

CLARKE COUNTY  
Conservation Easement Authority  
Friday – 10 June 2022 – 10:00 am  
A/B & Main Conference Room, 2<sup>nd</sup> Floor Government Center

AGENDA

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes of the meeting of 13 May 2022 and 24 May 2022
4. Bank Account balances
5. Campaign for the Authority
6. Discussion Items
  - a. Powhatan School request for composting toilet
  - b. Policy development – large agricultural structures / Building Envelope requirement
  - d. Kohn property lease with PATC
7. Easement Donation/Purchase
  - a. Ellen Dupuy - easement donation – new application
8. Adjournment – The next meeting is scheduled for Friday July 8<sup>th</sup> 10 am

**CLARKE COUNTY**  
**Conservation Easement Authority**  
**draft      Minutes – 24 May 2022      draft**

A special meeting of the Conservation Easement Authority was held at 9:00 am on Tuesday May 24, 2022, in the A/B conference room, 2nd Floor Government Center.

Present:            R. Buckley, R. Bacon, M. Jones and John Hedlund  
Absent:            W. Thomas, T. Catlett,  
Phone in:         G. Ohrstrom  
Staff:              A. Teetor, J. Feaga

The purpose of the special meeting was to review and give final approval to the subdivision potential and permitted building and structures for the property identified by Tax Map#'s 3-A-55C and 3-A-55D owned by Jeff Murphy. Ms. Teetor provided excerpts from the deed of easement. Mr. Murphy has an existing 1.8 acre lot and a 121+ acre lot – each would retain 1 DUR. He has requested the ability to expand the existing lot to 3 acres and subdivide off another 3 acre lot in the future.

Member reviewed the pertinent paragraphs and recommended the following changes: 1) The location of the second three (3) acre lot must be approved by the Authority; 2) the two 3 acre lots are not permitted a 600 square foot apartment as the zoning requirement is that a parcel must be at least 6 acres in size in order to qualify for one. On motion of Mr. Ohrstrom, seconded by Ms. Jones, members approved the revised language for the deed of easement. Mr. Buckley abstained.

**CLARKE COUNTY**  
**Conservation Easement Authority**  
**draft      Minutes – 13 May 2022      draft**

A regular meeting of the Conservation Easement Authority was held at 10:00 am on Friday 13 May 2022, in the A/B conference room, 2nd Floor Government Center.

Present:            R. Buckley, R. Bacon, M. Jones, T. Catlett, and John Hedlund  
Absent:            W. Thomas  
Phone in:         G. Ohrstrom  
Staff:              A. Teetor, J. Feaga, R. Couch-Cardillo

**Call to Order**    Mr. Buckley called the meeting to order at 10 am.

**Agenda**            On motion of Ms. Jones, seconded by Ms. Bacon, the Authority unanimously approved the agenda.

**Minutes**            On motion of Ms. Catlett, seconded by Mr. Hedlund, the Authority unanimously voted to approve the minutes of April 8, 2022, with corrections. Ms. Jones abstained.

**Bank Account:** Ms. Teetor reviewed the financial spreadsheets. Current fund balances show a total fund balance of \$422,395.02 consisting of \$132,621.65 in the donations account, \$235,025.27 in stewardship/restricted, and \$54,748.10 in local funds. Monthly expenses were for the mailing of the winter newsletter. Revenues from rollback tax were reviewed. Ms. Teetor provided a summary of the March rollback with an explanation from the Commissioner of Revenue on when rollback taxes are applied and how they are calculated. Members also discussed the funds available from VDACS. Ms. Teetor provided a summary of the remaining VDACS funds, showing an approximate remaining balance of \$149,800 after the Murphy closing, these funds need to be used by June 30<sup>th</sup>, 2024. The number is approximate as the closing costs for Murphy have not been calculated. Ms. Teetor also handed out a spreadsheet detailing all of the easement purchases using VDACS funds to show how the landowner income factors into the purchase price. Ms. Teetor also updated members on the funding for the Murphy purchase. In an effort to use remaining FY2020 VDACS funds before they expire, Ms. Teetor asked the finance committee for a recommendation to approve the appropriation for the purchase. As the Authority has used its appropriated \$150,000 for FY22, it is hoped that the Board will agree to cover the local expense of \$70,500 from the general fund at their May 17<sup>th</sup> meeting.

**Public Relations:** Ms. Cardillo stated that donations continue to come in and so far in 2022 we have received \$7,341 from 53 donors. She has been organizing the 20<sup>th</sup> Anniversary celebration schedule for June 16<sup>th</sup> from 5-7 pm at Long Branch. Invitations will be sent within the next couple of weeks. She asked for suggestions regarding any special guests that should be included. Members suggested inviting past Authority members. The invitation will also go out to all easement property owners. Ms. Cardillo suggested that it might be nice to have pictures of some of the eased properties along with the stories of how the land was protected. A second event in the works is the Conservation Easement information workshop to be held in September potentially at the Barns of Rose Hill. Ms. Cardillo will contact the coordinator to see what dates are available. Potential speakers include Brook Middleton, panel of easement landowners and the Piedmont Environmental Council. Ms. Teetor included an agenda and powerpoint presentation from a similar workshop held earlier this month in Loudoun County. Ms. Cardillo also stated that the Spring

Newsletter has been delivered for inclusion in the June tax bills. The featured article is about the Edgewood Dairy easement, owned by Tony and Donna Koon.

## **Discussion**

a. **Building envelope requirement** – At the March meeting, members asked staff to get an opinion from Mr. Mitchell regarding whether or not building envelopes should be required on all new easement properties. His opinion was included in the packet. He stated that he finds the requirement of building envelopes on all conservation easements to be advisable. He provided several provisions for the Authority to consider; 1) excluding run in sheds from being required in the envelope, 2) whether or not to require the envelopes be surveyed and 3) that building envelope relocation can be permitted but only with approval from the Authority. Members discussed these issues and opined that run in sheds should be excluded but that a size limit should be established. They also agreed that providing GPS coordinates on a map is adequate to define the location and size of the envelopes rather than requiring a survey. Members stated that they agreed building envelopes could be moved with approval from the authority. In all cases building envelopes shall be located so as to minimize impacts on the conservation values. Staff provided excerpts from deed templates from Virginia Outdoors Foundation (VOF), Land Trust of Virginia (LTV), and the Piedmont Environmental Council, as examples of what other easement holders require. Members asked staff to do additional research and provide a draft policy at the June meeting.

b. **Powhatan School request for composting toilets** - The Authority requested staff to contact Mr. Mitchell regarding his opinion on whether or not composting toilets are permitted on the Crocker Conservancy easement. Mr. Mitchell provided suggested language, included in the packet, for a motion permitting the installation of up to two composting toilets provided that the footprint of the toilets be included as part of the total 3,000 square feet permitted in the deed. On motion of Ms. Bacon, seconded by Ms. Jones the motion was unanimously approved. Staff will provide more detailed information on size, materials, and location when Powhatan submits their plans.

c. **Kohn property well** – Ms. Teetor provided background stating that the Clarke County well ordinance requires all new wells to be tested for nitrates and bacteria prior to receiving an operations permit. The new well at the Kohn property was never tested and so Mr. Feaga has been working to bring the water supply into compliance. His report is included in the packet. As the well failed the total coliform test, we are required to chlorinate the well in order to try and eliminate the bacteria, this process and a second test cost \$300. Members expressed concern that the expenses related to the well and septic on the Kohn property have been extensive and other funding sources should be considered besides the Authority, including potentially developing a friends of Kohn Cabin group. They also asked to see a copy of the lease agreement to better understand the County's versus Potomac Appalachian Trail Club responsibilities. On motion of Ms. Bacon, seconded by Mr. Hedlund, the easement authority agreed to pay the \$300 for the chlorination and re-testing provided it comes out of the stewardship account, and that if additional work is needed the County should provide funding.

d. **VAULT Conference** – Mr. Feaga attended the VAULT Greenways conference in Richmond. He provided a summary that is included in the packet. He stated that it was a great opportunity to meet representatives from other land trusts and state agencies involved in conservation easements.

e. **Policy development – large agricultural structures** – Ms. Teetor provided background material from deed templates from the Virginia Outdoors Foundation, Land Trust of Virginia, and the Piedmont Environmental Council. Members discussed the excerpts from the NERD Farm deed of easement held by the Land Trust of Virginia. It is a 165.73 acre farm with up to 70,000 square feet or < 1%

impervious surface allowed, 56,000 are existing. The Authority suggested developing criteria as to how much, where and what can be constructed, recognizing that every situation is a little bit different, and there may need to be exceptions to the amount of structural footprint permitted. Staff will continue to research what other easement programs are doing to allow large agricultural structures.

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

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Randy Buckley, Chair

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Alison Teetor, Clerk to the Authority

	Total Fund Balance	Donations (128)	Stewardship/Restricted Funds Account (210)	Local Funds (000)
<b>SOY FY22</b>	<b>356,559</b>	<b>113,355</b>	<b>215,557</b>	<b>27,647</b>
<b>Fiscal Year 2022</b>				
July Rev/AR		1,350	92	116,799
July Exps/AP		-55	-250	0
July Exp Moon Easement Purchase				-80,713
Aug Rev/AR		240	92	40,855
Aug Exps/AP		-2,413	0	0
Sept Rev/AR		5,165	89	82
Sept Exps/AP		-2,760	0	-573
Oct Rev/AR		3,255	92	4,163
Oct Exps/AP		-2,558	-1,103	-245
Nov Rev/AR		3,430	89	4,542
Nov Exps/AP		-1,367	0	-924
Dec Rev/AR		11,084	22,550	2,003
Dec Exps/AP		-3,464	0	-165
Dec Exp Smithfield Farm Purchase				-570,070
Jan Rev/AR		6,085	103	5,699
Jan Exps/AP		0	-2,500	-750
Feb Rev/AR		504	107	121,875
Feb Exps/AP		-96	0	-495
Mar Rev/AR		2,853	106	92,074
Mar Exps/AP		-1,908	0	-7
Apr Rev/AR		1,650	98	293,031
Apr Exps/AP		-1,728	0	-19
May Rev/AR		1,226	0	6,387
May Exps/AP		-1,090	0	-141,000
June Rev/AR		0	0	0
June Exps/AP		0	0	0
YTD Rev/AR	747,771.09	36,841.82	23,418.44	687,510.83
YTD Exps/AP	816,251.56	17,438.69	3,852.82	794,960.05
Adjustments	0	0	0	0
YTD FUND BALANCE (AR & AP)	288,078.44	132,757.65	235,122.88	-79,802.09

**ESTIMATED YTD FUND BALANCE**      288,078      132,758      235,123      -79,802

FY22 Expenditure Appropriations	Appropriated	Actual Expenses	Appropriated Balance	Clarke County:
General Expenses	45,000	165,304	-120,304	Includes expenses not specifically designated to an easement (including donation, stewardship and monthly Hall, Monahan expenses).
Lizzie Moon Property	80,713	80,713	0	
Smithfield Farm	570,235	570,235	0	
Murphy	141,000	141,000	0	
	836,948	957,252		

Emily Johnson: Transfer from GF for easement purchases

Emily Johnson: Moon-V/DACS 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

Emily Johnson: Landuse Rollback Tax \$6,386.67

Through 06/03/2022  
 Conservation Easement Expense Detail - FY22

	Donations (128)	Stewardship (210)	Local Funds (000)
July	55.00 Winchester Printers	157.89 Bradley Comeaux Inspections 91.84 Bradley Comeaux Mileage	80,713.00 CE Purchase - Lizzie Moon Property
August	55.00 500.00 Gloria Marconi - Banner 960.00 Robin Couch Cardillo 550.65 Photo Exhibit postcards 105.27 Banner 297.00 Magnets	249.73	80,713.00
Sept	2,412.92 450.00 Gloria Marconi Summer 21 Newsletter 955.34 Winchester Printers Summer 21 1,280.00 Robin Couch Cardillo-report prep 75.00 Gloria Marconi ESMIT Revisions	0.00	0.00 407.50 Hall, Monahan, Engle legal services July 165.00 Hall, Monahan, Engle legal services Aug
Oct	2,760.34 126.35 A. Teator Con. Easement Map 581.35 Winchester Printers - CCEA Reception Invite 1,850.55 Monks BBQ CCEA Donation Reception	0.00 1,000.00 Benjamin Rogers Intern 103.09 Benjamin Rogers Mileage	572.50 162.50 Hall, Monahan, Engle legal services Sept 82.50 Hall, Monahan, Engle legal services Sept
Nov	2,558.25 550.00 Gloria Marconi ESMIT Fall 21 Newsletter 816.66 Robin Couch Cardillo Reports ESMIT Meeting	1,103.09	245.00 287.50 Hall, Monahan, Engle legal services Oct 636.00 Purchase Power Postage
Dec	1,366.66 560.00 Robin Couch Cardillo CEA Prep reports/Meetings 200.00 Gloria Marconi Design/Prod. EOY letter 1,503.94 Winchester Printers Annual Appeal Printing 1,200.00 Eric Wright-Tent Rentals	0.00	923.50 165.00 Hall, Monahan, Engle RSP docs for closing 570,069.80 Hall, Monahan, Engle Smithfield Farm Property
Jan	3,463.94	0.00	570,234.80
Feb	0.00 96.00 WordPress.com Premium	2,500.00	750.00 Hall, Monahan, Engle legal services Dec 495.00 Hall, Monahan, Engle legal services Jan
Mar	96.00 538.00 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	0.00	495.00 6.96 Purchase Power - Postage
Apr	1,908.00 1,087.58 Winchester Printers winter newsletter 640.00 Robin Couch Cardillo CEA March	0.00	6.96 19.29 Purchase Power - Postage
May	1,727.58 450.00 Gloria Marconi Design CEA Spring Newsletter 640.00 Robin Couch Cardillo CEA April 2022	0.00	19.29 141,000.00 Hall, Monahan, Engle Murphy Farm Property
YTD Totals	17,438.69	3,852.82	141,000.05

VDACS

As of 06/03/2022

Close Date	Project	FY 2017 use by June 30, 2019	FY 2018 use by June 30, 2020	FY 2019 use by June 30, 2021	FY 2020 use by June 30, 2022	FY 2021 use by June 30, 2023	FY 2022 use by June 30, 2024	TOTALS
		\$86,950.00	\$61,615.23	\$75,738.77	\$58,333.00	\$54,000.00	\$156,476.00	\$493,113.00
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	-\$6,602.98	
<b>TOTAL REMAINING</b>		<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$149,873.02</b>

\$149,873.02





R O B I N C O U C H C A R D I L L O

June 3, 2022

Clarke County Conservation Easement Authority  
Fundraising Report  
June 2022 meeting

**Donor Statistics**

See attached Master Report

- 2022 year-to-date total: \$9,692.00 from 71 donations

**Ongoing**

*-20<sup>th</sup> anniversary celebration for Easement Authority*

- Thursday, June 16, 2022, 5:00 to 7:00 pm, Long Branch
- Looping slide show of easement landowner photos in background (projector, screen?)
- Food/drinks
- Welcoming remarks at 5:30

*-Conservation easement information workshop*

- Finalize plans – speakers, timing, venue

# Fundraising Results: Clarke County Conservation Easement Authority

As of June 30, 2022

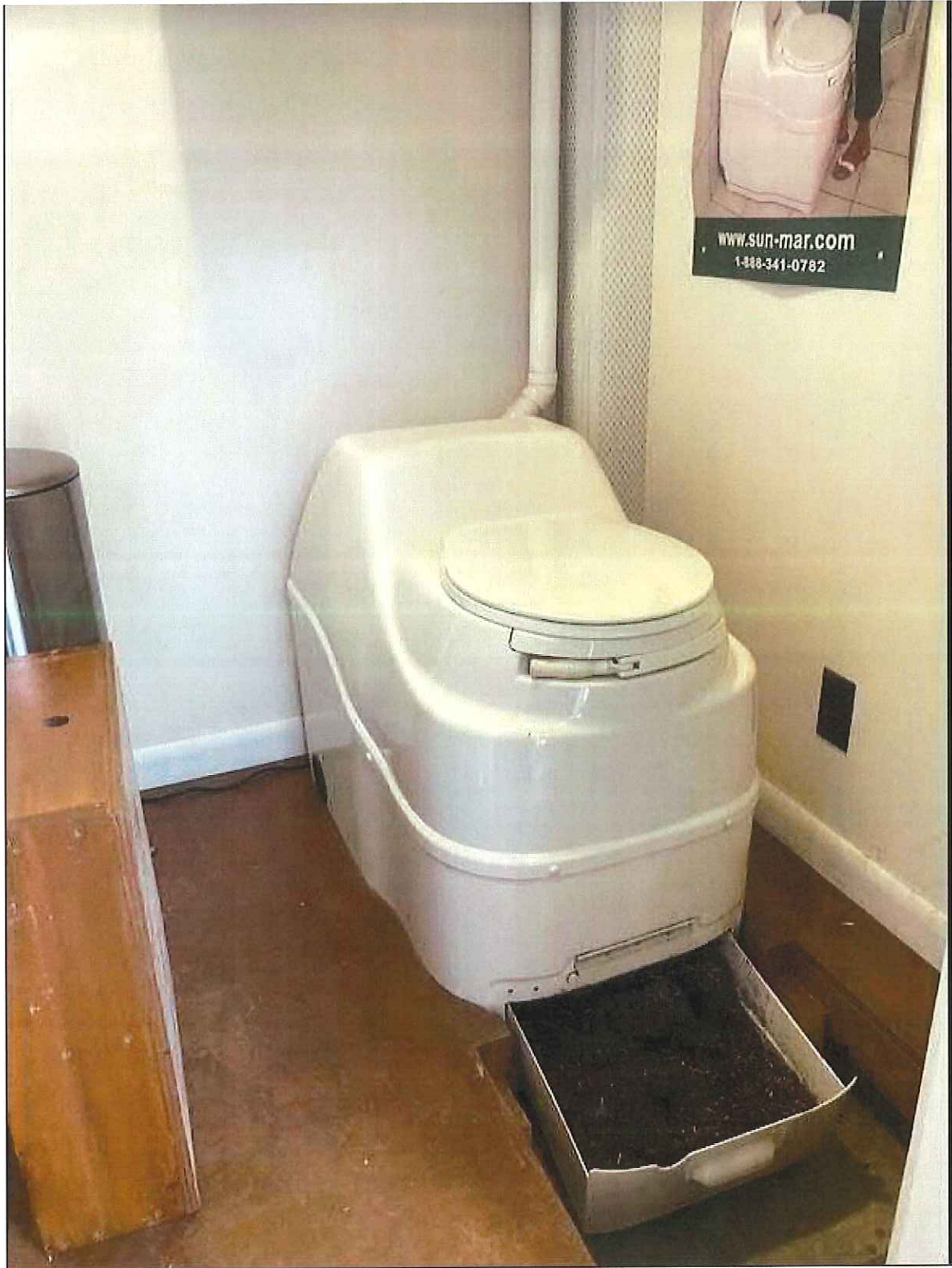
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Amount	\$23,530	\$42,266	\$36,260	\$57,356.00	\$24,778.00	\$26,101.00	\$34,815.28	\$38,230.00	\$36,822.80	\$37,739.00	\$9,692.00
# Donations	181	200	169	158	164	169	169	167	209	206	71
<b>YE Donor Appeal</b>											
YE Donor Appeal Amount	\$7,250	\$15,706	\$17,635	\$47,003	\$15,665	\$7,577	\$16,755	\$16,710	\$16,232	\$16,915	
Donor Respondents	50	69	51	61	47	48	58	52	73	73	
YE Prospect Amount	\$40		\$1,650	\$104	\$25	\$325	\$2,200	\$200	\$120	\$350	
Prospect Respondents	1		3	2	1	3	4	3	2	1	
<b>Winter Newsletter</b>											
Dollar Amount	\$3,611	\$4,805	\$3,335	\$2,700	\$2,228	\$2,815	\$4,920	\$2,668	\$3,105	\$1,710	\$4,371
Respondents	32	39	26	25	29	39	29	32	43	22	28
<b>Spring Newsletter</b>											
Donor: Dollar Amount	\$3,415	\$1,975	\$3,705	\$3,420	\$2,725	\$2,810	\$1,600	\$2,500	\$2,762	\$8,650	\$2,151
Donor: Respondents	32	28	26	27	19	23	15	23	18	44	15
taxpayer Spring Newsletter: Dollar Amt	\$765	\$165	\$1,380	\$100	\$75	\$1,150	\$550	\$2,045	\$615	\$130	\$200
taxpayer Spring Newsletter: Respondents	5	4	9	1	3	8	3	6	6	2	3
<b>Summer Newsletter</b>											
Dollar Amount	\$1,580	\$5,040	\$3,215	\$1,927	\$2,115	\$3,110	\$4,480	\$2,135	\$5,260	\$6,445	
Respondents	21	22	27	22	28	20	38	23	30	31	
<b>Fall Newsletter (new)</b>											
Donor: Dollar Amount	\$4,630	\$2,660	\$2,325	\$1,250	\$600	\$3,870	\$220	\$2,925	\$6,244	\$1,380	
Donor: Respondents	30	27	14	3	6	11	4	11	16	11	
taxpayer Fall Newsletter Dollar Amt	\$715	\$240	\$760		\$325	\$1,200	\$100	\$100	\$410	\$450	
taxpayer Fall Newsletter: Respondents	9	5	5		5	4	1	1	5	5	
<b>Over the Transom</b>											
Dollar Amount	\$1,457	10,500	\$1,350	\$257	\$362	\$2,230.00	\$3,970	\$8,665	\$1,980	\$1,709	\$2,970
Donor Respondents	2	2	2	3	12	7	17	10	14	14	25
<b>Donor Thank-You Party</b>											
Dollar Amount		\$1,175	\$705	\$595	\$638	\$710					
Donor Respondents		4	6	14	14	6					
<b>Photo Revenue</b>	\$67				\$20			282 (6)	94.80 (2)		
Notecards											
Gift-in-Kind (admin work donated by Kate Petranec)	\$473	\$469				\$304					

## Proposed Composting Toilet on Powhatan School Property

1. We would like to place a small structure with a composting toilet on the property. Teachers and students frequently use this property for environmental education classes, nature writing, physical fitness classes, and cross country running. When elementary school students are on the property, access to a toilet would allow us to stay out in the field learning longer, without disruption.
2. We have a quote from Myers Barn Shop in Knoxville, MD, to build a small shed (5' x 6') that would house a Sun-Mar Excel composting toilet. The shed will be constructed of LP Smartside T-111 siding. We will store the bulk material and cleaning products in the shed. (The shed in the photo on the quote is larger, but shows the building materials. Ours will be designed specifically for our purposes - to house the composting toilet, the bulk material, and the cleaning/compost accelerating supplies.)
3. The toilet itself is the Sun-Mar Excel (High Capacity Non-electric Unit.) This is a link to a brochure from Sun-Mar. The toilet vents out the top/back of the shed. There is a handle on the front of the unit that will turn the contents of the drum, and there is a regular schedule for turning the drum periodically as the material composts. The toilet has a pull-out drawer below (on the front) that will be opened on a regular schedule. The material drops from the drum to the drawer below when it is ready, and can be easily removed and carried to our burying site. The toilet is tall and comes with a removable plastic stool on the front. At the recommendation of the builder, we will remove the plastic stool and instead build a sturdier, removable wooden step to provide access to the drawer for removal of waste. The composted waste does not have a disagreeable odor. The metal can beside the toilet in the photo contains "bulk material" and a scoop; the bulk material is added whenever solid waste goes into the toilet.
4. There will be a small cabinet in the shed to store the "Microbe Mix" (to accelerate composting, described in the Sun-Mar brochure) and the "Compost Quick," which is a periodic spray cleaner. We will mount a hand sanitizer dispenser on the wall. There will be no need for running water and no gray water produced.
5. The solid waste periodically removed from the bottom drawer will be carted up the hill to a burying spot (marked on the map.) The burying

spot is well over 400 feet away from the stream and is more than 100 feet from any existing wells.

6. The spot identified on the map for the shed/toilet is 140 feet from the stream (which exceeds the 100 foot setback requirement) and more than 100 feet from any existing wells.



# Myers Barn Shop

*"Building it the way YOU want"*



2212 ROHRERSVILLE RD.  
KNOXVILLE, MD 21758  
PHONE/FAX: (301) 432-2462  
MHIC# 27522 WVO44914

Quote No. 040520-22



Visit us at: [myersbarns.com](http://myersbarns.com)

## Quote

<b>Customer</b>			
Name	Powhattan School		
Address	49 Powhattan Lane		
City	Boise	State	Va
		ZIP	22620

<b>Misc</b>	
Date:	April 5, 2022
Delivery Date:	12-14 Weeks
Home Phone:	
Work Phone:	
Cell Phone:	(540) 533-7286
Email:	<a href="mailto:robincoatts@powhattanschool.org">robincoatts@powhattanschool.org</a>

### 5' x 6' Lean-to Shed

Quantity	Description	Amount
	(1) Single Door, (2) Vents	\$1,823.00
	<input checked="" type="checkbox"/> T-111 Siding <input type="checkbox"/> Vinyl Siding <input type="checkbox"/> LP Lap Siding <input type="checkbox"/> Board-n-Batton	
	Dutchlap Traditional	
1	Sun-Mar Excel NE/High capacity Toilet \$1765.00	\$1,765.00
1	Toilet install \$350.00	\$350.00
1	Stainless steel Can for Bulking material \$75.00	\$75.00
1	Allowance for wall mounted touch-free hand sanitizer \$100.00	\$100.00
Additional charge will apply for unprepared and/or inaccessible sites, Not responsible for yard damage		
<b>SubTotal</b>		\$4,113.00
SalesTax		\$225.78
Shipping & Handling		\$250.00
5% Material Surcharge		\$91.15
<b>Total</b>		\$4,679.93
<input type="checkbox"/> 3% Credit Card Fees 25% Required Deposit		\$1,169.98
Escort fees		
Over 25 mile delivery fee		
<b>Balance Due Upon Delivery</b>		<b>\$3,509.95</b>

#### T1-11 Colors

Siding:	
Trim:	
Roofing:	
Shutters:	Doors:

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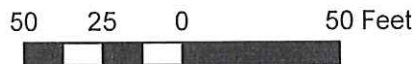
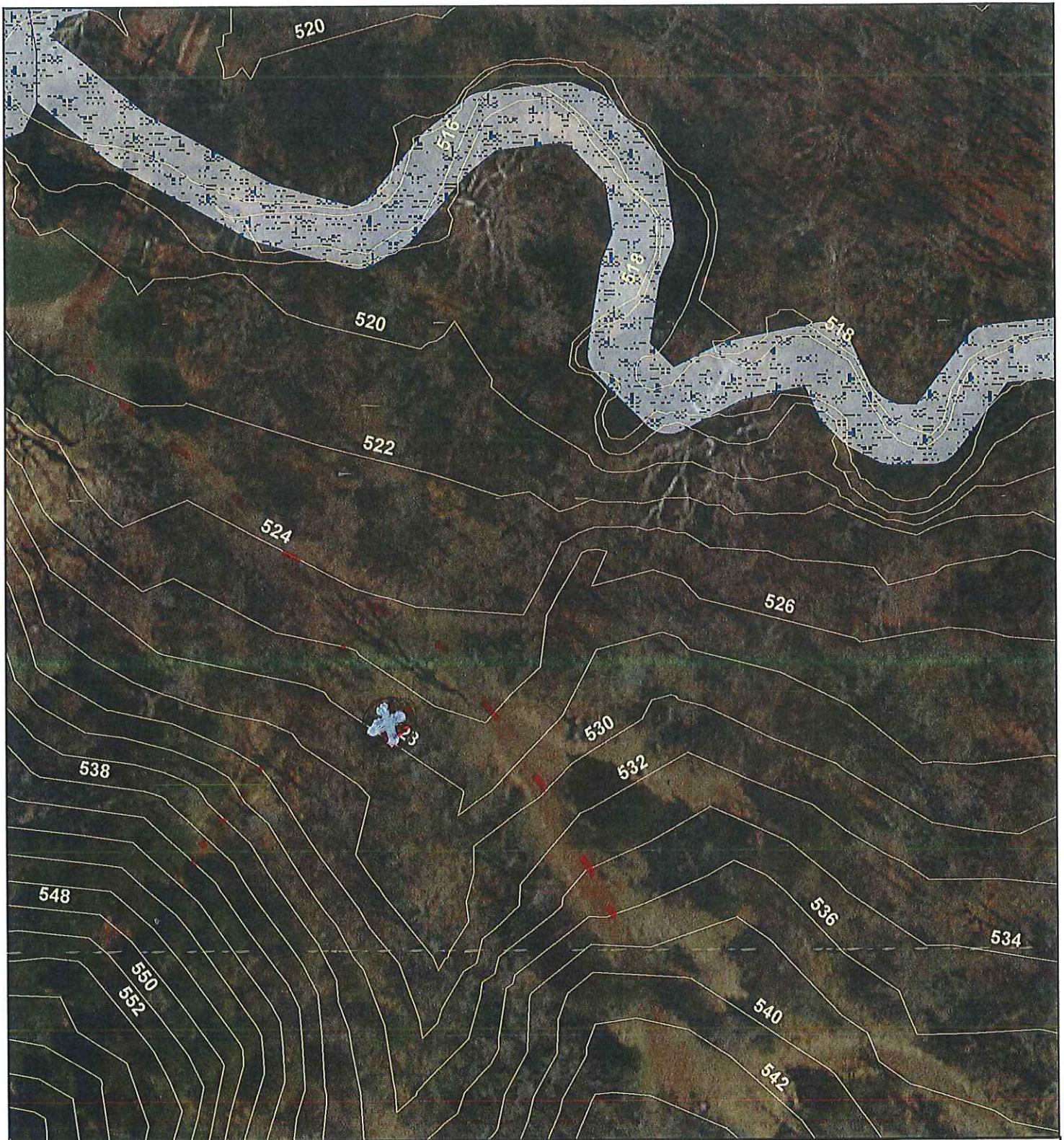
#### Financing Available




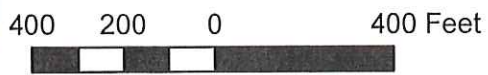
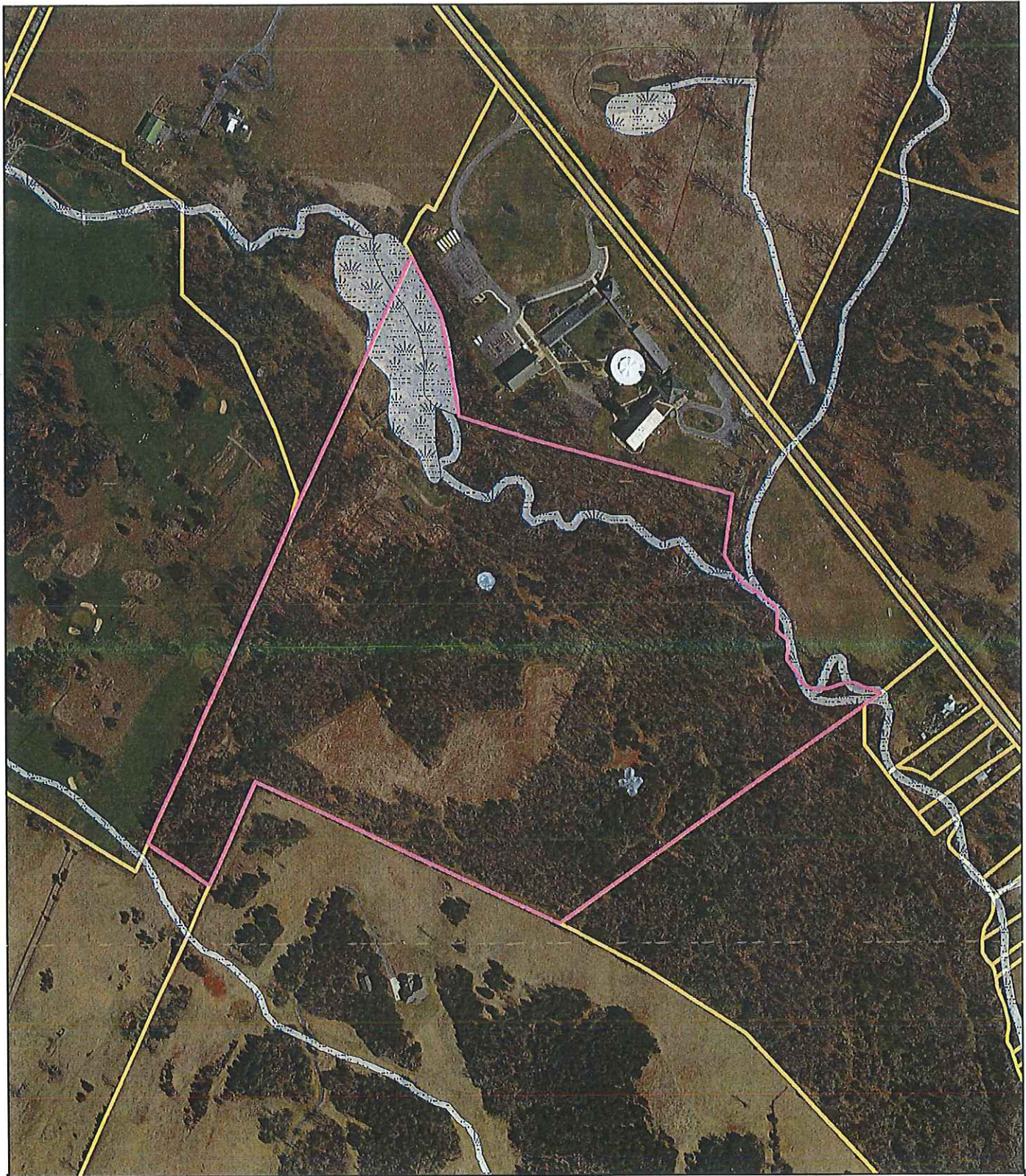
Accepted By: \_\_\_\_\_

Manufacturer assumes no responsibility for local requirements regardless of use. Customer is responsible for building permits




**Myers Barn Shop thanks you for your Business.**



2ft elevation contours  
 Wetland or Stream



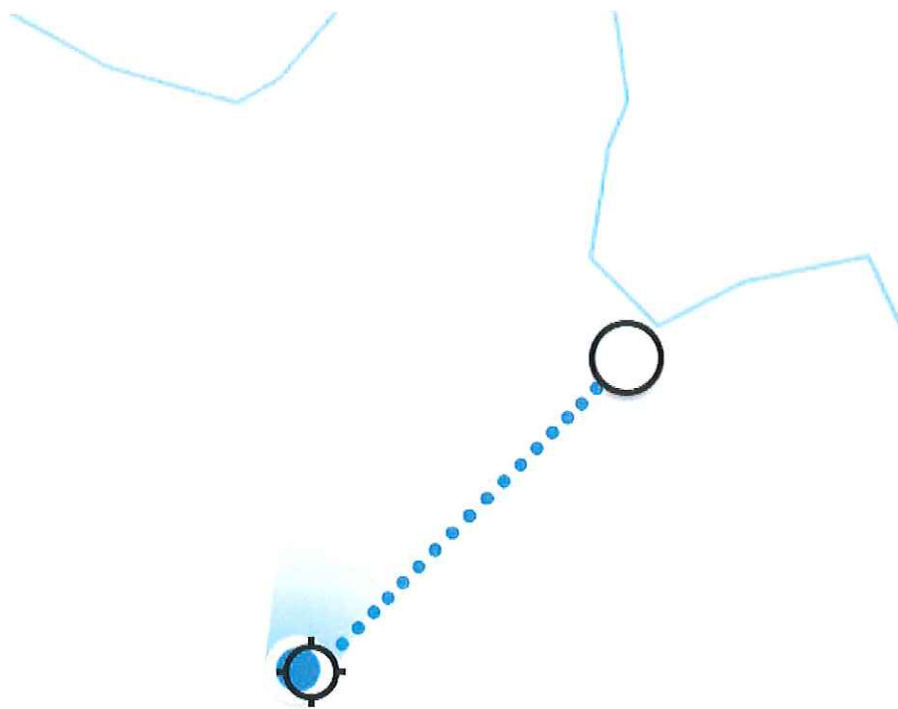
### Legend

-  Powhatan Crocker Conservancy
-  Wetlands and Streams
-  Parcels



# Measure distance

Drag the map and tap "Add point."

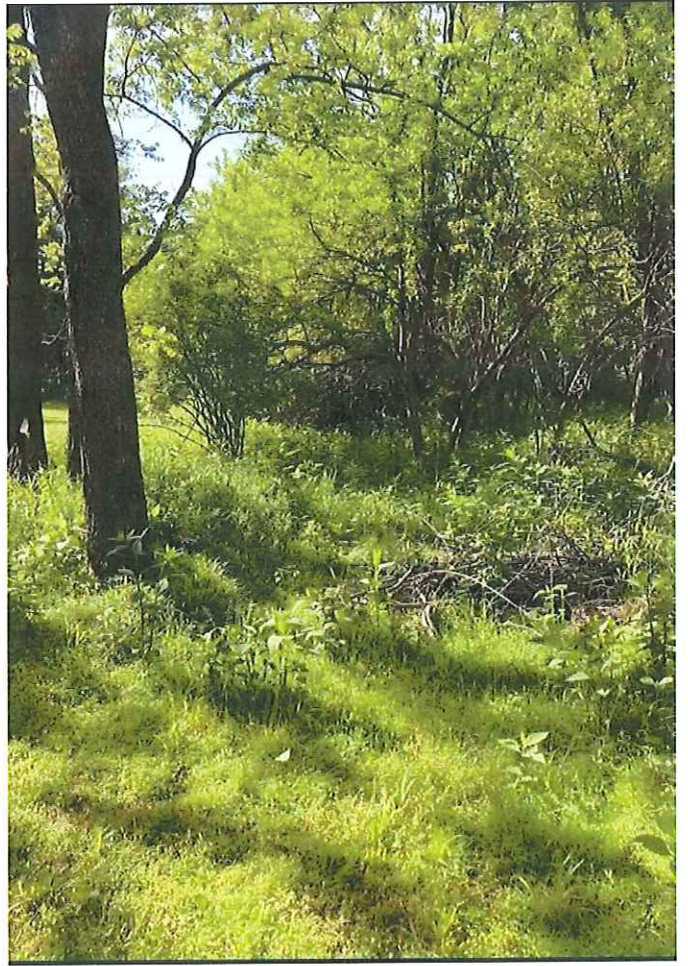


Google

141.076 ft



Add point



MEMORANDUM

TO: Conservation Easement Authority  
FROM: Alison Teetor  
SUBJECT: Large Agricultural Building policy/Building Envelopes  
DATE: June 2, 2022

The easement authority has been discussing the concept of allowing large agricultural buildings such as indoor riding arenas on easement properties. Also being considered is requiring building envelopes on all eased properties. These are two separate issues but there is some overlap particularly with regards to siting new features.

**Large Building Policy considerations**

Currently all structures greater than 4,500 square feet are required to be reviewed and the siting approved by the Authority. In addition, the Authority has established a policy for the maximum square footage permitted based on the acreage as shown in the following table.

Acres	sq. ft.
<10	10,000
10-15	15,000
15-20	15,000
20-30	15,000
30-40	20,000
40-50	20,000
> 50	1%

A recent easement application has brought into question the need for exceptions for these large buildings based on individual property owners needs.

The following are a list of criteria for consideration:

- 1) All large structures shall be located within a building envelope
  - a. Define large?
- 2) Criteria for the location of large structures could include:
  - a. Setbacks from all conservation values, including
    - i. Streams, wetlands, springs
    - ii. Scenic roads
    - iii. Hill tops or other visible locations – consider if tree cover was gone? Must maintain?

- iv. Prime farmland soils
  - v. Historic buildings
  - vi. Sinkholes
  - vii. Groundwater recharge area
  - viii. Property line setbacks
  - ix. Other?
- 3) Authority shall review and approve all building design and materials
  - 4) Should large buildings be limited on parcels below a certain acreage?
  - 5) Define allowable uses of building?

#### **Building Envelope Policy considerations**

At the May meeting members discussed the following issues raised by Mr. Mitchell:

- 1) Excluding run in sheds from being required in the envelope. It was agreed that run in and other types of small structures used for agricultural purposes should be permitted outside of the building envelope up to certain size.

In researching other easement program policies, staff found the following from the Maryland Department of Natural Resources Deed Template regarding the types of structures permitted outside of the building envelopes;

*Run in sheds, loafing sheds, open sided haysheds, and other similar small structures utilized for Agriculture may be located outside the Building Area, shall not be located in the Buffer, and shall not be located within the Forest Area, provided that: (i) each singular Structure shall not exceed a footprint of 500 square feet; (ii) the Structures and location of such Structures shall not materially and adversely affect the Conservation Purposes and Conservation Attributes, and (iii) said Structures shall not be used for those uses allowed by Article V.D(1). Grantees may approve larger Structures for Agricultural use located outside of the Building Area for reasons the Grantees determine, in their sole discretion, are sufficient to justify an exception to the prohibition. In such cases the location, type, size and height of the Structure shall be subject to Grantees' approval.*

[https://dnr.maryland.gov/met/Documents/PDFs/MET\\_ModelEasement.pdf](https://dnr.maryland.gov/met/Documents/PDFs/MET_ModelEasement.pdf)

- 2) Whether or not to require the envelopes be surveyed. Members agreed that providing GPS coordinates on a map is adequate to define the location and size of the envelopes rather than requiring a survey;
- 3) that building envelope relocation can be permitted but only with approval from the Authority. Members agreed building envelopes could be moved with approval from the authority. In all cases building envelopes shall be located so as to minimize impacts on the conservation values.

**New York State Department of Agriculture and Markets Standard Agricultural Easement** defines the following use areas, the attached map shows an example of this approach.

“Farmstead Area” is defined as area(s) depicted in Exhibit B, that centers on existing farm structures or future planned structures.

“Resource Protection Area” is defined as the area depicted in Exhibit B, which contains unique or important natural resources. [optional if an RPA is designated]

“Farm Area” is defined as the remaining area of the farm, depicted in Exhibit B.

#### 8.(a). Impervious Surfaces

Subject to the limitations set forth below, Impervious Surfaces may be constructed or placed on up to a maximum of 10% of the Farm Area and without limitation in the Farmstead Area.

Further the Farm Area; is subject to the Impervious Surface coverage limitations set forth in Section 8(a) (“Impervious Surfaces”), Grantor may construct buildings, structures and impervious improvements for such purposes related to the Farm Operation on up to 5% of the Farm Area without permission of Grantee. With permission of Grantee, Grantor may construct buildings, structures and improvements related to the Farm Operation that would cover up to an additional 5% of the Farm Area.”

**The Virginia Outdoors Foundation** updated their deed template in 2019 and provided an explanation of the changes in a memo. One such change involved building envelopes.

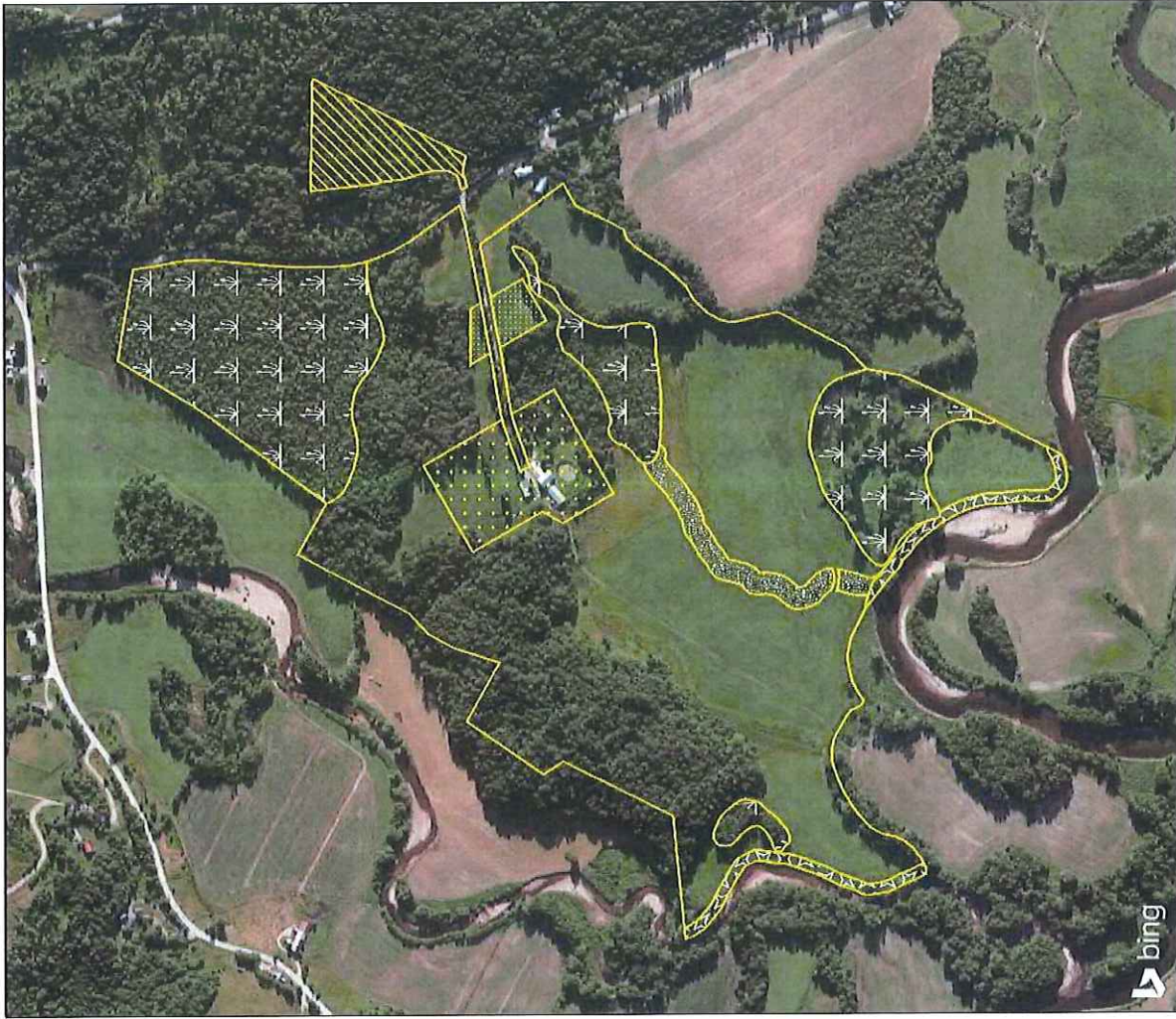
*Section II Paragraph 3. Buildings, Structures, Roads, and Utilities, subparagraph (v) Siting of buildings and structures. To avoid having tiny houses or cabins located outside of building envelopes, the following sentence was added to the subparagraph:*

*“Any detached dwelling must be located in a Building Envelope.”*

Other considerations for building envelopes is how many are permitted and what size can they be. Further research is needed to identify potential options.

#### Summary ideas for discussion

- 1) The same criteria for siting large structures could also apply to building envelope siting, with the exception of building envelopes surrounding existing structures.
- 2) The definition of what types of structures are allowed outside of a building envelope from Maryland could be considered as part of the easement authority policy
- 3) The example from the New York deed template describes a concept of allowing a large percentage of impervious surface within Farm Areas – this concept could be used to allow exceptions to the collective square footage allowances within building envelopes that meet the criteria.
- 4) The Virginia Outdoors Foundation template requires all dwellings to be located within building envelopes



bing

	Farm Buffer Strip (FBS)		Building Complex
	Riparian Buffer Zone (RBZ)		Excluded Land
	Wetland Protection Zone (WPZ)		Farmstead Complex
			Protected Property

0 50 100 150 200 250 300 350 400 Feet

LEASE

THIS LEASE, dated the 23<sup>rd</sup> day of October, 2020, is by and between the COUNTY OF CLARKE, VIRGINIA (“County”) and POTOMAC APPALACHIAN TRAIL CLUB, INC. (“PATC”).

RECITALS

A. The County is the owner of property located in Chapel Magisterial District, Clarke County, Virginia, containing 50.22 acres, more or less, being property conveyed to the County by Melvin L. Kohn by Deed of Gift dated March 26, 2010, recorded in the Office of the Clerk of the Circuit Court of Clarke County, Virginia in Deed Book 521 at Page 163 (“Property”). The Property has an address of 4822 Ebenezer Road, and is identified as Tax Parcel No. 32-A-75.

B. Said Deed of Gift placed certain conditions on the Property in the County’s ownership of the property, including, without limitation, stewardship for permanent protection of the natural values of the Property and providing access to the Property by the public for educational and recreational purposes, subject to reasonable regulation by the County to restrict public access to preserve the natural values associated with the Property.

C. In addition, the Property is subject to the terms of a conservation easement on the Property held by the County and the Clarke County Conservation Easement Authority, as set forth in the Deed of Easement dated November 1, 2007, recorded in the aforesaid Clerk's Office in Deed Book 488 at Page 806 and re-recorded in Deed Book 514 at Page 659.

D. PATC operates a program of having cabins available on properties for hiking and outdoor recreational uses by tenants of the cabins.

E. PATC desires to lease the Property from the County for use in its program and is prepared to manage the property for the protection of the natural values of the Property, and the County desires to lease the Property to PATC for such purposes, subject to the provisions herein contained.

LEASE

NOW, THEREFORE, the County and PATC agree as follows:

1. PREMISES LEASED.

The County hereby leases the Property to PATC.

2. TERM.

A. The term of the Lease shall be for ten (10) years, commencing on January 1, 2021 and ending on December 31, 2030.



3. RENT.

The rent for the Property shall be One Dollar (\$1.00) per year, payable in advance on the first day of January for each year of the Lease and extensions thereof.

4. USE.

A. PATC shall use the property for its cabin rental operation to include hiking and recreation uses.

B. PATC's cabin rental operation shall be available to the public and not limited to PATC members.

5. CONDITIONS ON USE.

A. In the leasing and use of the Property, PATC shall comply with all of the conditions and restrictions contained herein and in the aforesaid Deed of Gift and Deed of Easement. PATC acknowledges that it has been provided a copy of the Deed of Gift and the Deed of Easement.

B. The County shall have use of the cabin and grounds, at no cost, for up to fifteen (15) days per calendar year.

C. The County shall have the right to inspect the Property at reasonable times and upon reasonable notice to PATC.

6. MANAGEMENT AND MAINTENANCE.

A. PATC shall assign a property manager from its organization to manage the Property.

B. Under this Lease, PATC is granted exclusive use of the Kohn Cabin (except as otherwise stipulated in the Lease), the shed behind the cabin for storage, and the acreage that surrounds the cabin. PATC is responsible for the maintenance and upkeep of these structures and grounds. Any major alterations to the structures, land, or vegetation will be referred to the County for approval.

C. PATC shall be responsible for cutting the grass within and alongside the road leading from the main gate to the cabin. PATC shall, at its cost, twice a year in the growing season bush-hog the large field downslope of the cabin. PATC will be responsible for maintaining any roads or trails blazed for cabin-renter hiking, any trail to the pond or other points of interest, and a perimeter trail generally following the property boundary.

D. PATC may construct a vermin resistant storage cage within the storage shed and may place its own lock on the shed to control access.

E. PATC may clear and maintain an area inside the main gate along the road to the cabin, for parking by cabin renters. PATC may

construct a gate across the road between the parking area and the cabin to limit vehicle traffic beyond the designated parking area.

F. PATC agrees to add the Kohn cabin to its cabins property insurance policy. PATC shall provide Comprehensive General Liability insurance against injuries to third parties, including bodily injury and personal injury, resulting from any action or operation in connection with the use of the cabin. PATC will name the County additional insured on the General Liability policy and provide evidence of insurance each year with a limit of at least \$1,000,000. The County is responsible for paying real property taxes, if any.

G. PATC shall be responsible, at its cost, for needed maintenance, repairs, and improvement of the Property, up to \$1,000.00 per calendar year, adjusted up or down each year after 2021 by the annual Social Security Administration index.

H. PATC shall notify the County of any needed maintenance or repairs in excess of PATC's annual obligation for maintenance and repairs as set forth in subparagraph G., above, and shall notify the County of any needed major repairs and capital improvements.

## 7. UTILITIES AND SERVICES.

PATC shall be responsible for all utilities and services to the Property during the Lease and extensions thereof.

8. DEFAULT.

A. If PATC fails or neglects to perform any of PATC's obligations hereunder, or if PATC shall abandon or vacate said premises, or if PATC shall be adjudicated bankrupt or insolvent according to law, or any assignment of the property shall be made for the benefit of creditors, then, in any of the events, the County, without notice or demand, may lawfully declare said Lease terminated, and re-enter the premises or any part thereof either with or without process of law, and expel, remove, and put out PATC or any person or persons occupying the Property and may remove all personal property thereof, using such force as may be necessary to again possess and enjoy the Property as before the demise without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant or condition and without liability to any person for damages sustained by reason of removal.

B. The various rights, powers, privileges, elections, and remedies of the County and the various rights, powers, and privileges of PATC provided by the terms of this Lease, shall be construed as cumulative

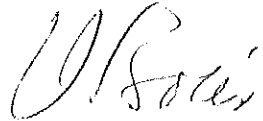
and no one of them is exclusive of the other or exclusive of any right of priorities allowed by law not consistent herewith and shall be continuing rights, none of which shall be exhausted by being exercised on one or more occasions. In the event of any default by PATC of any terms of this Lease, the County shall have the right to evict PATC through Unlawful Detainer proceedings in the Clarke County, Virginia, General District Court. PATC shall be responsible for all out-of-pocket Court expenses and reasonable attorney fees incurred by the County.

9. ENTIRE AGREEMENT.

This Lease contains the entire agreement between all parties hereto and shall not be changed or modified in any manner except by an instrument in writing executed by the parties hereto.

WITNESS our hands and seals:

CLARKE COUNTY, VIRGINIA

By:   
Chris Boies, County Administrator

POTOMAC APPALACHIAN TRAIL  
CLUB, INC.

By: \_\_\_\_\_  
Joseph F Lombardo Jr, President

## MEMORANDUM

TO: Conservation Easement Authority  
FROM: Alison Teetor  
SUBJECT: Easement donation – Ellen Dupuy  
DATE: June 2, 2022

Ellen Dupuy has applied for an easement donation for the property identified as Tax Map# 24-A-25 located at 264 Bell Lane. The property consists of 88.25 acres, with 4 remaining DURs and 1 existing house built in 1900. The house is in poor condition and would likely be demolished. Ms. Dupuy would like to retire 3 DURs and keep 2, allowing for a primary and secondary dwelling with no subdivision.

The parcel is zoned AOC and is in land use, therefore the following guidelines for accepting properties for easement donation 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 all of the 4 criteria. The property resource score is 65.04, the parcel is greater than 40 acres, is retiring 3 DURs, and is adjacent to an existing easement. It received points for retiring 3 DURs, having frontage on a perennial stream, being adjacent to existing two easements, and being owned by the current property owner for 27 years. There is no lien on the property.

**Recommendation:** Give preliminary approval and schedule a site visit.



Ellen Dupuy  
 Tax Map# 24-A-25  
 88.25 acres, 1 ext. dwl., 4 DURs

Clarke County GIS  
 May 31, 2022



300 150 0 300 Feet



- Intermittent Stream
- Perennial Stream
- Parcel Boundary
- Scenic Byway
- Railroad
- Public Road
- Private Road

Location Map

