*). There are landscape specimens around the house as well.

Quality/Size: The trees on the property are mostly pole size or smaller, as appropriate for a Christmas tree farm. There is a grove of white pine (*Pinus strobus*) around the picnic area that are of saw timber size.

Invasive Species: Invasive species are non-native species that form dense monocultures that either force out species or prevent native species from becoming established. These non-native species produce poorer food and habitat for native animals and can reduce the wildlife value of a property. Invasive plants can prevent regeneration of forest by out-competing seedlings and invasive vines can smother and kill mature trees. Multiflora rose (*Rosa multiflora*), Mile-a-minute (*Polygonum perfoliatum*), honeysuckle (*Lonicera* spp.), Oriental bittersweet (*Celastrus orbiculata*) were observed. Porcelain-berry (*Ampelopsis brevipedunculata*) a vine similar to grape vine may also be present. Callery pear and its cultivars are also increasingly being recognized as invasive. I have included fact sheets on these species to aid in identification and control.

Weeds: Weeds are undesirable plants that compete with desired plants for resources. Cherry and pear were observed volunteering in the active Christmas tree area. Walnut, locust, honey suckle and bittersweet were observed in areas with older fir and pine trees that did not sell. Cherry, pear and locust are all will sprout from cut stumps. Locust and possibly pear will also sprout from the roots of a cut tree. Therefore elimination of these species from the tree fields requires spraying with a glyphosate herbicide like Roundup ® or cutting and painting the stump with concentrated glyphosate. Trumpet creeper a native perennial vine was also identified as a problem, this can be controlled in the same way as the trees.

Additionally two weeds, jimson weed (*Datura stramonium*) and cocklebur (*Xanthium strumarin*), were seen in the tomato patch. These are both annual plants so control can be had by pulling after they have germinated. They can also be controlled with an appropriate herbicide. Jimson weed and the seeds and cotyledons of cockleburs are toxic.

Wildlife Habitat: Since most of the trees have not reached maturity, they provide little food, but can be good cover, especially for song birds. A number of different bird species were observed during the visit.

Recreation / Aesthetics: this area is desirable for passive recreation such as walking, photography, bird and wildlife watching.

Recommendations: this area is currently meeting the landowners' objectives. Invasive plants and other weeds may reduce the value of the property for the production of Christmas trees. Control of these undesired plants per the included information is advisable.

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

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

The property owner has an agricultural burn permit from the county. This permit is still subject to the state 4pm law.

§ 10.1-1142. Regulating the burning of woods, brush, etc.; penalties.

B. Except as provided in subsection C, during the period February 15 through April 30 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful, in any county or city or portion thereof organized for forest fire control under the direction of the State Forester, for any person to set fire to, or to

procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire, located in or within 300 feet of any woodland, brushland, or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

Subsection C is an exception for approved prescribed burns and requires a permit from the Department of Forestry.

Requirements for Efficient Decomposition

Decomposition of organic material in the compost pile depends on microbial activity. Any factor that slows or halts microbial growth will also impede composting. Efficient decomposition occurs when the following factors are used to fullest advantage.

AERATION: Microbes need oxygen for efficient decomposition of organic wastes. Some decomposition will occur in the absence of oxygen (anaerobic conditions); however, the process is slow and foul odors may develop. Because of the odor problem, composting without oxygen is not recommended in a residential setting unless the process is conducted in a fully closed system (see plastic bag method on page 5, Composting Structures). The oxygen content inside the pile should ideally range from 16.5% to 20.9%. The key to adequate oxygen is "free air space" within the pile. Initial free air space of 55% to 65% by volume has been proven to work well. Free air space can be measured with a five-gallon bucket and a one-gallon milk jug as shown below.

How to measure free air space in your compost pile: The Five Gallon Bucket Test

Materials needed:

- A five-gallon pail
- A one-gallon plastic milk jug
- Typical mix of materials added to the compost pile (manure, grass clippings, straw, wood chips, shredded bark, etc.)

1. Check the volume of your five-gallon pail by filling the one-gallon jug and emptying it into the five-gallon pail five times. Mark the five-gallon "full line" on the pail.
2. Fill the five-gallon pail one-third full with a typical mix of compost materials and drop the pail ten times from a height of six inches onto a cement floor or sidewalk (being careful to keep all the material in the pail).
3. Add compost to fill the five-gallon pail two-thirds full and drop the pail ten times from a height of six inches onto a cement floor or sidewalk.
4. Add compost to fill the five-gallon pail up to the "full line" and drop the pail ten times from a height of six inches onto a cement floor or sidewalk.
5. Add compost to fill the five-gallon pail to the "full line."
6. Now add and keep track of the amount water you can add to the five-gallon pail before it overflows.
 - If you can add 2.75 to 3.25 gallons of water to the five-gallon pail without it spilling over the top, you have adequate free air space. Your initial free air

space is correct.

- If you cannot add at least 2.75 gallons of water to the five-gallon pail without it spilling over the top, you have inadequate free air space. Add more bulking material like straw, coarse wood chips, or shredded bark.
- If you can add more than 3.25 gallons of water to the five-gallon pail without it spilling over the top, you have too much free air space and you need to reduce the particle size. This can be done by grinding or shredding the materials or by adding finer materials to the mix.

7. Make the needed corrections and retest until the test shows the correct initial free air space.

MOISTURE: Adequate moisture is essential for microbial activity. Dry yard waste will not decompose efficiently. If rainfall is limited you will need to water the pile periodically to maintain a steady decomposition rate. Add enough water to completely moisten the pile, but avoid overwatering. Excess water can lead to anaerobic conditions that slow down the degradation process and cause foul odors. Water the pile so that it is damp, but does not remain soggy. Approximately 50% to 55% moisture is a good starting point.

PARTICLE SIZE: Smaller particles have much more surface area that can be attacked by microbes. Organic material larger than 2 inches will be slow to compost. A shredder can be used before putting material in the pile, and is essential if brush or sticks are to be composted. A low-cost method of reducing the size of fallen tree leaves is to mow the lawn before raking. If the mower has an appropriate bag attachment, the shredded leaves can be collected directly. In addition to speeding up the composting process, shredding reduces the volume of the compost pile. The concern for maximum exposed surface area must always be balanced against the need for adequate free air space. Particles shredded too small will tend to pack and exclude oxygen. Initial free air space of 55% to 65% needs to be established. Free air space can be increased by adding larger pieces to the compost material such as wood chips or shredded bark. To reduce free air space, smaller pieces can be added to the mixture or the original material can be reduced in size by grinding or shredding.

NUTRIENTS: Microbial activity is affected by the carbon-to-nitrogen (C/N) ratio of the organic waste. Because microbes need nitrogen for their own metabolism and growth, a shortage of nitrogen will slow down the composting process considerably. Material high in carbon relative to nitrogen, such as straw or sawdust, will decompose very slowly unless nitrogen fertilizer is added. Tree leaves are higher in nitrogen than straw or sawdust, but decomposition of leaves still benefits from an addition of nitrogen fertilizer. Grass clippings are generally high in nitrogen and enhance decomposition when mixed properly with leaves. Manure, cottonseed meal, or blood meal can be used as organic sources of nitrogen. Otherwise use a high nitrogen-containing fertilizer. You need an initial C/N ratio of about 30 parts carbon to 1 part of nitrogen. C/N ratios below 25:1 may give off ammonia odors and above 35:1 will take longer to compost. Other nutrients such as phosphorus and potassium are necessary, but are usually present in adequate amounts for decomposition.

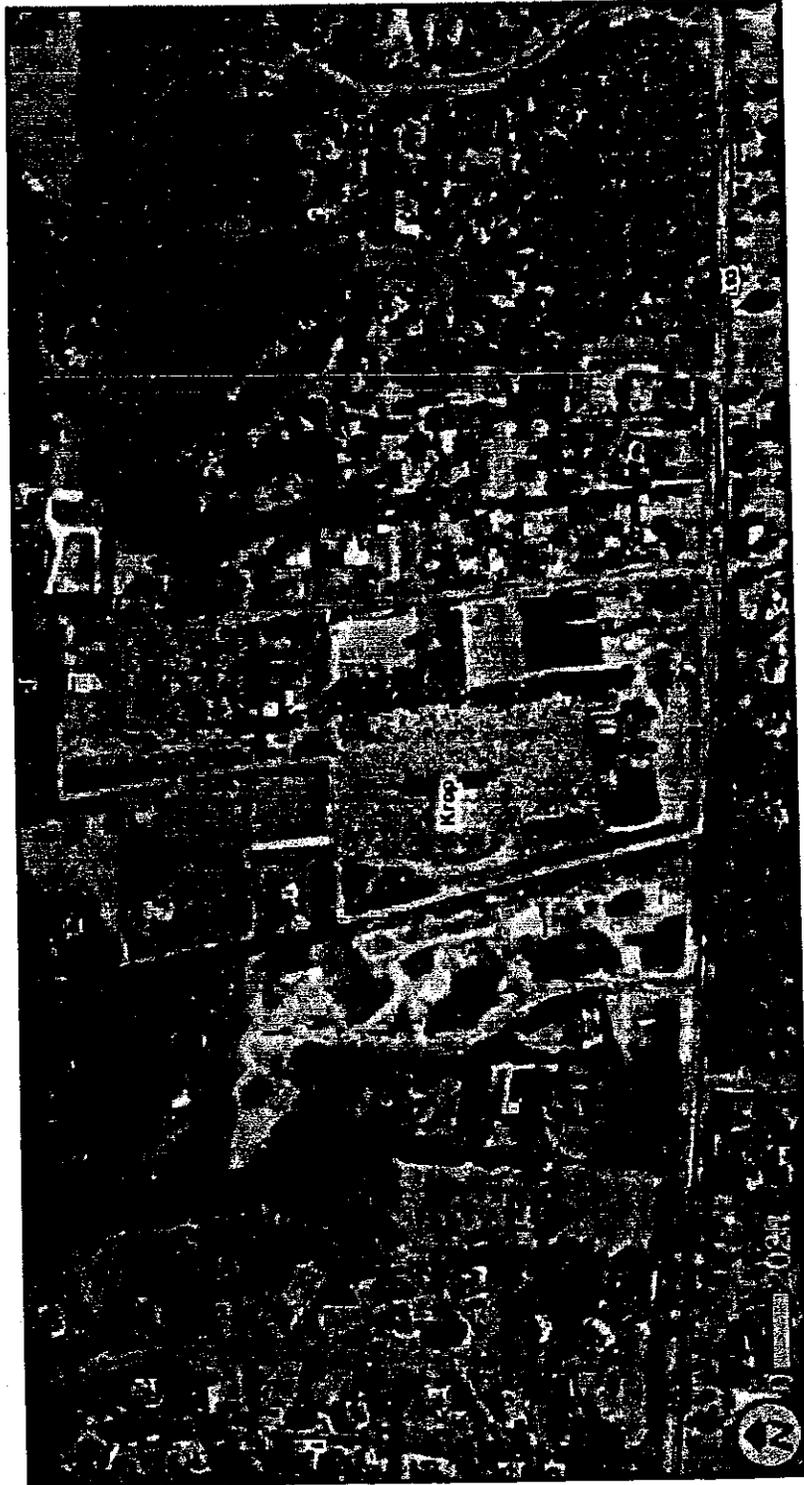
TURNING OR MIXING: Mixing the pile once or twice a month will blend the cold outer edges of the pile into the warmer, more active center of the pile and significantly hasten the composting process. A pile that is not mixed may take three to six times longer before it can be used. A well-mixed compost pile will also reach higher temperatures for longer time periods, which will help destroy more weed seeds and pathogens. Turning a compost pile adds oxygen to the pile, but this effect is often short-lived, lasting from fewer than 24 hours to fewer than 30 minutes. Turning a compost pile simply cannot overcome compost material that does not have enough free air space. To have adequate oxygen in the pile you must have adequate free air space in the material being composted.

During the initial stages of decomposition, organic acids are produced and the pH drops. Some sources suggest adding small amounts of lime to maintain and enhance microbial activity at this time. However, high rates of lime will convert ammonium-nitrogen to ammonia gas, which in turn will lead to the loss of nitrogen from the pile. Research has shown that the loss of nitrogen from the pile often offsets the benefits of lime¹. In general, lime is not necessary for degradation of most yard wastes. The pH of finished compost is usually slightly alkaline without the addition of lime. In many areas, the water used to moisten the compost pile is alkaline and may also help to increase the pH of the compost. If large quantities of acid materials such as pine needles, spruce needles, or fruit wastes are composted, additional lime may be necessary.



Virginia Department of Forestry
Protecting and Developing Healthy, Sustainable Forest Resources

Krop A&F District



Enter Comments Here

Map By:

Report Date: Moneay, January 07, 2008

Generated by the Integrated Forest Resource Information System : Copyright 2004 Virginia Department of Forestry



County of Fairfax, Virginia

MEMORANDUM

DATE: 05/17/2016

TO: Michael Lynskey, ASLA, Zoning Evaluation Staff Coordinator

FROM: Stephanie Goodrich, Historic Preservation Planner

SUBJECT: Heritage Resource Comment

AR 99-D-002-02

910 Utterback Store Road

Tax id #07-3((1))030Z, 07-3((1))035Z, 07-3((1))042Z, 07-3((1))043Z

Lawrence A. Krop

Background: The subject parcel is not included within the boundaries of a Fairfax County Historic Overlay district and is not listed in the Fairfax County Inventory of Historic Sites or The National Register of Historic Places.

However; due to the low density development in the region and the proximity to known heritage resources, there is the potential for undisturbed heritage resources.

Findings:

1. The property owner is to be commended for the dedication to the ongoing stewardship of this property.
2. The low density of this sector means that significant undisturbed heritage resources can be expected anywhere in the sector. The Cultural Resource Management and Protection Branch (CRMPB) of the Park Authority may be able to provide the property owner with information as to whether these parcels have high potential for significant resources if the property owner has not had an opportunity to obtain this information.
3. If the property owner is interested in contacting CRMPB and finds that the property contains undisturbed and significant resources, they may want to consider investigating placing an easement on the property for protection of the significant resources and cultural landscape in perpetuity.
4. The subject parcel(s) are adjacent to Georgetown Pike, which is listed on both the *National Register of Historic Places* and the Fairfax County Inventory of Historic Sites. The property owner is encouraged to maintain the existing character of those adjacent properties.

COMPREHENSIVE PLAN CITATIONS:

Area Plan: Fairfax County Comprehensive Plan, 2013 Edition as amended through October 20, 2015, Area III, Upper Potomac Planning District, UP2 Springvale Community Planning Sector, Character, on page 36, the Plan states:

CHARACTER

“This planning sector is rural in character and consists of residential estates and large-lot subdivisions, undeveloped land and open space... This area is developed as and planned to maintain the very low density character through large-lot residential development. This planning sector is characterized by low-density residential development and open space. The sector has a high potential for significant heritage resources, and is rich in known historic sites. Great Falls Grange and Great Falls Post Office/Forestville School, as well as the John Gunnell House, Gunnell’s Run and Cornwell Farm, are listed in the county Inventory of Historic Sites, Virginia Landmarks Register and the National Register of Historic Places... Georgetown Pike is designated as a Virginia Byway pursuant to Section 33.1-63 of the Code of Virginia, as amended.”

Area Plan: Fairfax County Comprehensive Plan, 2013 Edition as amended through October 20, 2015, Area III, Upper Potomac Planning District, UP2 Springvale Community Planning Sector, Heritage Resources, on page 42, the Plan states:

Heritage Resources

“Any development or ground disturbance in this sector, both on private and public land, should be preceded by heritage resource studies, and alternatives should be explored for the avoidance, preservation or recovery of significant heritage resources that are found. In those areas where significant heritage resources have been recorded, an effort should be made to preserve them. If preservation is not feasible, then, in accordance with countywide objectives and policies as cited in the Heritage Resources section of the Policy Plan, the threatened resource should be thoroughly recorded and in the case of archaeological resources, the artifacts recovered.”

Policy Plan: Fairfax County Comprehensive Plan, 2013 Edition, Policy Plan, as amended through April 29, 2014, Heritage Resources, page 4, the Plan states:

“Objective 3: Protect significant heritage resources from degradation, or damage and destruction by public or private action.”

Policy g. Promote the use of open space/conservation easements to preserve heritage resources. Encourage property owners to place easements on their properties, working with the county, a local non-profit land trust and/or a state or national entity authorized to hold easements for the purpose of heritage resource preservation.”



County of Fairfax, Virginia

MEMORANDUM

DATE: May 31, 2016

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

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

FILE: 3-4 (AF 99-D-002)

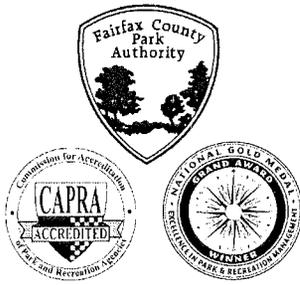
SUBJECT: Transportation Impact

REFERENCE: AR 99-D-002-2; Lawrence A. Krop
Land Identification Map: 7-3 ((1)) 30Z, 35Z, 38Z, 42Z, 43Z

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



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 *ADD for SS*
Park Planning Branch, PDD

DATE: May 25, 2016

SUBJECT: AR 99-D-002-02, Lawrence A. Krop
Tax Map Numbers: 7-3((1)) 30Z, 35Z, 38Z, 42Z, 43Z

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.”

FCPA Reviewer: Paul Ngo
DPZ Coordinator: Michael Lynskey

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

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 January 28, 2016 –
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.

(Code 1950, § 58-769.5; 1971, Ex. Sess., c. 172; 1973, c. 209; 1984, cc. 675, 739, 750; 1987, c. 550; 1988, c. 695; 1989, cc. 648, 656; 1996, c. [573](#); 1998, c. [516](#); 2006, c. [817](#); 2009, c. [800](#); 2012, c. [653](#).)

§ 58.1-3231. Authority of counties, cities and towns to adopt ordinances; general reassessment following adoption of ordinance.

Any county, city or town which has adopted a land-use plan may adopt an ordinance to provide for the use value assessment and taxation, in accord with the provisions of this article, of real estate classified in § [58.1-3230](#). The local governing body pursuant to § [58.1-3237.1](#) may provide in the ordinance that property located in specified zoning districts shall not be eligible for special assessment as provided in this article. The provisions of this article shall not be applicable in any county, city or town for any year unless such an ordinance is adopted by the governing body thereof not later than June 30 of the year previous to the year when such taxes are first assessed and levied under this article, or December 31 of such year for localities which have adopted a fiscal year assessment date of July 1, under Chapter 30 (§ [58.1-3000](#) et seq.) of this subtitle. The provisions of this article also shall not apply to the assessment of any real estate assessable pursuant to law by a central state agency.

Land used in agricultural and forestal production within an agricultural district, a forestal district or an agricultural and forestal district that has been established under Chapter 43 (§ [15.2-4300](#) et seq.) of Title 15.2, shall be eligible for the use value assessment and taxation whether or not a local land-use plan or local ordinance pursuant to this section has been adopted.

Such ordinance shall provide for the assessment and taxation in accordance with the provisions of this article of any or all of the four classes of real estate set forth in § [58.1-3230](#). If the uniform standards prescribed by the Commissioner of Agriculture and Consumer Services pursuant to § [58.1-3230](#) require real estate to have been used for a particular purpose for a minimum length of time before qualifying as real estate devoted to agricultural use or horticultural use, then such ordinance may waive such prior use requirement for real estate devoted to the production of agricultural and horticultural crops that require more than two years from initial planting until commercially feasible harvesting.

In addition to but not to replace any other requirements of a land-use plan such ordinance may provide that the special assessment and taxation be established on a sliding scale which establishes a lower assessment for property held for longer periods of time within the classes of real estate set forth in § [58.1-3230](#). Any such sliding scale shall be set forth in the ordinance.

Notwithstanding any other provision of law, the governing body of any county, city or town shall be authorized to direct a general reassessment of real estate in the year following adoption of an ordinance pursuant to this article.

(Code 1950, § 58-769.6; 1971, Ex. Sess., c. 172; 1973, c. 209; 1974, c. 34; 1975, c. 233; 1977, c. 681; 1978, c. 250; 1984, cc. 92, 675; 1987, c. 628; 1988, c. 695; 1999, c. [1026](#); 2000, c. [410](#); 2001, c. [705](#).)

§ 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.

(Code 1950, § 58-769.6:1; 1976, c. 58; 1984, c. 675.)

§ 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 agricultural purposes, for purposes of engaging in aquaculture as defined in § [3.2-2600](#) or for 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.

(Code 1950, § 58-769.7; 1971, Ex. Sess., c. 172; 1973, c. 209; 1980, c. 75; 1984, cc. 675, 739, 750; 1987, c. 550; 1988, cc. 462, 695; 1989, c. 656; 1990, c. 695; 1991, cc. 69, 490; 2002, c. [475](#); 2003, c. [356](#); 2010, c. [653](#); 2015, c. [485](#).)

§ 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.

(Code 1950, § 58-769.8; 1971, Ex. Sess., c. 172; 1973, cc. 93, 209; 1974, c. 33; 1976, c. 478; 1977, c. 213; 1978, cc. 250, 644, 645; 1979, cc. 180, 632; 1980, cc. 493, 508; 1982, c. 624; 1984, cc. 92, 675; 1988, c. 695; 1993, c. 102; 1999, c. [1026](#); 2001, c. [50](#).)

§ 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.

(Code 1950, § 58-769.8:1; 1980, c. 508; 1984, c. 675; 1994, c. [199](#).)

§ 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.

(Code 1950, § 58-769.9; 1971, Ex. Sess., c. 172; 1984, c. 675.)

§ 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.

(Code 1950, § 58-769.10; 1971, Ex. Sess., c. 172; 1973, c. 209; 1974, c. 34; 1977, c. 323; 1979, c. 179; 1980, c. 363; 1984, cc. 92, 222, 675, 676, 681; 1985, c. 478; 1988, cc. 422, 695; 1990, c. 841; 1992, Sp. Sess., c. 3; 1998, c. [274](#); 1999, c. [1026](#); 2013, c. [269](#).)

§ 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.

(1987, c. 628; 1992, Sp. Sess., c. 3; 1993, c. 584; 2007, c. [813](#); 2011, c. [12](#); 2013, c. [677](#).)

§ 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.

(Code 1950, § 58-769.10:1; 1971, Ex. Sess., c. 172; 1982, c. 624; 1984, cc. 675, 681.)

§ 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.

(Code 1950, § 58-769.11; 1971, Ex. Sess., c. 172; 1976, c. 55; 1979, c. 152; 1984, cc. 675, 739, 750; 1985, c. 448; 1987, c. 550; 1989, c. 656.)

§ 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.

(Code 1950, § 58-769.12; 1971, Ex. Sess., c. 172; 1973, c. 209; 1984, cc. 675, 739, 750; 1987, c. 550; 1989, c. 656.)

§ 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.

(Code 1950, § 58-769.13; 1971, Ex. Sess., c. 172; 1978, c. 385; 1984, c. 675; 1988, c. 695; 2006, c. [221](#).)

§ 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.

(Code 1950, § 58-769.14; 1971, Ex. Sess., c. 172; 1984, c. 675.)

§ 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.

(Code 1950, § 58-769.15; 1971, Ex. Sess., c. 172; 1980, c. 241; 1983, c. 304; 1984, c. 675.)

§ 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.

(Code 1950, § 58-769.15:1; 1971, Ex. Sess., c. 172; 1984, c. 675.)

GLOSSARY

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

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

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

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

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

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

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

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

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

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

-2-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ROLLBACK TAX - Whenever an owner changes the acreage of an eligible tract by splitting off a parcel, or by changing the use of the land to a non-qualifying use, each applicable deferred tax plus annual simple interest at the rate annually applied to delinquent taxes becomes due and payable as a lump sum, known as the rollback tax. The rollback tax is applied to the year in which the use is changed and the previous five years the land was qualified for and assessed at use value rates.

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

UNDEVELOPED LAND - Unimproved or under utilized land. Land containing no structures valued at \$2,500 or more.

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

WILDLIFE HABITAT - Areas which contain the proper food, water, and vegetative cover to support a diverse community of animals, birds and fish; some examples include floodplains, upland hardwoods, pinewoods, meadows and marshes.