

CLARKE COUNTY
Conservation Easement Authority
Friday – 8 December – 10:00 am
A/B & Main Conference Room, 2nd Floor Government Center

AGENDA

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes of the November 9, 2023 meeting
4. Bank Account balances – subject to change
5. Campaign for the Authority
6. PEC updates from Tia Earman
7. Discussion
 - a. November 15th meeting with Mr. Mitchell
 - b. Potential summer interns for 2024
8. Easement Donation/Purchase
 - a. Summary of easement applications/inquiries
 - b. Ruritan fairgrounds– TM 14-A_1 & 14-A-2 – new application - donation
 - c. Anne McDonald – TM 20-A-5A &20-A-5B – donation
 - d. Norman & Joan Fine – TM 30-A-104B – donation
9. Adjournment – The next meeting is scheduled for Friday January 12th at 10:00 am

Clarke County Conservation Easement Authority

Draft - Meeting Minutes

Thursday November 9, 2023 – 10:00 AM

Berryville/Clarke County Government Center – A/B Meeting Room

ATTENDANCE	
Randy Buckley (Chair)	✓
Rives Bacon	✓
Bev McKay	✓
Michelle Jones	✓
John Hedlund	✓
George Ohrstrom (Vice-chair)	x
Walker Thomas (Secretary/Treasurer)	✓

STAFF PRESENT: Alison Teetor, Lorien Lemmon, Robin Couch-Cardillo, Brandon Stidham

CALL TO ORDER: Mr. Buckley, Chair called the meeting to order at 10:00 a.m.

Approval of the Agenda – November 9, 2023:

The Authority voted 6-0-0 to approve the Agenda with the movement of Item 6a. Ruritan easement donation to Item 3.

Motion to approve the Agenda as amended :	
Randy Buckley (Chair)	✓
Rives Bacon	✓ (moved)
Bev McKay	✓
Michelle Jones	✓
John Hedlund	✓ (seconded)
George Ohrstrom (Vice-chair)	x
Walker Thomas (Secretary/Treasurer)	✓

Discussion

a. Ruritan easement donation – fairgrounds

Ms. Teetor reviewed the application from Brad Broy, the president of the Ruritan Club of Clarke County, to put the Clarke County Fairgrounds into easement. The Authority discussed the complexity of this application, as this would be an atypical easement to be held by the Authority. Ms. Teetor noted that other easement holders were suggested to the applicant, but the applicant stated that only a locality would be allowed to hold this type of easement since it would be categorized as a recreational easement. Ms. Teetor also commented that a meeting has been scheduled to discuss this application with the Town of Berryville and that Mr. Mitchell will be relied on heavily for legal guidance if the Authority were to pursue placing the fairgrounds into easement.

Mr. Stidham explained that, due to the fairgrounds being zoned institutional, they are not required to apply for special event permits for conducting the fair or other similar activities. He also mentioned that due to the institutional zoning, there is potential for future re-development of the fairgrounds that could include 540 units of low-to moderate-income housing. Mr. Stidham stated that the Berryville Area Development Authority (BADA) is in the process of updating the Berryville Area Plan and that the land use of the fairgrounds would likely become a discussion item during those meetings.

The Authority discussed the history of the fairgrounds and what would happen to the property if the Ruritan Club disbanded. Chair Buckley voiced his support for an easement on the fairgrounds, even if the Authority was not the easement holder. The Authority discussed the potential interests of the current landowner, the town of Berryville, and the public in regard to the future of the fairgrounds.

Ms. Teetor explained that while this is an active application, it is currently a discussion item until after a meeting with the town of Berryville. The Authority agreed to make a more formal decision on the application at their next meeting in December.

Mr. Stidham shared some background information on the Berryville Area Plan and what the maximum residential capacity would be for the annexation area. He further explained that the number of housing units was determined based on the town’s ability to provide water and sewer to proposed lots. The 540 unit figure for the fairgrounds has been in the Plan for some time and was never programmed into the development capacity of the town. Mr. Stidham noted this gap and voiced his support for addressing this issue during the update of the Berryville Area Plan.

Ms. Jones stated that with land this valuable the IRS will be taking a very close look at the easement transactions. Chair Buckley suggested using additional legal aid in addition to the county attorney. Ms. Teetor mentioned an upcoming meeting with the county attorney and planned to discuss the possibility of an additional attorney reviewing the deed. The CEA discussed the complicated nature of an easement on the fairgrounds and noted that it will take a great deal of legal expertise and time in order to do it properly.

Approval of Meeting Minutes – October 13, 2023:

The Authority voted 5-0-1 to approve the October 13, 2023 meeting minutes as amended with changes requested by the Authority.

Motion to approve Meeting minutes for October 13, 2023:	
Randy Buckley (Chair)	✓
Rives Bacon	✓ (moved)
Bev McKay	abstain
Michelle Jones	✓
John Hedlund	✓
George Ohrstrom (Vice-chair)	x
Walker Thomas (Secretary/Treasurer)	✓(seconded)

Bank Account:

The Authority voiced their appreciation for the explanation of the bank account balances from Ms. Emily Johnson at their previous meeting. Ms. Teetor mentioned that the VDACS funds are now included in the bank summaries so the Authority will be able to track those funds.

Ms. Teetor reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$585,392.83 consisting of \$146,372.38 in the donations account, \$237,223.19 in stewardship/restricted, and \$201,757.26 in local funds. Ms. Teetor explained that the expenditures for October included the summer newsletter and expenditures for the donor BBQ.

Campaign for the Authority:

Ms. Couch-Cardillo stated that donations were \$13,485.00 from 91 donors. Ms. Couch-Cardillo is currently working on the Year-end appeal letter that is set to go out in December.

She also opened the discussion of the 10th Wingate Mackay-Smith Land Conservation Award that will be awarded in January. The Authority discussed potential recipients of the award. The Authority agreed to hold the awards ceremony at the Millwood Country Club on the 12th of January at 11am. Mr. Hedlund agreed to reach out to the Country Club and arrange the ceremony and Ms. Teetor agreed to contact the potential recipients of the award.

Ms. Couch-Cardillo reported that the CEA had a new donor, Mr. Joe Pascal from Bluemont.

Report on Easement Donations/Purchases:

a. Summary of easement applications/inquiries

Ms. Teetor gave a broad overview the current status of active applications and inquires for easements. She explained the updated map and table used to track easements that are in various stages.

b. Anne McDonald – new application – donation

The Robert McDonald Trust, Anne McDonald, Trustee has applied to the easement authority for approval of an easement donation. The property is located in the 2000 block of Old Winchester Road 1,800’ east of the intersection with Ginns Road. There are 2 properties: tax map 20-A-5A, 80 acres with 4 remaining DURs, and 20-A-5B, 7.99 acres with 1 remaining DUR. Both properties are vacant. The properties are primarily open pasture for hay and grazing. The property is within the Chapel Rural Historic District. The applicant would like to retire 3 of the 4 remaining DURs located on TM# 20-A-5A. No DURs will be retired on 20-A-5B.

Ms. Teetor explained that both parcels scored highly with the 80 acre parcel having a property resource score of 60.4 and the 7.99 acre parcel having a property resource score of 50.2. She explained that points were given for having frontage on Old Winchester Rd, being adjacent to existing easements, being located in the groundwater recharge area and, for the larger parcel, retiring 3 DURs.

She then explained that Dr. McDonald would like to do a Boundary Line Adjustment (BLA) with her neighbors, David & Marti Bryant, that have their land held in easement with Virginia Outdoors Foundation (VOF). The BLA would consist of transferring approximately 60 acres of TM# 20-A5-A to the Bryant’s property, after the 3 DURs are retired, leaving approximately 20 acres with 1 DUR. The Bryant property easement was recorded with VOF in 1976 and has few restrictions in comparison to today’s standards. Based on discussion with VOF staff the best option would be for the Clarke County Conservation Easement Authority to assume the Bryant easement in order to update that easement to conform to current easement practice.

Ms. Teetor then described the legal complication of performing boundary line adjustments on easements and explained that the code references a ‘disputed boundary line’ requirement in order for them to occur. She also noted the logistics of creating a 60 acre parcel with zero DURs before the proposed BLA with the Bryant property. Ms. Bacon suggested that, if the BLA was not possible, that the 80 acre parcel retain 1 DUR and only retire 2 in order to conform to the CEA policy on zero DUR easements.

The Authority voted 6-0-0 to approve the preliminary application of the McDonald donation and request staff to schedule a site visit.

Motion to grant preliminary approval of the McDonald easement donation	
Randy Buckley (Chair)	✓
Rives Bacon	✓ (moved)
Bev McKay	✓
Michelle Jones	✓
John Hedlund	✓ (seconded)
George Ohrstrom (Vice-chair)	x
Walker Thomas (Secretary/Treasurer)	✓

c. Ray Barbehenn – TM 32-4-A – donation

Mr. Barbehenn submitted an application for an easement donation in October. The property is located on the east side of Mount Carmel Road directly across from the intersection with Calmes Neck Lane approximately 2 miles north of Route 50. The parcel is identified as Tax Map# 32-4-A, consisting of 38.39 acres, with 3 DURs. The property is wooded and vacant. The property is adjacent to or in the proximity of 3 other parcels owned by the Barbehenn family totaling over 273 acre. The applicant would like to retire all 3 remaining DURs.

Ms. Teetor explained that while researching the 2 adjacent easements owned by the Barbehenn family she found that those easements were not held by the Virginia Outdoors Foundation (VOF) but by the Potomac Appalachian Trail Club (PATC). She noted that PATC is not authorized to hold conservation easements and that these properties are actually held in an appurtenant easement which is legally different from the Virginia definition of a current conservation easement.

She then relayed her conversation with Mr. Barbehenn where she suggested the CEA take over the PATC easements in order to rearrange the DURs on the 3 parcels through a Boundary Line Adjustment but Mr. Barbehenn declined the offer. She also noted that he was quite adamant about retiring all 3 DURs, leaving the 38 acre parcel with zero DURs. Ms. Teetor asked the Authority if they would still consider holding an easement on this property and Ms. Jones noted the amount of thought and consideration put into the no zero DUR policy adopted by the CEA. Ms. Teetor suggested that other easement holders may be a better fit for this property.

Mr. McKay left the meeting at 10:50 am.

d. Joan Fine - TM 30-A-104B – new application – donation

Ms. Teetor provided an update on the Fine application and noted that the site visit was conducted on October 26th. Ms. Fine plans to do a Boundary Line Adjustment with her adjoining property before recording the easement. Ms. Teetor explained that Ms. Fine requested to be exempt from the CEA building envelope policy. Ms. Teetor further explained that no DURs will be extinguished and so Ms. Fine would not be taking advantage of tax credits. She described Ms. Fine’s plans to eventually sell the property and her desire to not hinder where the new owner may want to build.

The Authority discussed the potential vulnerability of the landowner and the CEA to investigations by the Internal Revenue Service (IRS) if the Authority were to allow this type of exception to the building envelope policy. Ms. Teetor stated that she would continue to work with Ms. Fine on the inclusion of the building envelope policy on the potential easement.

e. Joe & Tamara Myer – TM 23-A-55 – application – donation

Ms. Teetor described conversations with the applicants about a potential discrepancy in the number of DURs and exemptions for the property. She had provided the applicant with enough evidence that they agreed to move forward with the easement.

f. Michael & Wendy Gregg – easement donation TM# 24-4-1

Ms. Teetor provided an update on the Gregg application which experienced a brief hiatus. Ms. Gregg approached Ms. Teetor with renewed interest in placing her property into easement and reported that the title search would be available soon.

Adjournment

There being no further business, the Authority agreed to adjourn the meeting at 10:57 AM. The next Clarke County Easement Authority meeting is scheduled for December 8th, 2023 at 10 AM in the A/B conference room, Government Center, Berryville.

The Authority voted 5-0-0 to adjourn the November 9, 2023 meeting at 10:57 AM.

Motion to adjourn to the November 9, 2023 meeting at 10:57 AM.	
Randy Buckley (Chair)	✓
Rives Bacon	✓(moved)
Bev McKay	x
Michelle Jones	✓
John Hedlund	✓
George Ohrstrom (Vice-chair)	x
Walker Thomas (Secretary/Treasurer)	✓(seconded)

Randy Buckley, Chair

Lorien Lemmon, Clerk to the Authority

JAS - E Johnson
 AS OF 11/30/23

FY2024 - FY23 NOT FINAL

Fund 235 - Conservation Easement Balances

	Total Fund Balance	Donations (128)	Stewardship/Restricted Funds Account (210)	Local Funds (000)
SOY FY24	560,145	144,891	241,636	173,618
Fiscal Year 2024				
July Rev/AR		2,006	352	277
July Exps/AP		-500	-2,700	0
Aug Rev/AR		207	0	10,551
Aug Exps/AP		-929	-2,065	0
Sept Rev/AR		790	0	14,342
Sept Exps/AP		-1,644	0	-40
Oct Rev/AR		3,575	0	3,675
Oct Exps/AP		-2,024	0	0
Nov Rev/AR		16,946	0	2,419
Nov Exps/AP		-5,542	0	-208
Dec Rev/AR				
Dec Exps/AP		0	0	0
Jan Rev/AR				
Jan Exps/AP		0	0	0
Feb Rev/AR				
Feb Exps/AP		0	0	0
Mar Rev/AR				
Mar Exps/AP		0	0	0
Apr Rev/AR				
Apr Exps/AP		0	0	0
May Rev/AR				
May Exps/AP		0	0	0
June Rev/AR				
June Exps/AP		0	0	0
YTD Rev/AR	55,139.73	23,523.85	351.51	31,264.37
YTD Exps/AP	15,403.08	10,638.40	4,764.68	247.50
Adjustments				
YTD FUND BALANCE (AR & AP)	599,882.11	157,776.86	237,223.19	204,634.56

Emily Johnson:
 \$10,161.77 Rollback tax

Emily Johnson:
 14,342.33 Rollback Tax

Emily Johnson:
 \$3,675.47 Rollback Tax

Emily Johnson:
 \$2,418.76 Rollback Tax

ESTIMATED YTD FUND BALANCE **599,634.61** **157,776.86** **237,223.19** **204,634.56**

FY24 Expenditure Appropriations	Appropriated	Actual Expenses	Appropriated Balance Remaining
General Expenses	90,000	15,403	74,597
	90,000	15,403	74,597

Clarke County:
 includes expenses not specifically designated to an easement (including donation, stewardship and monthly Hall, Monahan expenses).

Through 11/30/23

Conservation Easement Expense Detail - FY24

	Donations (128)	Stewardship (210)	Local Funds (000)
<u>July</u>	500.00 Clarke County Ruritans Sponser at Fair	2,700.00 CEA Landscape Govt subscription	
	<u>500.00</u>	<u>2,700.00</u>	<u>0.00</u>
<u>August</u>	190.47 Postage 178.98 Winchester Printers CEA mailing labels 560.00 Robin Couch Cardillo July 2023	444.68 Mileage Emma Coutts 1,620.00 Summer Intern CEA	
	<u>929.45</u>	<u>2,064.68</u>	<u>0.00</u>
<u>Sept</u>	233.56 Winchester Printers Envelopes 450.00 Gloria Marconi Summer CEA 2023 960.00 Robin Couch Cardillo August 2023		40.00 Legal Services August
	<u>1,643.56</u>	<u>0.00</u>	<u>40.00</u>
<u>Oct</u>	41.49 Postage 816.23 Winchester Printers 2023 CEA BBQ 1,166.15 Winchester Printers Summer 2023		
	<u>2,023.87</u>	<u>0.00</u>	<u>0.00</u>
<u>Nov</u>	2,725.00 Bank of America CEA Dinner 450.00 Gloria Marconi Fall CEA Newsletter 1,230.00 Winchester Printers Fall Newsletter 1,136.52 Robin Couch Cardillo CEA Newsletter		207.50 Hall, Monohan Sept/Oct Legal Fees
	<u>5,541.52</u>	<u>0.00</u>	<u>207.50</u>
YTD Totals	<u><u>Donations</u></u> <u><u>10,638.40</u></u>	<u><u>Stewardship</u></u> <u><u>4,764.68</u></u>	<u><u>Local Funds</u></u> <u><u>247.50</u></u>

VDACS

As of 11/30/2023

Close Date	Project	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY2023	FY2024	TOTALS
		use by June 30, 2019	use by June 30, 2020	use by June 30, 2021	use by June 30, 2022	use by June 30, 2023	use by June 30, 2024	use by June 30, 2025	use by June 30, 2026	
		\$86,950.00	\$61,615.23	\$75,738.77	\$58,333.00	\$54,000.00	\$156,476.00	\$175,000.00		\$668,113.00
November 2018	Sprouse	-\$31,104.00								
February 2019	Opequon Cattle	-\$55,846.00	-\$696.00							
May 2019	Rowland		-\$38,148.50							
October 2019	Coleman		-\$21,448.00							
June 2020	Expired		-\$1,322.73							
July 2021	Moon			-\$40,717.75						
December 2021	RSP			-\$35,021.02	-\$48,435.98					
May 2022	Murphy				-\$9,897.02	-\$54,000.00	-\$17,519.05			
August 2022	Dupuy						-\$20,981.50			
June 2023	Pippy						-\$26,140.50			
TOTAL REMAINING		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$91,834.95	\$175,000.00		\$266,834.95



ROBIN COUCH CARDILLO

November 30, 2023

Clarke County Conservation Easement Authority
Fundraising Report
December 2023 meeting

Donor Statistics

See attached Master Report

- 2023 year-to-date total: \$16,206.00 from 101 donations

Ongoing

-Year-end appeal

- In the works; goes out early December

-Wingate Mackay-Smith Land Conservation Award

- Finalizing for January 12 at 12:00 pm, following 11:00 am regular Authority meeting
- Millwood Country Club confirmed (thanks, John H!)
- Tupper and Wendy Dorsey and Family proposed as recipients – confirmed?
- Food/beverage – Locke Store? Other?
- Since this will be the 10th award, do we want to have a special sidebar? Possibilities: Invite back previous award winners? Spotlight several “pioneers” who conserved land in the county before the Authority existed (discussed at last meeting)? Gift a piece of artwork to the county in recognition of support and to display prominently (publicity value)? Other?

-New donors

- One first-time donor this month

Wingate Mackay-Smith Land Conservation Award Winners

- 1st - Winkie Mackay-Smith
- 2nd - Holy Cross Abbey
- 3rd - Sliding-scale zoning pioneers (Pete Dunning, Bob Mitchell, Bob Lee, Margaret Maizel)
- 4th - Melvin Kohn
- 5th - Joe and Denise Sipe
- 6th - Michael Hobert
- 7th - Cool Spring Battlefield/Shenandoah University
- 8th - Chuck Johnston
- 9th - Pru Anderson

Fundraising Results: Clarke County Conservation Easement Authority

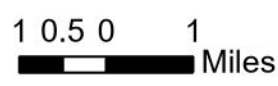
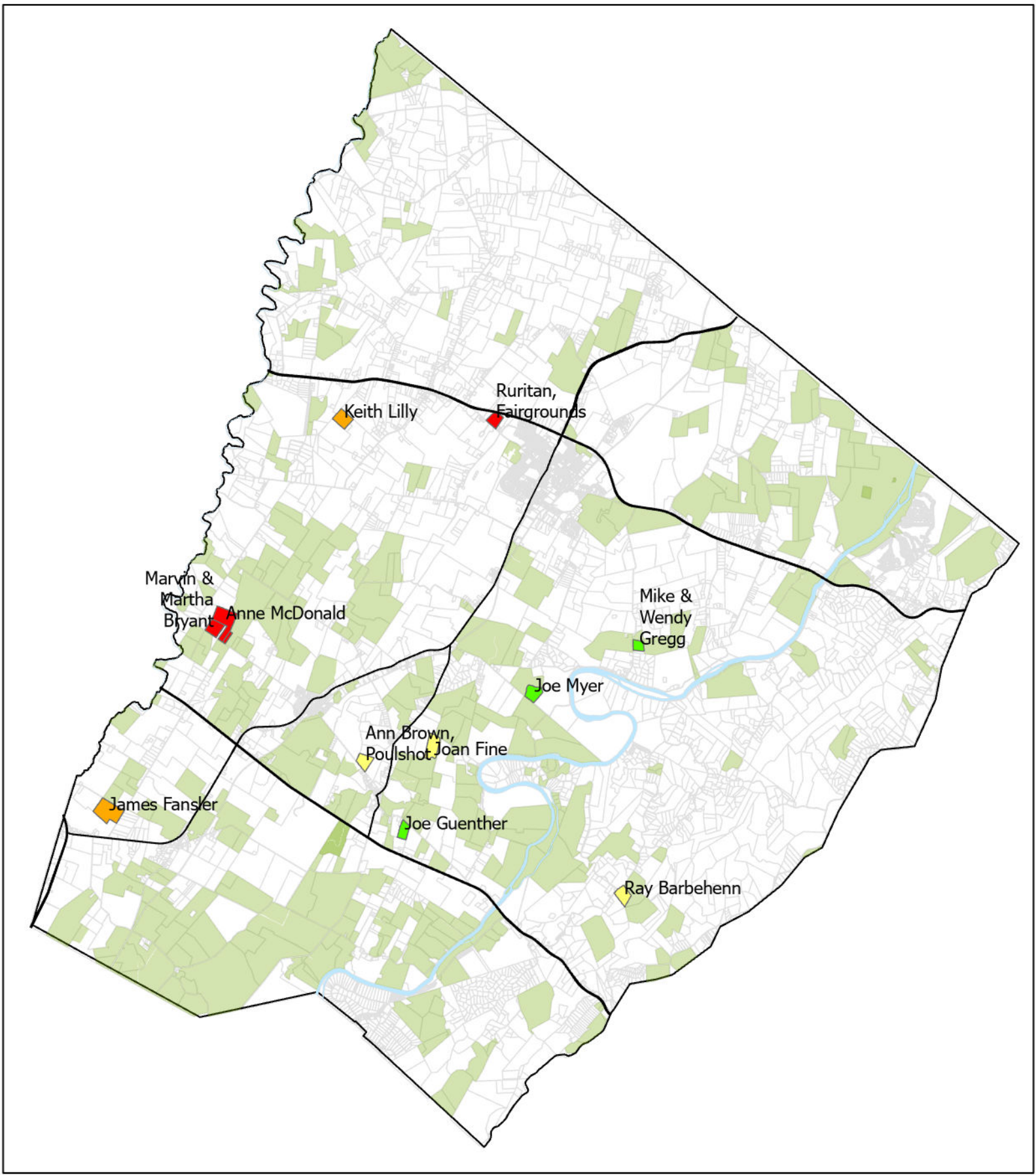
as of November 30, 2023

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Amount	\$42,266	\$36,260	\$57,356.00	\$24,778.00	\$26,101.00	\$34,815.28	\$38,230.00	\$36,822.80	\$37,739.00	\$35,967.00	\$16,206.00
# Donations	200	169	158	164	169	169	167	209	206	201	101
YE Donor Appeal	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
YE Donor Appeal Amount	\$15,706	\$17,635	\$47,003	\$15,665	\$7,577	\$16,755	\$16,710	\$16,232	\$16,915	\$17,887	
Donor Respondents	69	51	61	47	48	58	52	73	73	83	
YE Prospect Amount		\$1,650	\$104	\$25	\$325	\$2,200	\$200	\$120	\$350	\$175	
Prospect Respondents		3	2	1	3	4	3	2	1	3	
Winter Newsletter	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Dollar Amount	\$4,805	\$3,335	\$2,700	\$2,228	\$2,815	\$4,920	\$2,668	\$3,105	\$1,710	\$4,371	\$1,875
Respondents	39	26	25	29	39	29	32	43	22	28	16
Spring Newsletter	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Donor: Dollar Amount	\$1,975	\$3,705	\$3,420	\$2,725	\$2,810	\$1,600	\$2,500	\$2,762	\$8,650	\$3,131	\$3,975
Donor: Respondents	28	26	27	19	23	15	23	18	44	27	16
taxpayer Spring Newsletter: Dollar Amt	\$165	\$1,380	\$100	\$75	\$1,150	\$550	\$2,045	\$615	\$130	\$250	\$525
taxpayer Spring Newsletter: Respondents	4	9	1	3	8	3	6	6	2	4	6
Summer Newsletter	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Dollar Amount	\$5,040	\$3,215	\$1,927	\$2,115	\$3,110	\$4,480	\$2,135	\$5,260	\$6,445	\$4,088	\$4,625
Respondents	22	27	22	28	20	38	23	30	31	22	31
(new)									3	1	1
Fall Newsletter	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Donor: Dollar Amount	\$2,660	\$2,325	\$1,250	\$600	\$3,870	\$220	\$2,925	\$6,244	\$1,380	\$3,095	\$1,721
Donor: Respondents	27	14	3	6	11	4	11	16	11	8	9
taxpayer Fall Newsletter Dollar Amt	\$240	\$760		\$325	\$1,200	\$100	\$100	\$410	\$450		\$1,000
taxpayer Fall Newsletter: Respondents	5	5		5	4	1	1	5	5		1
Over the Transom	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Dollar Amount	10,500	\$1,550	\$257	\$362	\$2,230.00	\$3,970	\$8,665	\$1,980	\$1,709	2,970	2,485
Donor Respondents	2	2	3	12	7	17	10	14	14	25	21
Donor Thank-You Party	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Dollar Amount	\$1,175	\$705	\$595	\$638	\$710						
Donor Respondents	4	6	14	14	6						
Photo Revenue				\$ 20							
Notecards					\$304		282 (6)	94.80 (2)			
Gift-in-Kind (admin work donated by Kate Petranech)	\$469										

Memorandum

To: Conservation Easement Authority
 From: A. Teetor, L. Lemmon
 Subject: Status update - active easement applications/inquiries
 Date: November 27, 2023

Active Applications						
Name	Tax Map#	Address	Acres	DURs retired	Type	status
Joe Myer	23-A-55	1689 Briggs Rd.	40.21	2	donation	Ready to record
Joe Guenther	30-A-17 30-A-29	Millwood Road	31.43 .5	1	donation	Ready to record
Michael & Wendy Gregg	24-4-1	2483 Parshall Rd	21.49	0	donation	Waiting on 60 yr title search – otherwise ready to record
Joan Fine	30-A-104B	516 Clay Hill Rd	40.58	0	donation	Request final approval – pending due to building envelope policy conflict
Ray Barbehenn	32-4-A	Mount Carmel Rd	38.39	3	donation	Request final approval - pending due to zero DUR conflict
Anne McDonald	20-A-5A 20-A-7	Old Winchester Road	80 8	3	donation	Preliminary approval 11/9 – BLA and possible temporary zero DUR parcel before merging w/neighbors – site visit put on hold
Ruritan - Fairgrounds	14 A 1	890 W Main St	34.32	0	donation	New application – pending town and legal discussions
Ann Brown, Poulshot	29-A-17A	Millwood Road	34	2	DUR purchase	purchase offer approved by CEA, applicant reviewing draft deed
James Fansler	27-A-3	225 Nations Spring Road	88.95	3	Grant purchase	Full ALE application submitted 10/31 NRCS site visit scheduled for 12/15
Keith Lilly	12-A-37B	Triple J Road-access	43	2	Grant purchase	Full ALE application submitted 10/31 NRCS site visit scheduled for 12/15



Clarke County GIS
November 27, 2023



- Ready to Record
- Waiting on Owner
- Waiting on Grants
- New Application

	Record	Owner	Grants	New	Total
Acres	92	124	132	157	505
Retired DURs	4	5	6	3	18
Donations	3	2	0	3	8
Purchases	0	1	1	0	2

MEMORANDUM

TO: Clarke County Conservation Easement Authority'
FROM: Alison Teetor
DATE: November 30, 2023
SUBJECT: Clarke County Ruritans Fairground – easement donation application

Staff has received an easement donation application from the Clarke County Ruritans to place the fairgrounds in conservation easement. The property consists of 2 parcels – Tax Map# 14-A-1, 34.32 acres, and 14-A-2, 13.14 acres, zoned Institutional (ITL).

Brook Middleton, Manager, Virginia Easement Exchange, LLC, provided some background information, which was distributed at the last meeting regarding the approach to the potential open-space easement on the Clarke County Fairgrounds. He describes the conservation easement as coming under the Open Space Land Act to protect recreation uses rather than the tradition open space/conservation uses we typically protect.

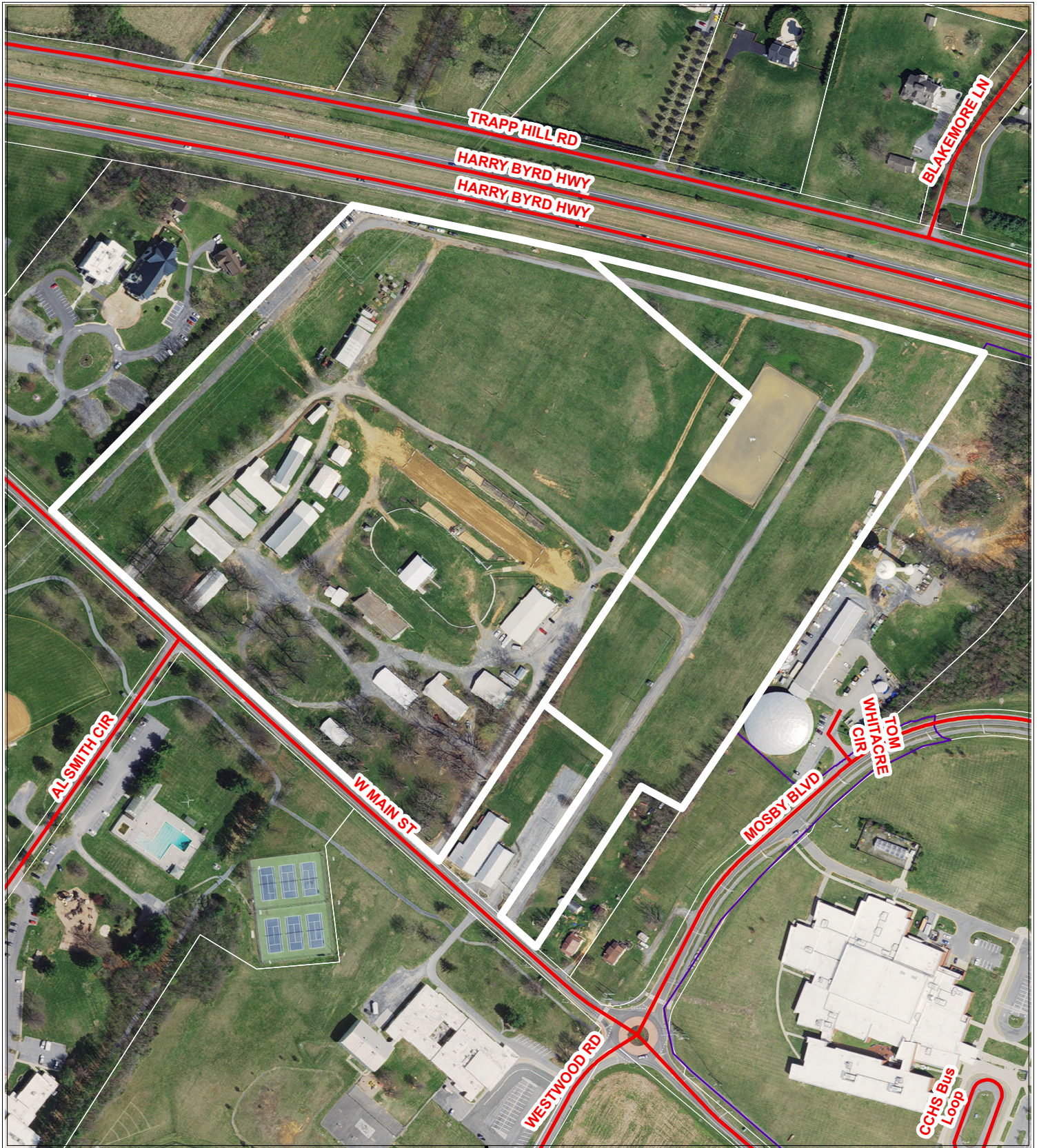
On November 29, Mr. Stidham, Ms. Lemmon, and Ms. Teetor met with Christy Dunkle, Community Development Director for the Town of Berryville. It was anticipated that Mr. Keith Dalton, Town Manager, would attend but he was not present. Ms. Dunkle did not offer an opinion as to whether or not the Town would support the application but stated that it was within the Annexation area.

In addition staff spoke with Suzan Bulbulkaya, Land Conservation Manager, for the Department of Conservation and Recreation. She provided the attached information on the Land Preservation Tax Credit Review Criteria they follow for projects claiming more than \$1M in tax credits. The projects they review have to meet one of the eight conservation purposes. Most projects meet at least one of the criteria. In her opinion the project may fall under #5 Natural-Resource Based Outdoor Recreation or Education on page 5 of 11.

In addition the question of who could hold the easement was raised. Again, Ms. Bulbulkaya stated that if the Ruritan's are interested in filing for the Land Preservation Tax Credit program land trusts can hold the easement. (It is just the VLCF grant program that requires a public body co-holder.) For tax credits, they would still have to go through DCR review if they claim more than \$1M. So there is still the issue of meeting one of the conservation purposes set out in the criteria.

Questions for the applicant include:

- 1) Have you reached out to other potential easement holders to determine they can hold an easement on the fairgrounds?
- 2) Can you confirm and provide evidence that you meet the Land Preservation Tax Credit Review Criteria if claiming tax credits is one of the objectives of the easement?
- 3) How can you insure long-term non-profit status for the property owner if the Ruritans were to disband?



Ruritan Fairgrounds - zoned Institutional (ITL)
 Tax Map# 14-A-1, 34.32 acres
 Tax Map# 14-A-2, 13.14 acres

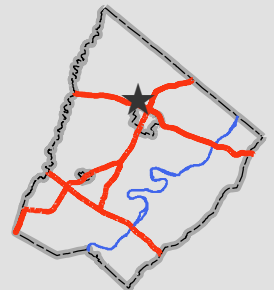
Date: 11/2/2023
 Clarke County GIS



200 100 0 200 Feet



-  FairgroundsExport_Output
-  Myer Property Boundary
-  Public Roads
-  Parcel Boundary



1 **VIRGINIA LAND CONSERVATION FOUNDATION**
2 **Land Preservation Tax Credits – Conservation Value Review Criteria**
3 **Adopted November 21, 2006 and amended August 7, 2008 and March 27, 2009**
4

5 As of January 1, 2007, the Department of Conservation and Recreation (DCR) became
6 responsible for conducting reviews of the conservation value of applications requesting \$1
7 million or more in state Land Preservation Tax Credits (LPC). This responsibility was given to
8 DCR by the Governor and the Virginia General Assembly pursuant to the 2006 amendments to
9 the Virginia Land Conservation Incentives Act of 1999 (Virginia Code § 58.1-512).
10

11 This document sets out the Land Preservation Tax Credit Criteria (criteria) adopted by the
12 Virginia Land Conservation Foundation (VLCF) in November of 2006 and amended in August of
13 2008 and March of 2009, pursuant to Virginia Code § 58.1-512(D)(3), that the Director of the
14 Department of Conservation and Recreation (DCR) will use to verify to the Department of
15 Taxation in advance of Taxation issuing a LPC, the conservation value of donated land or
16 conservation easements or other less-than-fee interests in land that result in tax credit
17 applications that claim \$1 million or more in credits from a donation equal to or greater than \$2.5
18 million. Any land transaction claiming less than the \$1 million tax credit does not require a DCR
19 review.
20

21 Donors whose applications for tax credits are verified for conservation value by DCR should be
22 aware that they remain responsible for full compliance with applicable federal and state
23 requirements. Donations certified as compliant with the criteria will remain subject to later audit
24 by the Virginia Department of Taxation. In addition, donors claiming federal tax incentives will
25 remain subject to audit by the Internal Revenue Service.
26

27 Donations of land in fee simple
28

29 To qualify for a tax credit, any donation of a fee simple interest in real property to a public or
30 private conservation agency (including a bargain sale) that involves a tax credit application for
31 \$1 million or more must be documented with adequate information demonstrating that the
32 agency's ownership of the land provides conservation value to the Commonwealth in
33 accordance with the requirements of Va. Code § 58.1-512.
34

35 The donee or holder must provide documentation that subsequent conveyances of the fee
36 interest in the property shall protect the conservation values of the property in perpetuity.
37

38 Donations of less-than-fee interests in land
39

40 To qualify for a tax credit under Virginia Code § 58.1-512, any donation of a less-than-fee
41 interest in real property (known more commonly as a "conservation easement") that involves a
42 tax credit application for \$1 million or more must meet the conservation values criteria set out in
43 Sections A, B, and C below:
44

- 45 ▪ Conservation purpose [The primary purpose(s) for which the conservation easement is
46 being donated];
- 47 ▪ Public benefit; and
- 48 ▪ General water quality and forest management.
- 49
- 50
- 51

52 A. **Conservation Purpose:** The donated land or conservation easement must be conveyed for
53 at least one of the following eight Conservation Purposes, pursuant to Virginia Code § 58.1-
54 512(A) and in part to Federal Code [26 U.S.C. § 170(h)(4)] and attendant Internal Revenue
55 Regulations § 1.170A-14. The applicant can select as many Conservation Purposes as they
56 wish to have evaluated, but is only required to have one verifiable Conservation Purpose to
57 meet the DCR review. Each category within this section includes “safe harbors” that are
58 characteristics of the land or uses of the land that will automatically meet the conservation
59 purpose for that category.

60
61 Donations of land or conservation easements expressly given for one or more conservation
62 purposes outlined in this section of the Criteria (as listed below in A.1 through A.8) that are
63 accepted or approved by the Virginia Outdoors Foundation, the Department of Historic
64 Resources, the Department of Forestry, the Department of Conservation and Recreation, or
65 the Department of Game and Inland Fisheries will be presumed to meet the conservation
66 purpose contained in this section.

67
68 Easements must protect the conservation purpose indicated in perpetuity. Lands indicated
69 to have a conservation purpose of either agricultural or forestal use are not required to
70 remain in agricultural or forestal production, however the easement must ensure that
71 agricultural or forestal use remains a viable option in perpetuity.

72
73 1. Agricultural Use. A land area of five contiguous acres or more devoted to production for
74 sale of plants or animals under standards prescribed by the Commissioner of Agriculture
75 and Consumer Services, or land devoted to a soil conservation program under an
76 agreement with an agency of the federal government.¹

77
78 a. The following lands will meet the safe harbors for conservation purpose for the
79 agricultural use category.

80
81 (1) Land that a county, city or town has designated as real estate devoted to
82 agricultural or horticultural use for purposes of use value assessment and
83 taxation pursuant to Virginia Code § 58.1-3230.

84
85 (2) Land that is part of an agricultural or agricultural and forestal district pursuant to
86 Virginia Code § 15.2-4300 or § 15.2-4400.

87
88 (3) Land that the governing body of any county, city or town, with the cooperation of
89 the United States Department of Agriculture, has designated as important
90 farmland within its jurisdiction pursuant to Virginia Code § 3.1-18.5(B).

91
92 b. Other lands will meet the criteria for this category, if the taxpayer demonstrates the
93 conservation purpose of the land for agricultural uses by, for example, demonstrating
94 significant income derived from agricultural activities conducted on property as set
95 forth on Schedule F of the taxpayer’s federal income tax return.

96
97 2. Forestal Use. Land used for tree growth and maintained as a forest area.

98
99 a. For the purposes of this category, “land used for tree growth” means an area that
100 meets one of the following conditions:²

¹ 2 VAC 5-20

² 4VAC10-20

- 101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
- (1) The land contains existing, well distributed, and commercially valuable trees. Land used for tree growth that has been recently harvested of merchantable timber, is regenerating into a new forest, and has not been developed for non-forest use will qualify.
 - (2) The land has trees but is not capable of growing a commercial timber crop because of inaccessibility or adverse site conditions such as steep outcrops of rock, shallow soil on steep mountainsides, excessive steepness, heavily eroded areas, coastal beach sand, tidal marsh and other site or environmental conditions.
- b. The following lands, if used for tree growth, will meet the safe harbors for conservation purpose for the forestal use category.
- (1) Land that contains 20 acres or more and that a county, city or town has designated as real estate devoted to forestal use for purposes of use value assessment and taxation pursuant to Virginia Code § 58.1-3230 et seq.
 - (2) Land that is part of a forestal or agricultural and forestal district pursuant to Virginia Code § 15.2-4301 or §15.2-4401.
 - (3) Land that contains 20 acres or more of forest area and that is adjacent to lands owned or managed by the United States Forest Service or the Virginia Department of Forestry.
 - (4) Land that contains less than 20 acres of forest area, provided that the land has greater than 50% canopy coverage and has been certified by the State Forester in consultation with the local city or county arborist, if such a position exists within the locality, as important to the establishment and preservation of urban forests, pursuant to Va. Code § 10.1-1105.
- c. Other lands will meet the criteria for this category, if the applicant demonstrates the conservation purpose of the land for forestal use.
3. Natural Habitat and Biological Diversity. Land that contains significant natural habitats and/or ecosystems that support native plant and animal species and protect a relatively natural habitat of fish, wildlife, plants, or similar ecosystems, including natural areas and natural heritage resources as defined below.
- a. For the purposes of this category, the following definitions apply.
 - (1) Natural area – any area of land, water, or a combination thereof, that retains or has reestablished its natural character, though it need not be completely natural and undisturbed; or which is important in preserving rare or vanishing flora, fauna, native ecological systems, geological, natural historical, scenic or similar features of scientific or educational value benefiting the citizens of the Commonwealth.³

³ Virginia Code § 10.1-209

- 150 (2) Natural heritage resource – The habitat of rare, threatened, or endangered plant
151 and animal species, rare or state significant natural communities or geologic sites
152 (including karst), and similar features of scientific interest, as identified by the
153 Department of Conservation and Recreation’s Virginia Natural Heritage
154 Program.⁴
155
- 156 (3) Significant natural habitat– Areas that represent high quality examples of a
157 terrestrial community or aquatic community; caves, or areas which are included
158 in, adjacent to, or which contribute to the ecological viability of a local, regional,
159 state, or national park, nature preserve, wildlife refuge, wilderness area or other
160 similar conservation area.
161
- 162 b. The following lands will meet the safe harbors for conservation purpose for the
163 natural habitat and biological diversity conservation category.
164
- 165 (1) Lands identified in writing by the Department of Conservation and Recreation’s
166 Virginia Natural Heritage Program as either containing or necessary to protect
167 natural heritage resources.
168
- 169 (2) Lands identified in writing by the Department of Game and Inland Fisheries as
170 significant wildlife habitat, the protection of which would further implementation of
171 the Comprehensive Wildlife Conservation Strategy (also known as Virginia’s
172 Wildlife Action Plan).
173
- 174 (3) Undeveloped lands located within or adjacent to local, regional, state or federal
175 lands managed primarily for their natural habitat and biological diversity.
176
- 177 c. Other lands will meet the criteria for this category, if the applicant demonstrates the
178 conservation purpose of the land for natural habitat and biological diversity.
179
- 180 4. Historic Preservation. Land that contains historic landmarks, including buildings,
181 structures, objects, sites, and landscapes, that constitute historic, archaeological, and
182 cultural resources of significance as determined by the Virginia Department of Historic
183 Resources. Visual or other access by the general public on a periodic basis is required
184 to qualify under this category.⁵
185
- 186 a. The following properties will meet the safe harbors for conservation purpose for the
187 historic preservation category.
188
- 189 (1) Properties individually listed in the Virginia Landmarks Register or the National
190 Register of Historic Places.
191
- 192 (2) Properties that have been determined by the Virginia Department of Historic
193 Resources to be eligible for listing in the Virginia Landmarks Register and/or
194 recommended for listing in the National Register of Historic Places.
195
- 196 (3) Properties that are contributing resources within historic districts that are listed in
197 the Virginia Landmarks Register and/or National Register of Historic Places.
198

⁴ Virginia Code §10.1-209

⁵ 26 CFR §1.170A-14(d)(5)

- 199 (4) Any battlefield that meets the above standards and/or is listed by the Civil War
200 Sites Advisory Commission Report of 1993, as amended.
201
- 202 b. Other properties will meet the criteria for this category if the applicant demonstrates
203 the conservation purpose of the resource for historic preservation and provides
204 documentation from the Virginia Department of Historic Resources to support such a
205 claim.
206
- 207 5. Natural-Resource Based Outdoor Recreation or Education. Lands primarily devoted to
208 and used for natural-resource based outdoor recreation by, or education of, the general
209 public. Access for substantial and regular use by the general public is required to qualify
210 under this category.⁶
211
- 212 a. For the purposes of this category, land primarily devoted to and used for natural-
213 resource based outdoor recreation or education means parks, trails, greenways or
214 similar recreational areas, open for public use, except any use operated primarily as
215 a business with intent for profit.⁷ Examples include a water area for the use of the
216 public for boating or fishing, or a nature or hiking trail for the use of the public.⁸
217
- 218 b. Lands will meet the criteria for this category if the applicant demonstrates the
219 conservation purpose of the land for natural-resource based outdoor recreation or
220 education, such as lands identified in the Virginia Outdoors Plan.
221
- 222 c. The following lands will not meet the conservation purpose for natural-resource
223 based outdoor recreation or education:
224
- 225 (1) Lands where development (for example, buildings, roads, or parking lots) covers
226 more than 15% of the land protected by the conservation easement (paved trails
227 and boardwalks are excluded from this calculation).
228
- 229 (2) Lands used for commercial recreational or amusement places, such as athletic
230 fields or stadiums, driving ranges, golf courses, private beaches or pools,
231 marinas, motor speedways, drag strips, or amusement parks.
232
- 233 (3) Private membership clubs, including golf or country clubs, private beaches or
234 pools, or lands available for use only for residents of an associated development
235 or subdivision (that is, not the general public).⁹
236
- 237 6. Watershed Preservation. Substantially undeveloped land that, by virtue of its size or by
238 virtue of its location adjacent to rivers, streams, or other waterways, serves to protect
239 water quality and/or quantity, hydrological integrity, riparian and/or aquatic habitat, or
240 public drinking-water supplies. Examples, defined below, include floodplains, wetlands,
241 vegetated buffers, sinking streams, and groundwater recharge areas.
242
- 243 a. For the purposes of this category, the following definitions apply.
244

⁶ 26 CFR §1.170A-14(d)(2)

⁷ 4VAC5-20-20(A)

⁸ 26 CFR §1.170A-14(d)(2)

⁹ 4VAC5-20-20(A)

- 245 (1) Floodplains – Lands that are used for the passage or containment of waters,
 246 including the floodplains or valleys/side slopes of streams that are or may be
 247 subject to periodic or occasional overflow, such as floodplains identified by
 248 engineering surveys by the U.S. Corps of Engineers, the Federal Emergency
 249 Management Agency, or others. Floodplains also include coastal lowlands, such
 250 as bays, estuaries or ocean shores, subject to inundation by storms or high
 251 tides.¹⁰
 252
- 253 (2) Wetlands – Lands with characteristic hydric soils that are inundated or saturated
 254 by surface or ground water at a frequency or duration sufficient to support, and
 255 that under normal conditions does support, a prevalence of vegetation typically
 256 adapted for life in saturated soil conditions.¹¹
 257
- 258 (3) Vegetated buffers – An area of land along a river, perennial stream, wetland, or
 259 other waterway where natural vegetation is maintained and degradation by
 260 livestock is prevented.
 261
- 262 (4) Groundwater recharge areas – Lands that, by virtue of a combination of
 263 topography, soils, and underlying geology are important to the recharge of local
 264 or regional groundwater supply and have been identified as such by local, state,
 265 or federal agencies.
 266
- 267 (5) Sinking streams – Perennial or intermittent streams that sink into the underlying
 268 karst features.
 269
- 270 b. The following lands will meet the safe harbors for conservation purpose for the
 271 watershed preservation category.
 272
- 273 (1) Lands containing significant wetland acreage mapped on the U.S. Fish and
 274 Wildlife Service’s National Wetland Inventory or other wetlands with delineations
 275 approved by the U.S. Army Corps of Engineers and/or the Virginia Department of
 276 Environmental Quality.
 277
- 278 (2) Lands containing vegetated buffers of at least 100 feet in width with substantial
 279 frontage on all perennial streams or rivers, wetlands, lakes, or tidal waters.
 280
- 281 (3) Lands adjacent to reservoirs used for public drinking water supplies with a
 282 vegetated buffer of at least 100 feet in width.
 283
- 284 (4) Lands within 1,000 feet of a public drinking water well.
 285
- 286 c. Other lands will meet the criteria for this category if the applicant demonstrates the
 287 conservation purpose of the land for watershed preservation. For example, lands
 288 identified by a local, state, or federal agency as important groundwater recharge
 289 areas, sinkholes receiving channelized surface flow, sinking streams and springs,
 290 each with vegetated buffers of at least 35 feet, or lands located within an identified
 291 Special Flood Hazard Area mapped by the Federal Emergency Management
 292 Agency¹² may meet the conservation purpose for this category.

¹⁰ 4VAC5-20-20(C)

¹¹ Virginia Code § 58.1-3666

¹² 12 CFR § 339.2

293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342

- d. Properties where livestock are allowed to graze within the buffer pursuant to a waiver granted in accordance with C.1.c will not meet the conservation purpose for watershed preservation.

NOTE: Lands containing wetlands created, restored, or protected for the purposes of providing compensation pursuant to a regulatory requirement may not be eligible for a tax credit. When noted, DCR will refer this matter to the Department of Taxation.

- 7. Preservation of Scenic Open Space. Lands that contain views, vistas, or characteristics that provide scenic enjoyment to the general public or that contribute to, and are compatible with, the scenic character or enjoyment by the general public of the surrounding landscape. Visual access to or across the property from public lands or publicly accessible water bodies or lands, including roads or trails, is required to qualify under this category.
 - a. The following lands will meet the safe harbors for conservation purpose for the scenic preservation category.
 - (1) Lands visible from a State Scenic Highway, pursuant to Virginia Code § 33.1-64, or a Virginia Byway, pursuant to Virginia Code § 33.1-63.
 - (2) Lands visible from a federally designated Wild and Scenic River or American Heritage River in or adjacent to Virginia, or a State Scenic River pursuant to Virginia Code § 10.1-400.
 - (3) Lands visible from public parks or public hiking, biking, or riding trails.
 - (4) Lands officially designated as scenic by a local, state or federal agency, provided that in each case the designating agency supplies a specific description of the lands or area so designated or recommended.¹³
 - b. Other lands will meet the criteria for this category if the applicant demonstrates the conservation purpose of the land for preservation of scenic open space. For example, lands visible from public lands, publicly accessible water bodies, public roads, or permanently protected lands provided that there is visual access for the public may meet the conservation purpose for this category. Where there is no visual access to the property, physical access may be used to demonstrate the value of the land for preservation of scenic open space.
- 8. Conservation and Open Space Lands Designated by Federal, State, or Local Governments. Lands that contain features, resources, values, or other attributes that a federal, state, or local government has officially designated as important to protect from inappropriate development so as to help shape the character, direction and timing of development in the area.
 - a. To qualify under this category, a federal, state, or local government must have adopted, by statute, regulation, in an official public ordinance, or in a comprehensive or other officially designated plan, one of the following as worthy of protection:

¹³ 4VAC5-20-20(F)(3)

- 343 (1) the specific property in question;
344
345 (2) a specific land area that contains the property in question;
346
347 (3) a designated class of land with specific, identified conservation value, defined by
348 use, location, and attributes; or
349
350 (4) land that is used as a public garden such as a shared green space for the use of
351 the entire community for raising flowers, vegetables, fruit, or other produce.
352
353 b. A general statement of conservation goals may support verification of this
354 conservation purpose, but is not sufficient on its own to qualify under this category.¹⁴
355

356 **B. Public Benefit**

- 357
358 1. The terms of every deed of conservation easement submitted for DCR review must
359 contain terms and restrictions that protect the conservation values of the land in
360 perpetuity.
361
362 2. The terms of every deed of conservation easement submitted for DCR review must
363 prohibit intentional destruction or significant alteration of the conservation values of the
364 protected property other than for general maintenance or restoration, or for activities
365 deemed necessary for safety considerations.
366
367 3. The terms of every deed of conservation easement submitted for DCR review must
368 ensure that the conservation value of the property will not be adversely affected by
369 future division or development of the property. To ensure the protection of conservation
370 value, the easement must include the following provisions:
371
372 a. limitations on the number of permitted divisions of the property;
373
374 b. limitations on the amount of permitted new buildings and structures, either by placing
375 a limit on the number of new buildings or structures and placing individual limits on
376 the size of those buildings or structures, or by placing a limit on the collective
377 footprint of all buildings and structures; or by some combination of those approaches
378 [limitations above approximately 1% imperviousness (excluding roads) must be
379 explained in the application package];
380
381 c. restrictions on the location of permitted new buildings and structures, either through
382 the use of building envelopes, no-build zones, or through required review and
383 approval by the easement holder of the location of new buildings and structures prior
384 to construction;
385
386 d. restrictions on the location of permitted new roads or access ways, either through
387 use of pre-approved routes, no-road zones, or through required review and approval
388 by the easement holder of new roads or access ways prior to construction [however,
389 paved residential driveways or graveled or pervious-surface roads or access ways
390 may be constructed and maintained without review and approval, provided that such
391 roads or access ways are (1) to serve permitted buildings or structures, (2) for public
392 safety needs, or (3) for permitted uses such as farming or forestry];

¹⁴ 26 CFR §1.170A-14(d)(4)

393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444

- e. limitations on alterations, demolition, and ground-disturbing activity that may impact historic, cultural, or natural heritage resources; and
- f. limitations on utilities placement to ensure that such placement does not have significant impacts on the conservation value. Utilities that serve permitted structures on the subject property are allowed. Utilities that do not serve permitted structures on the subject property require the grantee’s review and prior written determination that the construction and maintenance of such utilities will not impair the conservation value of the property.

NOTE: Under § 58.1-512(C)(3) of the Code of Virginia, properties dedicated as open space in association with certain types of development are not eligible for tax credits. When noted, DCR will refer this matter to the Department of Taxation.

C. General Water Quality and Forest Management

For tax-credit applications submitted to DCR, the deed of conservation easement must ensure the protection of water quality and forest resources through the inclusion of the following terms and restrictions, where applicable.

1. Rivers, Streams, Wetlands, Springs, or Shorelines:

Maintaining proper vegetated buffers is important for water quality protection. Scientific evidence indicates the wider the buffer, the greater the value for nutrient reduction and sediment removal, as well as for wildlife diversity and habitat. Donors are encouraged to work with the easement holders to maximize the water-quality benefits provided by the donated property. A mixture of trees, shrubs, and grasses has been shown to be most effective at protecting water quality, but the criteria do not require the buffer to include all three.

If the property contains or includes wetlands or frontage on a perennial stream or river (as depicted by a solid blue line on the USGS 7.5’ topographic map), sinking streams (as defined above in section A.6.a.(5)), tidal waters, or lakes, ponds, or other waterbodies with perennial outflow, the following minimum protections for those resources apply.

- a. Conservation easement terms must require a vegetated buffer (as defined above in section A.6.a.(3)) that is at least 35 feet wide. (NOTE: Beyond the requirements of these criteria and the associated protections set out in the deed, a wider buffer may be required by local, state, or federal law or regulations.) A vegetated buffer is required for a pond or lake only if the pond or lake has a perennial stream flowing from it.
- b. To qualify as a buffer under these criteria, the deed of conservation easement must:
 - (1) prohibit within the buffer construction of new buildings, structures, roads, and other impervious surfaces. However, existing buildings, structures, roads, or other impervious structures located within the buffer (in whole or in part) prior to the recordation of the conservation easement may be maintained (but not enlarged within the buffer.) Reconstruction and maintenance of documented historic buildings and structures within the buffer on historic properties is also permitted. Additionally, and where it does not impair the conservation value of

445 the property, the following are also permissible (provided they are all
446 appropriately limited in size and number): (i) certain water-dependent structures
447 such as docks; (ii) stream crossings for livestock, pedestrians, and/or vehicles;
448 and (iii) access points. [NOTE: Natural Resources Conservation Service design
449 standards are recommended for stream crossings; see [ftp://ftp-
450 fc.sc.egov.usda.gov/NHQ/practice-standards/standards/578.pdf](ftp://ftp-fc.sc.egov.usda.gov/NHQ/practice-standards/standards/578.pdf)]
451

452 (2) prohibit dumping and restrict other soil disturbance within the buffer, including
453 plowing (however, tree planting; streambank restoration; forest management in
454 accordance with Virginia's Forestry Best Management Practices for Water
455 Quality Guide; archaeological investigations; and restoration, reconstruction, and
456 maintenance of documented historic landscapes on historic properties are
457 permissible);

458
459 (3) require a buffer of vegetative cover that includes, but is not limited to, forest,
460 shrubs, or warm-season grasses. Lawns or grazed pastures shall not constitute
461 vegetative cover for the purposes of this provision. However, the buffer area
462 may be mowed or hayed up to three times in one calendar year. Historic
463 landscapes involving mowed lawns or pastures as verified by the Department of
464 Historic Resources may be restored or reconstructed and maintained. In
465 addition, control of non-native vegetation or removal of diseased trees within the
466 buffer is permissible. Additionally, lawns not exceeding 50 feet of frontage along
467 a waterbody, associated with the primary residence on that property, and which
468 exist on the date of easement within the buffer area, may be maintained provided
469 the site is not subject to severe erosion and the buffer reduction is offset by a
470 substantial increase in buffer width in areas near the site.

471
472 (4) prohibit livestock grazing within the buffer (however, limited designated points for
473 crossing are permissible in accordance with a written conservation plan that
474 addresses buffer protection pursuant to C2). Methods for excluding livestock by
475 fencing must be effective; however, they do not need to conform to NRCS
476 standards. If fencing is utilized, the deed of easement must require that it shall
477 be established within a period of no more than two years from the date of the
478 recordation of the conservation easement and thereafter maintained.

479
480 c. The Director of DCR may allow consideration of a request for a partial reduction in
481 the buffer requirements set out in section C 1. The applicant, with the holder's
482 concurrence, must provide evidence in writing to demonstrate why the applicant and
483 holder believe that the special topography or other pre-existing characteristics of the
484 property are such that full compliance with the buffer requirements set out in section
485 C1 may be waived. Such a request must provide the specific areas of the property
486 where a waiver is requested along with proposed mitigation in lieu of full compliance.
487 If the DCR Director finds that the request merits consideration, the Director shall
488 present the request to the Virginia Land Conservation Foundation Board for its
489 review and action at its next scheduled meeting.

490
491 2. Land Used for Agricultural Production: If the property contains lands in agricultural use
492 as defined above in section A.1, then the deed of conservation easement shall require
493 that a written conservation plan be developed or in place that stipulates the use of best
494 management practices for water quality protection (such as proper nutrient
495 management, utilization of cover crops, and stabilization of highly erodible lands). This
496 plan shall be developed in consultation with the local Soil and Water Conservation

497 District or the Natural Resources Conservation Service representative and shall be
498 periodically updated, and implemented, by the landowner as long as at least five acres
499 of the property remains in agricultural production. [More information on conservation
500 plans may be found at the Natural Resources Conservation Service's website
501 <http://www.nrcs.usda.gov/> including a brochure at
502 <http://www.ri.nrcs.usda.gov/conservation.html>, and contact information for the Soil and
503 Water Conservation Districts is available on DCR's website at
504 http://www.dcr.virginia.gov/soil_&_water/swcds.shtml.]
505

506 3. Management Plans for Forestlands: If the property contains 20 acres or more of forest
507 lands, as defined above in section A.2.a, then the deed of conservation easement shall
508 require that the landowner has a current written forest management plan or Virginia
509 Forest Stewardship Plan in place prior to the commencement of timber harvesting or
510 other significant forest management activities. The deed of conservation easement shall
511 require the forest management plan to include a provision that all forest management
512 and harvesting activities be developed by, or in consultation with, the Virginia
513 Department of Forestry, or be consistent with Virginia's Forestry Best Management
514 Practices for Water Quality Guide.

MEMORANDUM

TO: Conservation Easement Authority
FROM: Alison Teetor
DATE: November 29, 2023
SUBJECT: Application for easement donation – Robert McDonald Trust, Anne McDonald Trustee

The Robert McDonald Trust, Anne McDonald, Trustee has applied to the easement authority for approval of an easement donation. The property is located in the 2000 block of Old Winchester Road 1,800' east of the intersection with Ginns Road. There are 2 properties: tax map 20-A-5A, 80 acres with 4 remaining DURs, and 20-A-5B, 7.99 acres with 1 remaining DUR. Both properties are vacant. The properties are primarily open pasture for hay and grazing. The property is within the Chapel Rural Historic District. The applicant would like to retire 3 of the 4 remaining DURs located on TM# 20-A-5A. No DURs will be retired on 20-A-5B. At the November meeting the Authority voted 6-0-0 to approve the preliminary application of the McDonald donation and requested staff to schedule a site visit.

As discussed at the last meeting Dr. McDonald would like to sell 60 acres to David & Marti Bryant own TM# 20-A-7, Duck Pond, which is adjacent and held in easement by the Virginia Outdoors Foundation (VOF).

Based on discussions with VOF staff the best option would be for the Clarke County Easement Authority to assume the Bryant's current easement from VOF on Duck Pond, and to update that easement to conform to current easement practice. In addition, staff confirmed with Mr. Mitchell that a boundary line adjustment would be prohibited under the current deed template.

Currently the proposed process would be as follows:

- 1) Dr. McDonald puts 20-A-5A, 80 acres retiring 3 of the 4 DURs and 20-A-5B, 7.99 acre, retiring 0 DURs, in easement with CEA allowing for subdivision of 60 acres
- 2) The Bryants transfer their VOF easement to Clarke County – approval by VOF Board in March
- 3) Dr. McDonald subdivides property into 60 acres with zero DURs and 20 acres with 1 DUR
- 4) The 60 acres is merged into the Bryant parcel

Outstanding questions include the number of DURs that the Bryant's would retire, the parcel currently has 3 remaining DURs and an existing house built in 1877. Another question is the timing of recordation so as to allow for the creation of the 60 acre parcel with 0 DURs and the immediate merger with TM 20-A-7. A site visit will be scheduled next year.

Recommendation

Approve the proposed process for the easement donation of Anne McDonald, Tax Map# 20-A-5A & 20-A-5B, and the transference of the VOF easement to the County for TM# 20-A-7.

merge ~ 60 acres w/ 20-A-7

Tax Map# 20-A-5A to be placed in
easement with CEA

proposed subdivision
60 acres and 20 acres

VOF easement
Tax Map# 20-A-7
to be transferred to CEA

~20 ac.

Tax Map# 20-A-5B, 7.99 ac., 1 DUR
to be placed in easement with CEA

MEMORANDUM

TO: Conservation Easement Authority
FROM: Alison Teetor
DATE: November 30, 2023
SUBJECT: Application for easement donation – Norman & Joan Fine

Norman and Joan Fine have applied to the easement authority for approval of an easement donation. The property is located at 516 Clay Hill Road ½ mile east of the intersection with Bishop Meade Road. The property is identified by Tax Map# 30-A-104B. It consists of 40.58 acres with 1 DUR and a <600 square foot minor dwelling. No DURs will be retired, one DUR and the minor dwelling remain with the property. The property is primarily open pasture for hay and horses. A site visit was conducted October 26th.

Ms. Fine has requested that as she is not giving up any DURs and therefore is not taking a tax credit or filing anything with the IRS she should not have to provide building envelopes. I spoke with Mr. Mitchell about the requirement and he agreed with the Authority that the envelope should be required stating that it is also required in order to protect the conservation values of the property.

Attached is a map showing a potential compromise building envelope location in relation to areas with conservation values. Other than open space the primary value is prime soils.



7 acre bld env

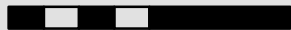
2 potential building envelopes
2 acres each - max. 4 acres total

Joan & Norman Fine
Tax Map# 30-A-104B, 40.58 acres
1 DUR

Date: 12/1/2023
Clarke County GIS





390 195 0 390 Feet



-  Fine Property Boundary
-  Public Roads
-  Scenic Roads
-  Parcel Boundary
-  Agricultural / Forestal District

Soils For LESA Score

-  All areas are prime farmland
-  30 Farmland of statewide importance

