

CLARKE COUNTY
Conservation Easement Authority
Friday – 8 April 2022 – 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 meeting of 10 March 2022
4. Bank Account balances
5. Campaign for the Authority
6. Discussion Items
 - a. Bruce and Debbie Anderson – continued discussion square footage of structures
 - b. Building Envelope requirement
 - c. Powhatan School request for composting toilet
7. Report on Applications for Easement Purchase
Motion to go into Closed Session pursuant to Section 2.2-3711-A3 of the Code of Virginia, as amended, to discuss the Acquisition or Sale of Property and Section 2.2-3711(A)(7) for consultation with legal counsel regarding specific legal matters requiring the providing of legal advice.
8. Adjournment – The next meeting is scheduled for Friday May 13th 10 am

CLARKE COUNTY
Conservation Easement Authority
draft Minutes – 10 March 2022 draft

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Thursday 10 March 2022, in the A/B conference room, 2nd Floor Government Center.

Present: R. Buckley, R. Bacon, M. Jones, W. Thomas
Absent: T. Catlett
Phone in: G. Ohrstrom
Staff: A. Teetor, J. Feaga, R. Couch-Cardillo
Other: Hallie Harriman, Piedmont Environmental Council

Agenda On motion of Mr. Ohrstrom, seconded by Ms. Jones, the Authority unanimously approved the agenda.

Minutes On motion of Ms. Thomas, seconded by Ms. Bacon, the Authority unanimously voted to approve the minutes of February 11, 2022 with corrections.

Bank Account: Ms. Teetor reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$35,913 consisting of \$131,816 in the donations account, \$234,709 in stewardship/restricted, and \$-330,611 in local funds. Ms. Teetor stated that the negative balances are the result of the RSP Enterprises closing. The reimbursement requests have been submitted and a positive fund balance should appear on next month's financial report. Additional expenses relate to the repair of the Kohn well, attorney fees, and the website annual fee.

Public Relations: Ms. Cardillo stated that so far in 2022 we have already received \$2,970 from 25 donors which is a great start for the New Year. She updated members on the Take a Hike project, which was discussed at the last meeting. She stated she is working with Felicia Hart to revise and update the Take a Hike brochure. Two hikes #3 and #10 were recommended for removal since there is limited parking for the hike.

She stated that the spring newsletter is at the printer. This is the newsletter that goes to donors. She hopes to highlight the Smithfield Farm easement closing for the next newsletter that will go out in the tax bills. She asked if the group had any interest in hosting another information session on conservation easements similar to the one we had at Camino Real several years ago. Mr. Buckley suggested it could be held at Long Branch. Dates were discussed and September was suggested but with the donor reception scheduled for October they might be too close together so no decision was made for the workshop date. This will be discussed at the next meeting. Another upcoming event is the Authority's 20th anniversary in June. Mr. Buckley suggested that a reception could be held at Long Branch with wine, and appetizers. Landowners who have donated land to the Authority could be invited.

With the recordation of Smithfield, Ms. Teetor asked if the group wanted to put out a press release recognizing the easement and the financial contributions of our partners, Natural Resource Conservation Service (ALE, Federal grant), Virginia Land Conservation Fund (VLCF, state grant) and the Virginia Department of Agriculture and Consumer Services (VDACS). Members discussed the idea and suggested that it only be done with permission from the property owner and that the amount of funding is not included in any articles.

Discussion

a. Bruce and Debbie Anderson – request to increase square footage of structures This is a continued discussion from the last meeting. Bruce and Deborah Anderson have applied to the easement authority for approval of an easement donation. The property consists of two parcels, Tax Map# 30-A-74 consists of 30.76 acres with an existing house and a <600 square foot apartment, and Tax Map# 30-A-74A consisting of 2.0 acres with 1 DUR.

The Andersons have requested an exception to the maximum square footage allotment for parcels between 30 and 40 acres of 20,000 sq ft.. At the December meeting members discussed the Anderson's proposal to allow for an exceedance of 20,000 sq ft. for a total amount of 40,000 sq ft.. Members discussed the request to exceed the 20,000 square foot cap for structures and determined that 1) it sets precedence for other future easements, 2) it isn't fair to others that have had to adhere to the requirement, and 3) that having over 2% impervious area detracts from the conservation value of the property. Based on these reasons the request was denied.

At the February meeting members discuss a revised request submitted by the Andersons to allow for a maximum of 31,200 square feet, which is 11,200 sq ft above the limit. The main question that was brought up is whether or not the exceedance is detrimental to the conservation values of the property. Some members felt it wouldn't be a problem as the purpose of easements is to protect agriculture uses, which includes horse activities. Others were concerned that since we have the policy we shouldn't just allow exceptions on a routine basis. A second site visit was held on March 1st. The purpose of the visit was to look at the location of the arena in relation to Millwood Road, a designated scenic byway, and determine if options were available to reduce the potential visual impact of the proposed covered arena. The site visit was attended by Mr. Buckley, Ms. Bacon, and Ms. Jones from the Authority and Ms. Teetor and Mr. Feaga, staff.

Several issues were discussed at the site visit were reviewed by the full membership. These included:

1) using evergreens to screen the arena from the road. Mr. Feaga opined that this might be difficult and there is already a forest of oak that might preclude growth of evergreens due to shade and other factors.

2) looking at the Property Resource Score as points were given for frontage on a scenic byway, how would this impact the score. Ms. Teetor reviewed the scoring, the original score is The property resource score is 60.1, points were given for retiring 1 DUR, having a house that is a contributing structure in the Greenway Rural Historic District (12 points), and having frontage on 2 scenic byways Millwood Road and Tilthammer Mill Road. The score sheet is attached. Removing points for the frontage on Millwood Road reduces the score by 4 points. Bringing it down to 56.1, which would not impact the parcels meeting the criteria.

3) Seeing if the easement could be held by another entity such as the Land Trust of Virginia or Old Dominion Land Conservancy, who might have different criteria for easement acceptance. Ms. Teetor sent an email to the Anderson's to see if they would be open to this idea but no response was received prior to the packet being completed.

Members discussed the options and added two other considerations 1) put the roof on before taking the easement and 2) leaving the arena out of the eased area. They directed staff to see if any other easement holders would be interested in taking the easement. The item will be revisited at the next meeting.

b. Building envelope requirement

The Authority has been discussing the potential for requiring building envelopes for all conservation

easements. The concern is that the IRS may not approve tax credits for easement donations without building envelopes on all easement properties. The purpose of the requirement is to prevent the random placement of structures throughout a property which could impact the open space and other conservation values. At the December meeting, Mike Kane, Director of Conservation, Piedmont Environmental Council (PEC), was present to discuss building envelopes on conservation easements and whether or not they should be required. The Authority has been discussing this informally for several months and invited Mr. Kane as he has a great deal of experience through his work with PEC and Loudoun County. He provided documents developed by the Land Trust Alliance, Conservation Defense Initiative. The Initiative is aimed at identifying potential legal issues regarding conservation easements that might make them more susceptible to extinguishment or to have issues with Internal Revenue Service tax laws. One document titled “Pointers for Balancing Risk When Permitting Structures on Deductible Conservation Easements After the Tax Court Decisions in Pine Mountain Preserve and Carter” speaks specifically to the need for requiring building envelopes, reasoning that if structures are permitted to be built anywhere on the property it could detract from the conservation values that were valued in the appraisal. Mr. Kane described the Pointers for Balancing Risk on Permitted Structures that provides a spectrum of risk for various options. The lowest risk includes requiring building envelopes. He suggested reviewing the current PEC deed template, as well as the Virginia Outdoors template. In addition to the building envelope issue he also discussed boundary line adjustments, stating that current recommendations from the Land Trust Alliance are to not allow any change to the easement boundaries after an easement has been recorded. Almost all of the current easements held in Clarke allow for boundary line adjustments under certain circumstances. Attached is the handout provided by Mr. Kane discussing the “Pointers for Balancing Risk on Permitted Structures. Ms. Bacon opined that the requirement could be at our discretion based on the individual property. Mr. Ohrstrom asked Ms. Harriman to provide a copy of the PEC deed template, and see what the Virginia Outdoors Foundation requires. After discussion members asked staff to get an opinion from Mr. Mitchell as to whether or not building envelopes should be required for every easement.

Report on Applications for Easement Purchase/Donation

a. Jeff Murphy – new application – DUR purchase

Jeff Murphy has applied to the easement authority for approval of an easement DUR purchase. The property consists of two parcels 3-A-55C, 121.12 acres, with 1 existing house and 5 remaining DURs. The second parcel 3-A-55D consists of 1.8 acres with 1 DUR. The property is located at 2486 Longmarsh Rd. approximately .4 miles south of the intersection with Old Charlestown Road. The large parcel has an existing house built in 1984. The current land use is for hay and pasture. Mr. Murphy is planning to run a race horse training facility on the property. The applicant would like to retire 4 of the remaining 6 DURs and merge the 2 parcels.

The property meets 3 of the 4 criteria by scoring over 35, being over 40 acres, and giving up 4 DURs. It is not next to an adjacent easement. The property resource score is 62.8, points were given for retiring 4 DURs, and having about an acre of wetlands. There is an intermittent stream feeding a small pond and Mr. Murphy has expressed interest in creating a riparian buffer around the area. Mr. Feaga stated that he was working on developing a riparian buffer and other plantings around the existing pond and intermittent stream. He has set up a meeting with staff from the Lord Fairfax Soil and Water Conservation District and Piedmont Environmental Council to see what cost share and grant opportunities might be available to Mr. Murphy. On motion of Ms. Jones, seconded by Ms. Thomas, members gave preliminary approval and asked staff to schedule a site visit.

b. Bradley and Kathryn Keister – easement donation – update

Ms. Teetor stated that the Kester’s had applied in July of 2021 and were given final approval in August 2021 by the Authority, and final approval by the Board of Supervisors on September 21, 2021 for the easement donation. The property is located at 240 Ashley Woods Lane on the west side of Blue Ridge

Mountain Road approximately 1.1 miles north of the intersection with Morgans Mill Road. The property has an existing house build in 2015 and consists of 34.47 acres. There are no remaining Dwelling Unit Rights (DURs). The parcels are primarily forested. The Keisters had delayed closing on the easement until 2022 so that they could pay off the mortgage.

Adjournment There being no further business, Ms. Jones moved and Ms. Bacon seconded that the Authority adjourn to the next regularly scheduled meeting Friday April 8th in the Government Center A/B/Conference room at 10 am. The motion to adjourn was approved unanimously.

Randy Buckley, Chair

Alison Teetor, Clerk to the Authority

JAS - E Johnson
AS OF 04/01/2022

FY2022

Fund 235 - Conservation Easement Balances

	Total Fund Balance	Donations (128)	Stewardship/Restricted Funds Account (210)	Local Funds (000)
SOY FY22	356,559	113,355	215,557	27,647
Fiscal Year 2022				
July Rev/AR		1,350	92	116,795
July Exps/AP		-55	-250	0
July Exp Moon Easement Purchase				-80,713
Aug Rev/AR		240	92	40,802
Aug Exps/AP		-2,413	0	0
Sept Rev/AR		5,165	89	29
Sept Exps/AP		-2,760	0	-573
Oct Rev/AR		3,255	92	4,128
Oct Exps/AP		-2,558	-1,103	-245
Nov Rev/AR		3,430	89	4,506
Nov Exps/AP		-1,367	0	-924
Dec Rev/AR		11,084	22,550	2,017
Dec Exps/AP		-3,464	0	-165
Dec Exp Smithfield Farm Purchase				-570,070
Jan Rev/AR		6,085	103	5,794
Jan Exps/AP		0	-2,500	-750
Feb Rev/AR		504	107	121,875
Feb Exps/AP		-96	0	-495
Mar Rev/AR		1,696	0	92,074
Mar Exps/AP		-1,908	0	-7
Apr Rev/AR		0	0	292,250
Apr Exps/AP		0	0	0
May Rev/AR		0	0	0
May Exps/AP		0	0	0
June Rev/AR		0	0	0
June Exps/AP		0	0	0
YTD Rev/AR	736,293.05	32,808.42	23,214.36	680,270.27
YTD Exps/AP	672,414.69	14,621.11	3,852.82	653,940.76
Adjustments	0			
YTD FUND BALANCE (AR & AP)	420,437.27	131,541.83	234,918.80	53,976.64

- Emily Johnson: Transfer from GF for easement purchases
- Emily Johnson: Moon-VDACS reimbursement
- Emily Johnson: Landuse Rollback Tax \$4,063.68
- Emily Johnson: Landuse Rollback Tax \$4,444.29
- Emily Johnson: Landuse Rollback Tax \$1,936.69
- Emily Johnson: CE Stewardship annual state funds \$22,456.99
- Emily Johnson: Landuse Rollback Tax \$5,699.11
- Emily Johnson: Landuse Rollback Tax \$8,617.17

VDACS	
75,738.77	Expires 12/31/2021 (FY2019)
58,333.00	Expires 12/31/2021 (FY2020)
134,071.77	
-40,356.50	
-76,375.00	
17,340.27	AVAILABLE Estimated YTD BALANCE-VDACS

Anticipated Easement Closings:
Moon Property CLOSED Actual Exp/Rev Above
Smithfield Farm CLOSED Actual Exp/Rev Above

ESTIMATED YTD FUND BALANCE	420,437	131,542	234,919	53,977
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FY22 Expenditure Appropriations	Appropriated	Actual Expenses	Appropriated Balance Remaining	Clarke County: includes expenses not specifically designated to an easement (including donation, stewardship and monthly Hall, Monahan expenses).
General Expenses	45,000	21,467	23,533	
Lizzie Moon Property	80,713	80,713	0	
Smithfield Farm	570,070	570,235	-165	
	695,783	672,415	0	

Through 04/01/2022

Conservation Easement Expense Detail - FY22

	Donations (128)	Stewardship (210)	Local Funds (000)
<u>July</u>	55.00 Winchester Printers	157.89 Bradley Comeaux Inspections 91.84 Bradley Comeaux Mileage	80,713.00 CE Purchase - Lizzie Moon Property
	55.00	249.73	80,713.00
<u>August</u>	500.00 Gloria Marconi - Banner 960.00 Robin Couch Cardillo 550.65 Photo Exhibit postcards 105.27 Banner 297.00 Magnets		
	2,412.92	0.00	0.00
<u>Sept</u>	450.00 Gloria Marconi Summer 21 Newsletter 955.34 Wincheseter Printers Summer 21 1,280.00 Robin Couch Cardillo-report prep 75.00 Gloria Marconi ESMT Revisions		407.50 Hall, Monahan, Engle legal services July 165.00 Hall, Monahan, Engle legal services Aug
	2,760.34	0.00	572.50
<u>Oct</u>	126.35 A. Teetor Con. Easement Map 581.35 Winchester Printers - CCEA Reception Invite 1,850.55 Monks BBQ CCEA Donation Reception	1,000.00 Benjamin Rogers Intern 103.09 Benjamin Rogers Mileage	162.50 Hall, Monahan, Engle legal services Sept 82.50 Hall, Monahan, Engle legal services Sept
	2,558.25	1,103.09	245.00
<u>Nov</u>	550.00 Gloria Marconi ESMT Fall'21 Newsletter 816.66 Robin Couch Cardillo Reports ESMT Meeting		287.50 Hall, Monahan, Engle legal services Oct 636.00 Purchase Power Postage
	1,366.66	0.00	923.50
<u>Dec</u>	560.00 Robin Couch Cardillo CEA Prep reprts/Meetings 200.00 Gloria Marconi Design/Prod. EOY letter 1,503.94 Winchester Printers Annual Appeal Printing 1,200.00 Eric Wright-Tent Rentals		165.00 Hall, Monahan, Engle RSP docs for closing 570,069.80 Hall, Monahan, Engle Smithfield Farm Property
	3,463.94	0.00	570,234.80
<u>Jan</u>		2,500.00 Singhas & Michael Kohn Well Repairs	750.00 Hall, Monahan, Engle legal services Dec
	0.00	2,500.00	750.00
<u>Feb</u>	96.00 WordPress.com Premium		495.00 Hall, Monahan, Engle legal services Jan
	96.00	0.00	495.00
<u>Mar</u>	538.00 Robin Couch Cardillo CEA services 450.00 Gloria Marconi Design/Prod. Winter 2022 90.00 Truist - CEA award 560.00 Robin Couch Cardillo CEA services 250.00 Vault - Annual Conf Sponsor 20.00 Crown Trophy Annual Awards		6.96 Purchase Power - Postage
	1,908.00	0.00	6.96
YTD Totals	14,621.11	3,852.82	653,940.76



ROBIN COUCH CARDILLO

April 1, 2022

Clarke County Conservation Easement Authority
Fundraising Report
April 2022 meeting

Donor Statistics

See attached Master Report

- 2022 year-to-date total: \$5,691 from 45 donations

Ongoing

-Spring newsletter

- Pritchards don't want Smithfield Farm to be featured; review other potential stories

-20th anniversary celebration for Easement Authority

- Outreach to Long Branch for June weeknight event; invite area VIPs, easement property owners, special guests

-Conservation easement information workshop

- Look at potential dates in September and venue

-Update on Take a Hike project, promoting open spaces/hiking the county

- Potential delay until fall – Blue Ridge Wildlife Center (an organizer) is impacted by avian influenza and will limit guests for near future (considering moving to November, which has National Take a Hike Day)

- Other organizations contacted thus far are receptive

MEMORANDUM

TO: Conservation Easement Authority
FROM: Alison Teetor
DATE: March 30, 2022
SUBJECT: Application for easement donation – Bruce & Deborah Anderson
TM# 30-A-74 & 30-A-74A

Bruce and Deborah Anderson have applied to the easement authority for approval of an easement donation. The property consists of two parcels, Tax Map# 30-A-74 consists of 30.76 acres with an existing house and a <600 square foot apartment, and Tax Map# 30-A-74A consisting of 2.0 acres with 1 DUR.

The Andersons have requested an exception to the maximum square footage allotment for parcels between 30 and 40 acres of 20,000 sq ft.. At the December meeting members discussed the Anderson's proposal to allow for an exceedance of 20,000 sq ft. for a total amount of 40,000 sq ft.. Members discussed the request to exceed the 20,000 square foot cap for structures and determined that 1) it sets precedence for other future easements, 2) it isn't fair to others that have had to adhere to the requirement, and 3) that having over 2% impervious area detracts from the conservation value of the property. Based on these reasons the request was denied.

Since the last meeting staff identified an error in the property resource score calculation. The original score was 60.1, points were given for retiring 1 DUR, having a house that is a contributing structure in the Greenway Rural Historic District (12 points), and having frontage on 2 scenic byways Millwood Road and Tilthammer Mill Road. Staff re-reviewed the historic significance of the house and found that although listed as existing in the Greenway Rural Historic District, the structures were considered non-contributing in the nomination report. This dropped the score to 48.9 due to the removal of 12 points for the contributing structures. As one concern was the weight of the Millwood Road scenic byway points, staff recalculated the revised score without the scenic byway points which would reduce the score by 4 points. Bringing it down to 44.9, which again would not impact the parcels meeting the criteria.

At the March meeting, staff was directed to see if any other easement holders would be interested in taking the easement. Staff contacted the Land Trust of Virginia, Old Dominion Land Conservancy, and the Potomac Conservancy to see if they would be interested in holding the conservation easement on the Anderson's property. In general private non-profit land trusts have to charge a stewardship fee and other processing fees to cover their expenses. The County gets funds for stewardship from the state, donations, and local tax funding, so we don't charge a fee.

Mr. Henry Stribling, Executive Director of the Old Dominion Land Conservancy stated that they would be interested. Their fees are \$25,000 for the stewardship contribution and \$2,500 Processing fee. He stated in general no more than 1% (14,270 sq. ft.) of the property can be developed.

Isa Bryant, Director of Stewardship & Real Estate with the Land Trust of Virginia stated that their fee structure is as follows:

Baseline Documentation Report - \$2,500

Processing Fee - \$2,500.

Stewardship – Approximately \$5,000 (varies with acreage, complexity) considered a donation so that landowner can take advantage of tax credits.

Their maximum square footage is ½% (7,135 sq. ft.) of the total area of the property. Ms. Bryant stated “We would not allow an indoor riding arena to be constructed as we would consider it an unnecessary agricultural building, but would take it if it were existing.” They take the same approach with brewery/winery buildings. Staff also asked “With the 1/2% impervious surface requirement, is it in addition to existing buildings or total allowed?” Ms. Brant responded that it would be the total allowed. She explained that there are sometimes exceptions for existing buildings but that is rarely their approach.

Hedrick Belin, President of the Potomac Conservancy was contacted but was on vacation and was unable to be reached for comment at the time of this report.

The Anderson’s were provided with this information and stated that paying a “stewardship fee” to another entity was not particularly attractive. They expressed that they really would like to stay with Clarke County in establishing a conservation easement for their property, if possible and they proposed another idea:

As you know, we own two separate lots, a thirty acre parcel and a two acre parcel. We don’t plan to build any new structures on our thirty acre parcel but, as discussed, we do want to retain the option of building a cover over the existing arena in the future. We could, as you suggest, wait to pursue a conservation easement until after we built a cover over our arena, but we have no immediate plans to do so and it would probably be many years before we did so. Further, I believe having this option available to future owners would be attractive.

Would it be possible to place only our two acre parcel into a conservation easement at this time? We have no plans to build another residence on the two acre parcel, but future owners might. That was, presumably, the reason that separate two acre parcel was established in the first place. We do want to preserve this property in its current natural forested condition to support wildlife, our privacy, and the wonderful nature of the Shenandoah Valley. An easement that would prohibit any construction on that property and insofar as possible preserve it in its natural state would be acceptable to us. That would obviate the need to somehow accommodate a covered arena on our thirty acre parcel and would certainly accomplish what we want to do immediately. As you suggest, we could perhaps pursue an easement for our thirty acre parcel after the covered arena was built and request that it be effectively “grandfathered” into the easement, as was the case in Ms. Rowland’s situation.

Please let us know if that might be an option. As I see it, this would be a win-win for us and the Easement Authority. As far as I know, would not conflict with any current Authority policies. I certainly can’t think of any downside for those who are conservation minded. We would

essentially be giving up the right to build on that property now or in the future, but that would be OK with us.

Ms. Teetor reviewed the 2 acre parcel to determine if it meets the criteria. Typically a parcel of this size would not be considered as it would not qualify for land use and the criteria get stricter (see attached). This parcel is in land use as the Commissioner of Revenue policy is to consider parcels with the same ownership to be considered one property for the purpose of taxation. The other issue relates to the policy for leaving parcels with zero DURs.

Any parcel placed in a conservation easement with zero DURs shall meet the following criteria:

- 1. No public road access or recorded private easement access; OR**
- 2. Site conditions that restrict or eliminate the potential for development – for example, flood plain, steep slopes; OR**
- 3. Other special facts and circumstances that make it appropriate to retire all DURs. Such as viewsheds, historic features.**
- 4. Any parcel placed in easement with zero DURs shall provide a survey plat that includes a statement saying that this is not a legal building lot and has zero DURs**

In this case the property has frontage on Tilthammer Mill Road and therefore does not meet criteria 1. So it would appear that taking the 2 acre property by itself is not a viable option.

Summary

In summary, the properties meet the criteria for consideration by the Authority for an easement donation. The applicant's request to exceed the impervious surface square footage in order to construct a cover over the existing riding arena does not meet with the Authorities policy of a maximum of 20,000 square feet for properties between 30 and 40 acres. The Andersons would prefer not to have the easement held by a private land trust, and the 2 acre property could not be considered on its own as it doesn't meet the criteria for zero DURs.

**CLARKE COUNTY
CONSERVATION EASEMENT AUTHORITY
Property Evaluation Criteria**

June 2002, amended May 2007, August 2011

The Authority evaluates parcel(s) proposed for conservation easement based on the following criteria:

In order to be eligible for Easement donation or purchase the parcel must be located in the Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC) zoning district.

Easement Donation

If the parcel is currently in or eligible for use value taxation, in accord with the Commissioner of Revenue's requirements, then a donation may be considered if at least two of the following four guidelines are met:

- 1) the parcel's Property Resource Score is at least 35;
- 2) at least one dwelling unit right is extinguished by the conservation easement;
- 3) the parcel is adjacent to a parcel already under permanent conservation easement;
- 4) the property has a minimum area of 40 acres.

If the parcel is not eligible for use value taxation, then a donation may be considered if it meets at three of the four following criteria:

- 1) the parcel's Property Resource Score is at least 35;
- 2) at least one dwelling unit right is extinguished by the conservation easement;
- 3) it is adjacent to another easement;
- 4) the parcel offers protection of a locally significant natural or historic feature, as determined by the Easement Authority.

Easement Purchase

If the parcel is currently in or eligible for use value taxation, in accord with the Commissioner of Revenue's requirements, then a purchase may be considered if at least two of the following four guidelines are met:

- 1) the parcel's Property Resource Score is at least 35;
- 2) at least one dwelling unit right is extinguished by the conservation easement;
- 3) the parcel is adjacent to a parcel already under permanent conservation easement;
- 4) the property has a minimum area of 40 acres.

If the parcel is not eligible for use value taxation, then a purchase may be considered if it meets at least three of the four following criteria:

- 1) the parcel's Property Resource Score is at least 50;
- 2) at least one dwelling unit right is extinguished by the conservation easement;
- 3) it is adjacent to another easement;
- 4) the parcel offers protection of a locally significant natural or historic feature, as determined by the Easement Authority.

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MEMORANDUM

TO: Conservation Easement Authority
FROM: Alison Teetor
DATE: March 30, 2022
SUBJECT: Crocker Conservancy request

The Crocker Conservancy is a property that was donated to the Powhatan School and placed in Conservation Easement with the Authority in 2011, Tax Map# 29-A-16. The property is being used for outdoor education. The school has made several permitted improvements including construction of a covered outdoor pavilion, wetlands boardwalk and trails.

Sections of the deed pertaining to allowed uses and buildings and structures are attached.

Mr. Feaga was approached by Robin Coutts, the Lower School Science Teacher and NEAL Coordinator for Powhatan School. She is interested in pursuing construction of a composting toilet, as much of the trail is a good distance from the main campus bathrooms. This idea was discussed at the June 19, 2014 Easement Authority meeting:

- a. ***“Crocker Conservancy Update - Ms. Teetor provided a report in the packet detailing the current status of work on completed the Crocker Conservancy at Powhatan School. Members discussed use of the property for a multiple school cross country race and agreed this was within the scope of the easement. Another request was to allow use of the property for part of the conservation fair held each fall for 4th graders. Again members agreed this was a permitted use. The next question was whether the Authority would be willing to fund a keynote speaker for the annual 4th grade conservation fair. Members discussed this request and opined that since Powhatan School was thought to be a for-profit institution, and therefore the Authority could not fund the speaker. The final request was to allow 1 or 2 composting toilets on the property. Ms. Teetor stated that the Health Department does allow the use of these. **On motion of Ms. Wallace, seconded by Ms. Thomas, members voted to approve the use of property for the cross country meet and conservation fair, to not approve the donation for the speaker, and to approve use of the composting toilets on condition that the footprint be included as part of the allowable square footage, and that Mr. Mitchell reviews the Deed to insure that this type of structure could be permitted.*****

There is no record of Mr. Mitchell being contacted to review the deed.

Recommendation

Request staff to contact Mr. Mitchell to determine if composting toilets can be permitted per the terms described in the recorded Deed of Easement.

Section 3-D-3 of the Clarke County Zoning Ordinance, the Grantor does hereby voluntarily and permanently terminate two (2) unused DURs on Tax Map No. 29-A-17, leaving two (2) unused DURs and zero (0) Exceptions remaining on Tax Map No. 29-A-17.

2. DIVISION.

A. Division of the Property is prohibited.

B. A boundary line adjustment of Tax Parcel 29-A-17, of which the Property is a part, shall be permitted as above-described and as shown on the Boundary Line Adjustment plat of W. Stuart Dunn, C.L.S., dated May 3, 2011, which plat is to be recorded immediately following this Easement. Said boundary line adjustment shall not change the property subject to this Easement.

C. Additional boundary line adjustments of the Property with adjoining parcels of land are permitted and shall not be considered divisions of the Property, provided that Grantee is made party to the deed creating the boundary line adjustment and at least one of the following conditions is met:

(i) The entire adjacent parcel is subject to a recorded open-space easement owned by Grantee; or

(ii) The proposed boundary line adjustment shall have been reviewed and approved in advance by the Authority.

3. BUILDINGS AND STRUCTURES; PHYSICAL IMPROVEMENTS

A. No buildings or structures other than the following are permitted on the Property:

(i) Shelters or other open-air structures, not exceeding 1,000 square feet in ground area, constructed and used in conjunction with activities permitted in paragraph 4;

(ii) One (1) equipment shed, not exceeding 1,000 square feet in floor area.

B. Hiking trails, cross-country track trails, and other physical improvements other than structures may be made to the Property for use in activities permitted in Paragraph 4.B; provided, however, a cross-country track trail in the Riparian Buffer set forth in paragraph 6, below, shall be limited to the access path to bridges crossing Roseville Run and Spout Run; and provided, further, that any cross-country track trail shall be constructed of pervious materials (not paved).

C. Grantor, or their assigns, within thirty (30) days of recordation of this Easement, shall mark the existing boundary between the Property and the Powhatan School, which boundary will be vacated by the boundary line adjustment plat referenced in Paragraph 2.B., above, with a fence, monuments, or other permanent markers so as to make the boundary readily identifiable on the ground.

D. Grantor shall give Grantee 30 days' written notice before beginning construction or enlargement of any dwelling on the Property.

E. Private roads and utilities to serve permitted buildings or structures, and roads with permeable surfaces for other permitted uses, such as farming or forestry, may be constructed and maintained. Public or private utilities whose construction and maintenance Grantee determines will not impair the Property's conservation values may be constructed and maintained if Grantee gives its prior written approval; provided, however, easements for the location of underground utilities are permitted pursuant to paragraph 10.

F. The collective footprint of all buildings and structures on the Property, excluding roads, shall not exceed 3,000 square feet, provided that if Grantor can demonstrate that an increase in the collective footprint would result in increased protection of the conservation values protected herein, Grantee may approve such increase.

4. **INDUSTRIAL, COMMERCIAL, RECREATIONAL, AND EDUCATIONAL ACTIVITIES.**

A. Industrial or commercial activities other than the following are prohibited: (i) agriculture, livestock production (animal husbandry), equine activities, forestry, and related small-scale incidental commercial or industrial operations that Grantee approves in writing as being consistent with the conservation values of this Easement; (ii) processing and sale of products produced on the Property; and (iii) temporary or seasonal outdoor activities that do not permanently alter the physical appearance of the Property and that do not diminish the conservation values herein protected.

B. Recreational and educational activities on the Property shall be limited to the following: (i) educational and scientific outdoor classes and activities; (ii) gardening; (iii) passive recreational activities such as hiking, bird-watching, etc., and (iv) cross-country track activities.

5. **MANAGEMENT OF FOREST.**

A. Best Management Practices, as defined by the Virginia Department of Forestry, shall be used to control erosion and protect water quality when any timber harvest or land-clearing activity is undertaken. A Forest Stewardship Management Plan approved by the VA Department of Forestry shall guide all material timber harvest activities on the Property. A preharvest plan consistent with the Forest Stewardship Management Plan shall be submitted to Grantee for approval 30 days before beginning any material timber harvest.

B. Noncommercial *de minimis* harvest of trees for trail clearing, firewood, or Grantor's domestic use or trees that pose an imminent hazard to human health or safety, or that are an invasive species shall not require a Forest Stewardship Management Plan.

6. **RIPARIAN BUFFER.** To protect water quality, a 100-foot buffer strip shall be maintained in forest or be permitted to revegetate naturally along each edge of the

MEMORANDUM

TO: Conservation Easement Authority
FROM: Alison Teetor
DATE: March 29, 2022
SUBJECT: Application for DUR purchase – Jeff Murphy – TM# 3-A-55C and 3-A-55D

Jeff Murphy has applied to the easement authority for approval of an easement DUR purchase. The property consists of two parcels 3-A-55C, 121.12 acres, with 1 existing house and 5 remaining DURs. The second parcel 3-A-55D consists of 1.8 acres with 1 DUR. The property is located at 2486 Longmarsh Rd. approximately .4 miles south of the intersection with Old Charlestown Road. The large parcel has an existing house built in 1984. The current land use is for hay and pasture. Mr. Murphy is planning to run a race horse training facility on the property. The applicant would like to retire 4 of the remaining 6 DURs and merge the 2 parcels.

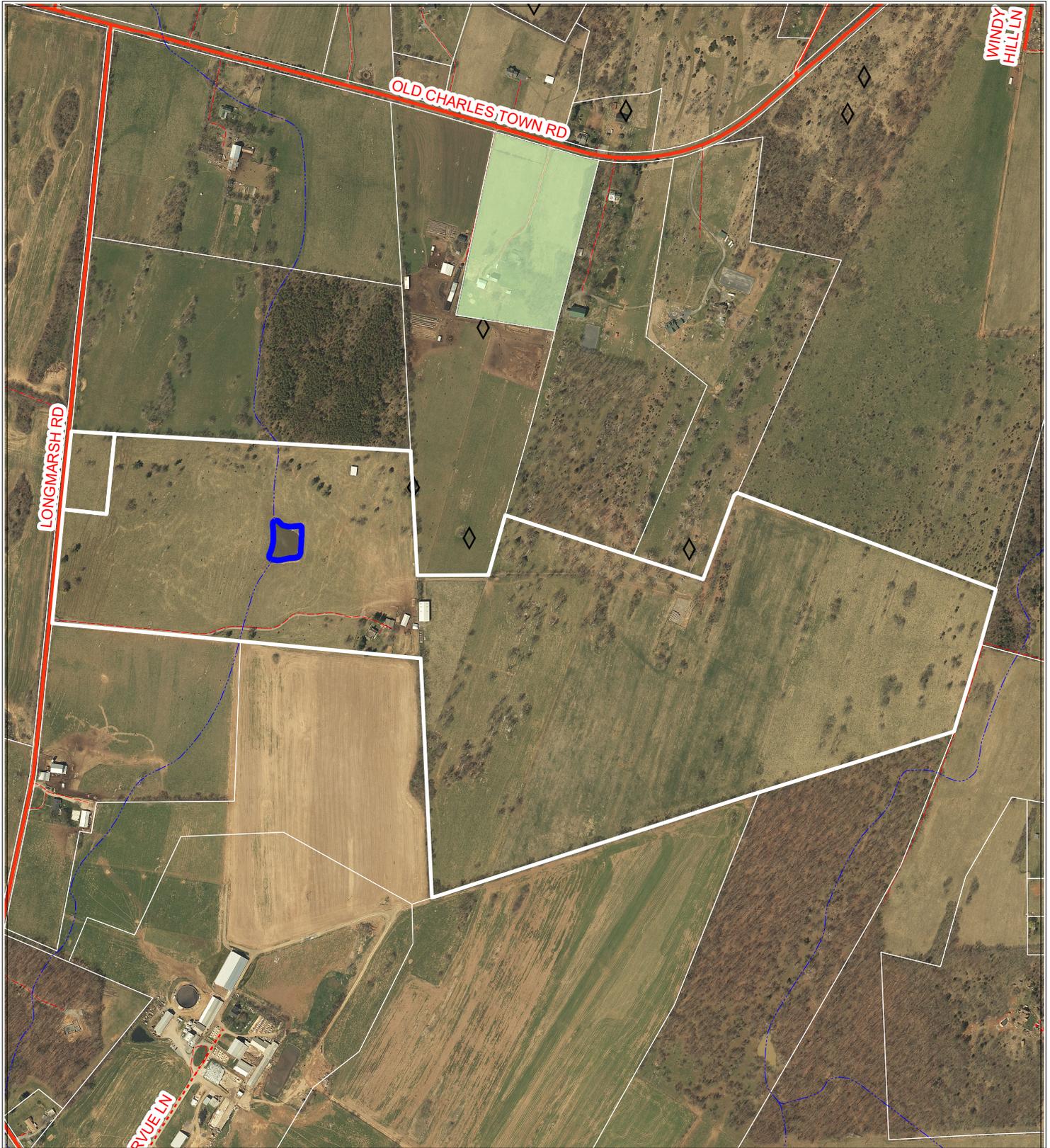
The parcel is zoned AOC and is in land use. Therefore the following guidelines for accepting properties for easement purchase are used:

- 1) the parcel's Property Resource Score is at least 35;
- 2) at least one dwelling unit right is extinguished by the conservation easement;
- 3) the parcel is adjacent to a parcel already under permanent conservation easement;
- 4) the property has a minimum area of 40 acres.

The Authority requires that a property meet at least two of the four guidelines for acceptance.

The property meets 3 of the 4 criteria by scoring over 35, being over 40 acres, and giving up 4 DURs. It is not next to an adjacent easement. The property resource score is 62.8, points were given for retiring 4 DURs, and having about an acre of wetlands. There is an intermittent stream feeding a small pond and Mr. Murphy has expressed interest in creating a riparian buffer around the area. A site visit was conducted March 29th. Based only on the property resource score the property owner is eligible for the maximum offer of \$40,000/DUR.

Recommendation: Go into closed session to discuss purchase offer.



Jeff Murphy
 Tax Map# 3-A-55C
 121.52 acres, 5 DURs, 1 existing dwelling
 Tax Map# 3-A-55D 1.8 acres, 1 DUR



Clarke County GIS
 February 15, 2022



- Parcel Boundary
- Public Road
- Scenic Byway
- Private Road
- Railroad

Location Map



Aerial Imagery 2015 Commonwealth of Virginia