Middle Peninsula Planning District Commission

Year 2: Middle Peninsula Conservation Corridor Plan

MPPDC staff worked with regional Stakeholders to develop a memorandum of understanding as well as a public policy and recommendation matrix to support the cohesion between land use practices and public policy as it relates to conservation easements within the Middle Peninsula.

September 2011

Virginia Coastal Zone MANAGEMENT PROGRAM

Middle Peninsula Planning District Commission

This project was funded in whole by the Virginia Coastal Zone Management Program at the Department of Environmental Quality through Grant #NA10NOS4190205 Task 97.01 and Task 95 of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, under the Coastal Zone Management Act of 1972, as amended.

The views expressed are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Commerce, NOAA or any of its subagencies.

TABLE OF CONTENTS

Executive Summary 1

I. Introduction 2

II. Continued Discussion: Fiscal Impacts of Conservation Easements 2

III. Mapping: Conservation Efforts in the Region 4

IV. Land use practice and public policy: Creating cohesion 5

V. Conclusions 6

Appendix A: Commissioner of Revenue Roundtable Meeting – Agenda and Minutes 8

Appendix B: Conservation Stakeholder Meeting – Agenda and Minutes 11

Appendix C: Series on maps depicting regional conservation efforts 14

Figure 1: Map of Currently Protected Areas (ie. Managed Lands and Lands with Conservation Easements) within the Middle Peninsula 2010. 14

Figure 2: Map of Priority Conservation Areas, as determined by the State and Currently Protected Areas (ie. Managed Lands and Lands with Conservation Easements) within the Middle Peninsula 2010. 15

Figure 3: Map of Zoning Incompatible/Compatible with Conservation and Currently Protected Areas (ie. Managed Lands and Lands with Conservation Easements) within the Middle Peninsula 2010. 16

Appendix D: A GIS Analysis Report 17

Appendix E: County Comprehensive Plan Language Relevant to land conservation and preservation 35

Appendix F: Conservation Easement Presentation given at the VaULT Conference (6/1/2011) as well as the Virginia Association of Assessing Officers Educational Seminar (7/13/2011) 41

Appendix G: A Guidance Document: Consistently Accounting for Conservation Easements within Your Jurisdiction 53

Report Abbreviations

CoR - Commissioner of Revenue
DCR-DNH - Virginia Department of Conservation and Recreation – Division of Natural Heritage
DCR - Virginia Department of Conservation and Recreation
DGIF – Department of Game and Inland Fisheries
DOF - Virginia Department of Forestry
DRSC – Dragon Run Steering Committee
FODR – Friends of Dragon Run
HRPDC – Hampton Roads Planning District Commission
MPLT – Middle Peninsula Land Trust
MPPDC – Middle Peninsula Planning District Commission
PCA – Priority Conservation Areas
NOAA – National Oceanic and Atmospheric Association
TNC – The Nature Conservancy
VAAO – Virginia Association of Assessing Officers
VaTAX – Virginia Department of Taxation
VaULT – Virginia United Land Trusts
VCU-CES – Virginia Commonwealth University Center for Environmental Studies
VOF – Virginia Outdoors Foundation

Executive Summary

Middle Peninsula localities pride themselves on their rural character, heritage, as well as their natural resource based economy which is reflected throughout county comprehensive plans. To support such a vision, private landowners are encouraged to place conservation easements on their property. However in Fall 2009, when The Nature Conservancy (TNC) purchased over 13,000 acres of land within the Dragon Run Watershed and then sold the land pending a conservation easement, Middle Peninsula localities began to question the fiscal impacts of conservation easements and recognized that current land use practices may not coincide with current land use policies.

Therefore, in 2010, Middle Peninsula Planning District Commission (MPPDC) Staff, funded through the Virginia Coastal Zone Management Program (Grant #NA09NOS4190163 Task 97.01 and Task 95), explored the fiscal impacts of conservation easements in the Middle Peninsula. As MPPDC staff worked closely with a variety of stakeholder groups (i.e. Virginia Department of Taxation (VaTAX), Commissioners of Revenue (CoR), Conservation Entities, County Planners and County Administrators), it was found that CoR were over reporting the total land book value to the VaTAX, which reduced the county's composite index score and thus the overall State funds received for education. To maximize the fiscal benefits through the Composite Index, MPPDC staff educated CoR as to the implications of current practices and presented opportunities to improve the methods for valuing and reporting conservation easements within their jurisdiction.

With a handle on the fiscal impacts of conservation easements, developing cohesion between land use practices and policy was the focus of year 2. In part, MPPDC staff spent continued educating CoR, County Planners, County Administrators, and Conservation Entities within the Middle Peninsula and State-wide about the qualitative and quantitative findings from year 1. Furthermore MPPDC staff engaged stakeholders in discussions to identify challenges associated with conservation easements. Identified challenges included: (1) communication between the conservation community and localities, (2) disconnection between land use tools and current views of local officials, (3) CoR and Planning Staff are unable to easily track conservation easements once they are recorded, and (4) consistency in accounting for the reduction in fair market values of lands with conservation easements. With this information MPPDC staff developed a Public Policy options and Recommendation matrix to offer solutions to identified challenges and to ultimately improve local accountability of conservation easements.

I. Introduction

The Middle Peninsula Planning District Commission (MPPDC) funded through the Virginia Coastal Zone Management Program, continued focusing on the ramifications of conservation easements within the Middle Peninsula. However, rather than considering the fiscal impacts of conservation easements, as in year 1, MPPDC staff focused on the land use implications of conservation easements within the region. Through the development of maps depicting the location of current conservation efforts, MPPDC staff engaged local stakeholder s in discussions to promote cohesion between land use practices and land use policies.

II. Continued Discussion: Fiscal Impacts of Conservation Easements

Throughout the grant year, MPPDC staff presented the quantitative and qualitative findings, found under grant #NA09NOS4190163 Task 97.01 and Task 95, to Commissioners of Revenue (CoR), County Planners, County Administrators, and Conservation Entities within the Middle Peninsula and State-wide.

Locally, MPPDC staff convened meetings targeting Middle Peninsula CoR as well as conservation entities and county staff. First in October 2011, MPPDC staff hosted Middle Peninsula CoR to present the findings (Appendix A). MPPDC staff reviewed VA Code associated with conservation easements (i.e. Virginia Open Space Land Act §10.1-1700 and Virginia Conservation Easement Act §10.1-1009) and the authority given to localities to adjust the fair market value of properties with conservation easements. MPPDC staff also reviewed the specific quantitative findings from each county; since each locality approached conservation easements differently, it prompted discussions about the VA Code and the professional responsibilities of the CoR. In particular, CoR shared ideas to improve the current process in handling conservation easements in their locality as well as within the region. To name a few, suggestions included (1) maintaining a list of eligible conservation easement holders within the State for CoR reference, (2) MPPDC staff could host educational seminars to share fiscal impacts from MPPDC localities, and (3) MPPDC staff could work with CoR to develop a template to track conservation easements (ie. Tax-map number, holder, fair market value, devaluation due to easement, etc). As this meeting was the first of its kind between Middle Peninsula CoR, it ultimately facilitated the development of professional relationships and the

exchange of ideas and practices which assisted several localities in maximizing their fiscal benefits through the composite index.

A month following the CoR meeting, MPPDC staff convened a meeting with a more diverse group of local stakeholders, including Directors of County Planning within the Middle Peninsula, Hampton Roads Planning District Commission (HRPDC), The Nature Conservancy (TNC), Virginia Outdoor Foundation (VOF), Middle Peninsula Land Trust (MPLT), Virginia Department of Forestry (DOF), as well as Virginia Department of Conservation and Recreation (DCR) (Appendix B). Although the meeting's topic of discussion was almost identical to the CoR meeting, the discussion ensued by these stakeholders was invariably different due to this group's professional experience in land use and public policy. Therefore as the MPPDC staff reviewed the findings from year 1, the stakeholders offered policy solutions and recommendations to improve how localities account for conservation easements within their jurisdiction. *For more policy information please see section IV*.

Additionally on two separate occasions, MPPDC staff presented the findings of year 1 at state conferences, including Virginia's United Land Trust (VaULT) Conference and the Virginia Association of Assessing Officers (VAAO) Educational Seminar (Appendix F). At the VaULT conference the audience primarily included conservation entities, while the VAAO Seminar consisted of CoR and Assessors throughout the State.

In any case, Middle Peninsula localities have become a case study for all other counties within the Commonwealth of Virginia, particularly as localities work within the same Virginia Code framework and strive to maximize their fiscal benefits through the composite index. MPPDC staff inquired about the usefulness of report from year 1 and how it may be used or is currently being used by conservation entities as well as counties:

> "I am bringing together a Land Trust subcommittee under our Conservation Planning & Stakeholder Outreach Committee to talk about how we might use your study and other similar information to develop a presentation for County Administrators, Elected Officials, Planners and Commissioners of Revenue. The goal of the presentation will be to educate them about the value of conservation easements and the impacts to County revenues and state education funding."
> **– Mr. John R. Eustis, Executive Director New River Land Trust (June 2011)**

> "I have talked about and provided your well done study to officials and staff in the counties of Bland, Carroll, Floyd and Montgomery. This has included county

administrators, board of supervisors and commissioners of revenue. What I need to do now is follow up with meetings specifically about the findings and how things are being done in these counties." **– Mr. John R. Eustis, Executive Director New River Land Trust (November 2011)**

"We're already using it [the Conservation Easement Report] in our advocacy work here the Piedmont Environmental Council." **–Ms. Heather Richards, Director of Land Conservation Piedmont Environmental Council**

"I've read it [the Conservation Easement Report] and found the results both interesting and potentially helpful. I expect we [Land Trust of Virginia] will be using the study next time we hear a challenge from a member of the Board of Supervisors, member of the public, or legislative representative claiming that easements adversely affect the county's tax base. Your report may be particularly helpful to other county tax assessor's offices in properly assessing properties under easement." **– Mr. Donald J. Owen, Executive Director Land Trust of Virginia (June 2011)**

Q: How has your organization utilized the report? Or how does your organization plan to use this report in the future?
A: "To incorporate this research and study as reference in the 2013 *Virginia Outdoors* Plan." **- Ms. Janit Llewellyn, Virginia Department of Conservation & Recreation (June 2011)**

III. Mapping: Conservation Efforts in the Region

To provide a visual of conservation efforts within the region as well as to support stakeholder discussions, MPPDC staff conducted a GIS analysis (Appendix D) and developed maps depicting Priority Conservation Areas (PCA), local zoning districts compatible with conservation, as well as the location of conservation easements within the Middle Peninsula.

MPPDC staff first started with the development of a map depicting only protected areas (ie. Managed Lands or Lands with Conservation easements) (Appendix C: Figure 1). To add to the analysis MPPDC staff overlaid PCA data. As a collaboration between the Virginia Department of Game and Inland Fisheries (DGIF), Virginia Department of Conservation and Recreation – Division of Natural Heritage (DCR-DNH), and Virginia Commonwealth University – Center for Environmental Studies (VCU-CES), conservation information and priorities were synthesized into a unified dataset of Priority Conservation Areas (PCA). The PCA is a geospatial

representation of conservation priorities throughout the Commonwealth developed to assist localities in conservation planning efforts. Therefore, to get an idea of the how current land use practices jive with the State's conservation priorities, MPPDC staff overlaid the protected lands with the PCA data (Appendix C: Figure 2). MPPDC staff also reviewed the various zoning definitions from Middle Peninsula Locality Ordinances to determine those zones compatible with conservation (Appendix D) and compared that with the location of conservation easements (Appendix C: Figure 3).

As these maps juxtaposed current land use practices with current land use policies, local elected officials, county administrators as well as county planners were able to observe and notice that within the Middle Peninsula conservation efforts are indeed occurring within high priority conservation areas, and that there are few protected areas that are in conflict with current land use policies (ie. Zoning).

IV. Land use practice and public policy: Creating cohesion

Middle Peninsula localities pride themselves on their rural character and natural resource based economy. As this is reflected in each county's comprehensive plan (Appendix E), conservation efforts within the region are generally encouraged; however current county planning tools do not specifically direct the location of conservation easements. Thus MPPDC staff, in partnership with conservation entities and Middle Peninsula county stakeholders, identified inconsistencies and challenges associated conservation easements.

Through a series of stakeholder meetings, challenges of accounting for conservation easements were identified. Challenges included (1) communication between the conservation community and localities, (2) disconnection between land use tools and current views of local officials, (3) Commissioners of Revenue and Planning Staff are unable to easily track/search for conservation easements once they are recorded, and (4) consistency in accounting for the reduction of fair market values of lands with conservation easements. In order to offer some solutions, MPPDC staff developed a matrix of Public Policy Options and Recommendation to improve local accountability of conservation easements within a given locality. As part of the matrix, a Memorandum of Understanding template created to establish a process agreement to encourage communication between these stakeholder groups upon the initiation of a conservation easement.

This Public Policy Options and Recommendation matrix was later incorporated into a Guidance Document (Appendix G) to assist counties participating within the Virginia Use Value Assessment Program (ie. land-use counties), and those counties that are not (ie. non-land use counties), by offering options to improve the accountability of conservation easements within a given jurisdiction. To facilitate interested localities in making recommended land use policy and administrative changes, MPPDC presented the matrix to county administrators and planning directors.

V. Conclusions

Throughout year 2, MPPDC staff continued educating Middle Peninsula Commissioners of Revenue and Regional Stakeholders as to the fiscal impacts of conservation easements. Besides helping to improve processes within the Middle Peninsula, localities throughout the Commonwealth also benefited from year 1 findings as MPPDC staff presented this information at State Conferences.

According to the Virginia Conservation Easement Act[1] an easement in not valid unless it conforms to the county comprehensive plan. This suggests that local governments have the responsibility to use their authority, through the comprehensive plan and zoning ordinances, to specify the location of conservation easements, if they are unsatisfied with current land use practices. Therefore, as land conservation efforts become more popular among landowners, localities should have a clear understanding of how their current land use practices coincide, or not, with their current land use policies. Therefore through the development of maps and facilitating discussions with regional stakeholders focused on the relationship between land conservation, land use policy and land use practices, Middle Peninsula localities have gained a better sense of the current land use practices and policies associated with conservation easements.

[1] Virginia Conservation Easement Act (§10.1-1010), *No conservation easement shall be valid and enforceable unless the limitations obligations created thereby conform in all respects to the comprehensive plan at the time the easement is granted for the area in which the real property is located.*

Project Outcomes:

- Regional and State-wide stakeholders discussions were prompted by MPPDC with regard to the fiscal impacts of conservation easements as well as associated legislation to maximize their fiscal benefits through the composite index.

- The Middle Peninsula CoR Meeting facilitated the development of professional relationships and the exchange of ideas and practices which assisted several localities in improving their fiscal benefits from the composite index.

- A Public Policy Options and Recommendation matrix was developed to focus on creating cohesion between current land use practices and policies.

- The development of a Memorandum of Understanding between a given conservation entity and a locality to improve communication between the two entities during the onset of a conservation easement.

- Conservation Entities throughout the Commonwealth have used or plan to use the *Conservation Easements: Fiscal Impacts to Localities in the Middle Peninsula* report from year 1: (1) DCR may use this report as a reference in the 2013 *Virginia Outdoors Plan,* (2) the New River Land Trust has talked about and provided the report to officials and staff in the counties of Bland, Carroll, Floyd and Montgomery, and (3) the Piedmont Environmental Council has used this report in advocacy efforts.

Appendix A: Commissioner of Revenue Round Table Meeting – Agenda and Minutes

Commissioner of Revenue Roundtable

November 17, 2010

AGENDA

1. Overview of relevant Virginia Code
2. Discussion on composite index
3. Needs identified by CORs
4. Overview of impacts for each county
5. Idea sharing to improve the process by

Commissioner of Revenue Roundtable

November 17, 2010

MINUTES

Welcome and Introductions
Middle Peninsula Planning District Commission Staff held a meeting with the Commissioners of Revenue from Middle Peninsula localities and the Virginia Department of Taxation in the Middle Peninsula Planning District Commission Board Room in Saluda, Virginia, at 11 a.m. on November 17, 2010 to discuss the findings of the Conservation Easement Initiative.

Ms. Sara Stamp, Regional Projects Planner II, welcomed those in attendance. Commissioners of Revenue in attendance included Mr. Kevin Wilson, Gloucester County; Ms. Sally Pearson, King William County; Ms. Helen Longest, King and Queen County; Ms. Bonnie Davenport, Middlesex County; and Mr. Thomas Blackwell, Essex County. Also present were Mr. Reese Milligan, Gloucester County Assessor; Mr. Jason Hughes, Virginia Department of Taxation; and Ms. Jackie Rickards, Regional Projects Planner I.

Overview of relevant Virginia Code
Ms. Stamp introduced the initiative to understand the fiscal impacts of conservation easements within the Middle Peninsula. She shared that over the last six-months, MPPDC staff have been working with each Commissioners of Revenue (CoR) from each locality to understand the process/method in which counties currently handle conservation easements. MPPDC staff explained that to start this project, legislation relevant to conservation easements and tax code was reviewed. In VA Code, Section 10.1 Conservation, CoR may find information relevant to conservation easements and how to value them. MPPDC staff acknowledged that this is not included within the VA Taxation Code (Section 58.1) that CoR typically work with. According to Section 10.1, properties with conservation easements shall be reduced in fair market value due to the inability of the owner of the fee to use such property for uses terminated by the easement. In land use-counties the property with an easement shall be devalued based on the land use rates that have been adopted by the county, while the CoR or the assessor in non-land use counties shall value the property based only on uses of the land that are permitted under the terms of the easement and not those values attributable to the uses or potential uses of the land that have been terminated by the easement.

Discussion on composite index
MPPDC staff reviewed how conservation easements impact local State aid received for education through the composite index. As the fair market value of properties with conservation easements are reduced based on the encumbrances placed on the property, CoR are to report a reduced total land book value to the Department of Taxation rather than the original fair market value of the land. As the reduced fair market value is recorded this will reduce the total land book value of the county which will then increase the State aid received by the county for education. Through MPPDC staff research it was found that Commissioners of Revenue are not currently maximizing fiscal benefit of conservation easements.

Overview of impacts for each county
Over the last six months, MPPDC staff have worked with CoR, researched county records, and connected with entities affiliated with conservation easements to gain a comprehensive list of

properties with easements. From this list, MPPDC staff worked with CoR and reviewed property cards to conduct a quantitative analysis of the conservation easements and tax exempt land holdings for conservation purposes within each county. With this information MPPDC staff assessed the fiscal impacts of conservation easements to each locality. In particular, MPPDC staff shared that while working with Essex County, the county was able to reduce their total land book value by an additional $18 million which will increase the amount of state aid they will receive from the State for education.

Idea sharing to improve the process by CORs

Following the overview of the project and the outcomes, Commissioners of Revenue were able to provide feedback and ideas with regards to the report and how to improve the current process in dealing with conservation easements within their locality:

- Having a list of eligible conservation easement holders within the State would inform the CoR of legitimate transactions;
- Education seminars statewide to clarify conservation easement and their fiscal impacts to localities; present at the VAAO (Virginia Association of Assessing Officers) in July 2011;
- Make a template available for keeping track of conservation easements (ie. parcel, holder, value, devaluation due to easement) to Commissioners of Revenue;
- Have Virginia Outdoor Foundation (VOF) and other conservation groups include localities earlier in the conservation easement process. According to CoR, VOF will inform the county of an easement only days before the easement is approved by the board;
- Historic Easements - how are they Valued?
- Suggest to adding tax exempt properties to sales study – is this even possible?

Questions that arose through conversations…

1. What are the elements impacting the composite index?
2. What numbers are TAX submitting to the US Department of Education?
3. What is the impact of tax exempt properties to localities and their ability to collect federal funding?
4. Does a county specifically need to adopt open space land use in order to devalue an open space property with a conservation easement?
5. If a land is placed in conservation easement prior to the county's adoption of a land use program, do that property get devalued using the land use rates?

The Commissioners of Revenue agreed to have another meeting at the end of the project to continue discussions with regards to this project.

Appendix B: Conservation Stakeholder Meeting – Agenda and Minutes

Conservation Easements – Where do you want 'em?

December 17, 2010
1 – 3pm
Regional Boardroom, MPPDC Office, Saluda

AGENDA

1. Welcome and Introductions
2. Background of the Project
3. Fiscal Findings from the Conservation Initiative Report
4. Virginia Open-Space Land Act and Virginia Conservation Easement Act
5. Currently in the Middle Peninsula…
6. What is the perceived land use impact of conservation easements in the Middle Peninsula? Your thoughts??
7. Next Steps

Conservation Easements – Where do you want 'em?

December 17, 2010

1 – 3pm

Regional Boardroom, MPPDC Office, Saluda

MINUTES

The Middle Peninsula Planning District Commission Staff held a meeting in the Middle Peninsula Planning District Commission Board Room in Saluda, Virginia, at 1 p.m. on December 17, 2010. Ms. Sara Stamp welcomed those in attendance including Frank Herrin, Friends of Dragon Run (FODR); Hank Hartz, Virginia Outdoors Foundation (VOF); Bob Lee, VOF; Scott Lucchesi, King William Planning Department; Andy Lacatell, The Nature Conservancy (TNC); Ben McFarlane, Hampton Roads Planning District Commission (HRPDC); Rob Suydam, Virginia Department of Forestry (DOF); Sarah Richardson, Virginia Department of Conservation and Recreation (DCR); Neal Barber, Middle Peninsula Land Trust (MPLT); and Jackie Rickards, Middle Peninsula Planning District Commission.

Ms. Sara Stamp first reviewed the background of this project, the fiscal finding of the report as well as the Virginia Open-Space Land Act and Virginia Conservation Easement Act. This project began in April 2010 to look at the fiscal impacts of conservation easements and tax exempt land holdings by conservation groups and how they fiscally impact counties. Initiated by the Dragon Run Steering Committee, and then strongly supported by the Middle Peninsula Planning District Commission, MPPDC staff worked closely with the Commissioners of Revenue from each county to understand how conservation easements are considered. Through MPPDC staff research, there were several findings from the first year of this project including:

1. The tax revenue impact of conservation easements is less than about 0.5% of any given Middle Peninsula locality's annual budget.
2. Easements lower land value and help the composite index.
3. Schools receive more state aid funding because of easements.
4. Commissioners of Revenue are inconsistent when addressing conservation easements.
5. Commissioners of Revenue have changed reporting practices because of this work.

Besides providing an overview of the project, the group discussed the land use impacts of conservation easement in the Middle Peninsula. Currently with no guidance as to where to place easements, conservation easements are placed "randomly" throughout the localities landscape. However through the Virginia Open Space Act as well as the Virginia Conservation Easement Act authority is given to local governments to adjust their comprehensive plan to provide placement guidance for conservation entities. According to Scott Lucchesi counties may benefit with a few changes to how conservation easements are tracked. For example with parcels that have conservation easements a CE could be added to the tax map number.

Additionally, Mr. Lee explained the process in which VOF takes to inform localities of conservation easements within their jurisdiction. In the early stages of easement process VOF will contact the county to verify if the conservation easement is consistent with the comprehensive plan. VOF will allow some time for the county to respond and provide feedback.

Therefore if such a process is standardized for the other conservation entities, this may help improve partnerships with local governments.

To continue dialog a meeting will be scheduled in March 2011 to try to gain more local support in the discussion of land use implications and policies.

Appendix C: Series of maps depicting regional conservation efforts

Figure 1: Map of Currently Protected Areas (ie. Managed Lands and Lands with Conservation Easements) within the Middle Peninsula 2010.

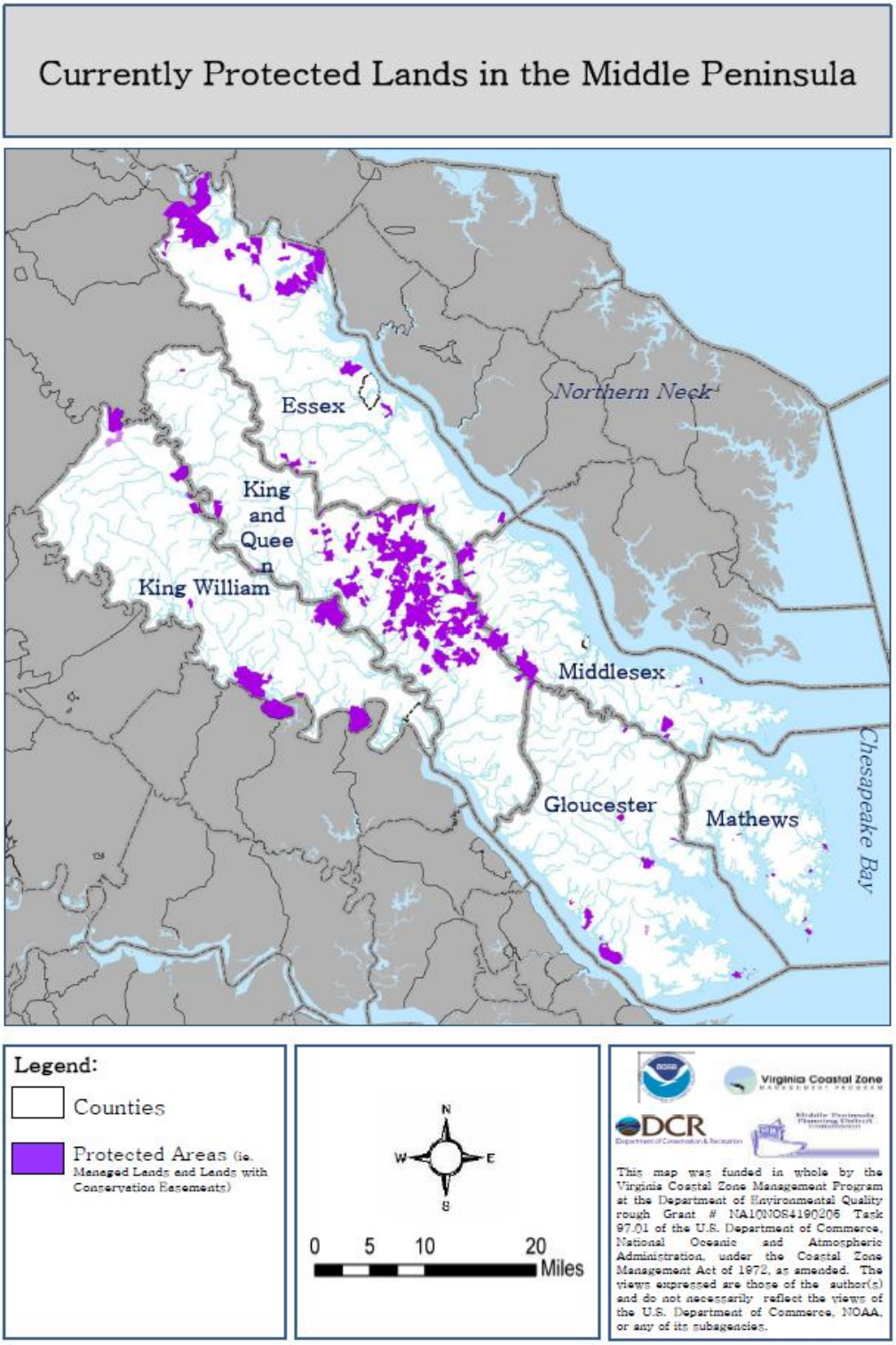


Figure 2: Map of Priority Conservation Areas, as determined by the State and Currently Protected Areas (ie. Managed Lands and Lands with Conservation Easements) within the Middle Peninsula 2010.

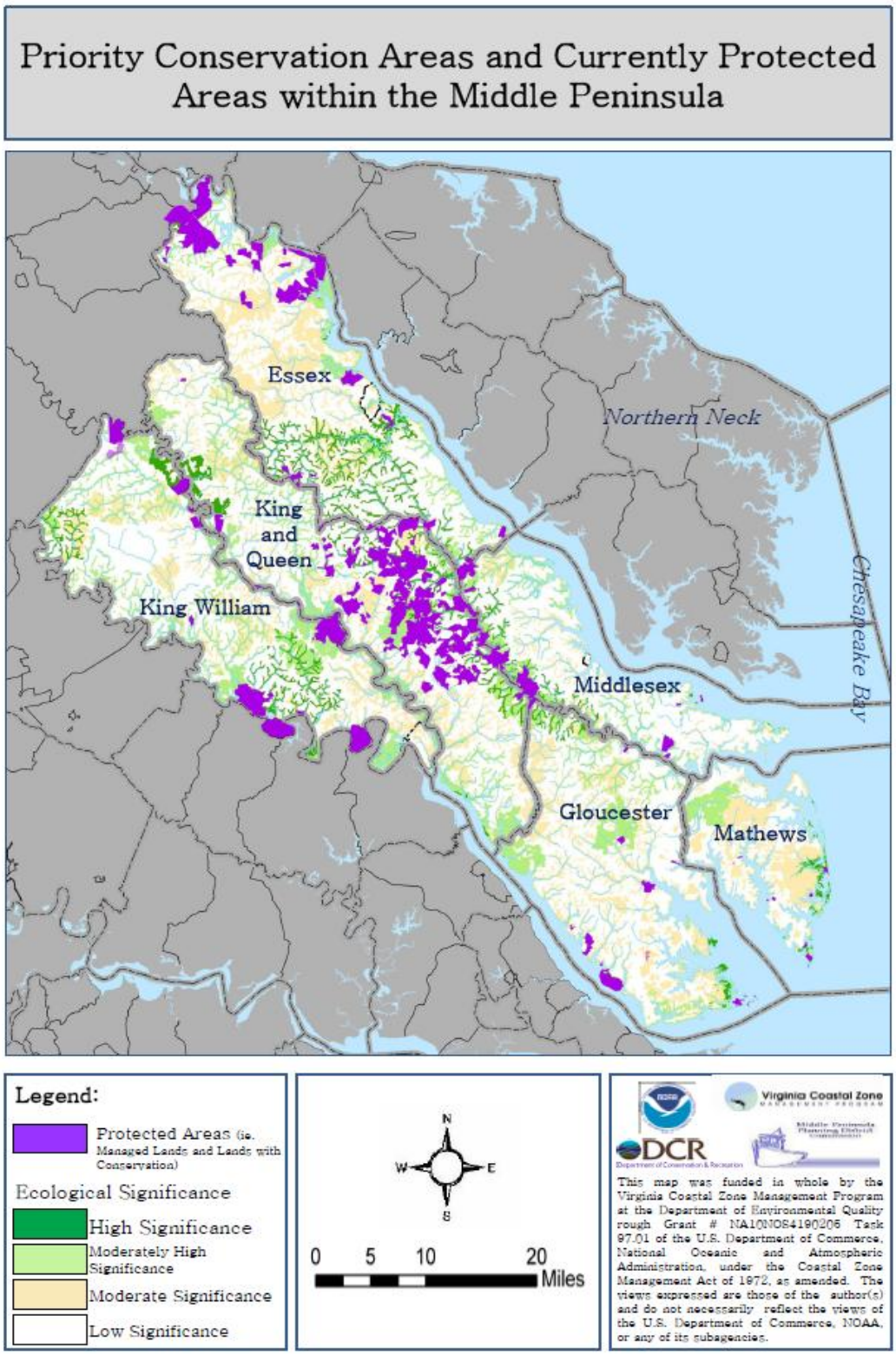
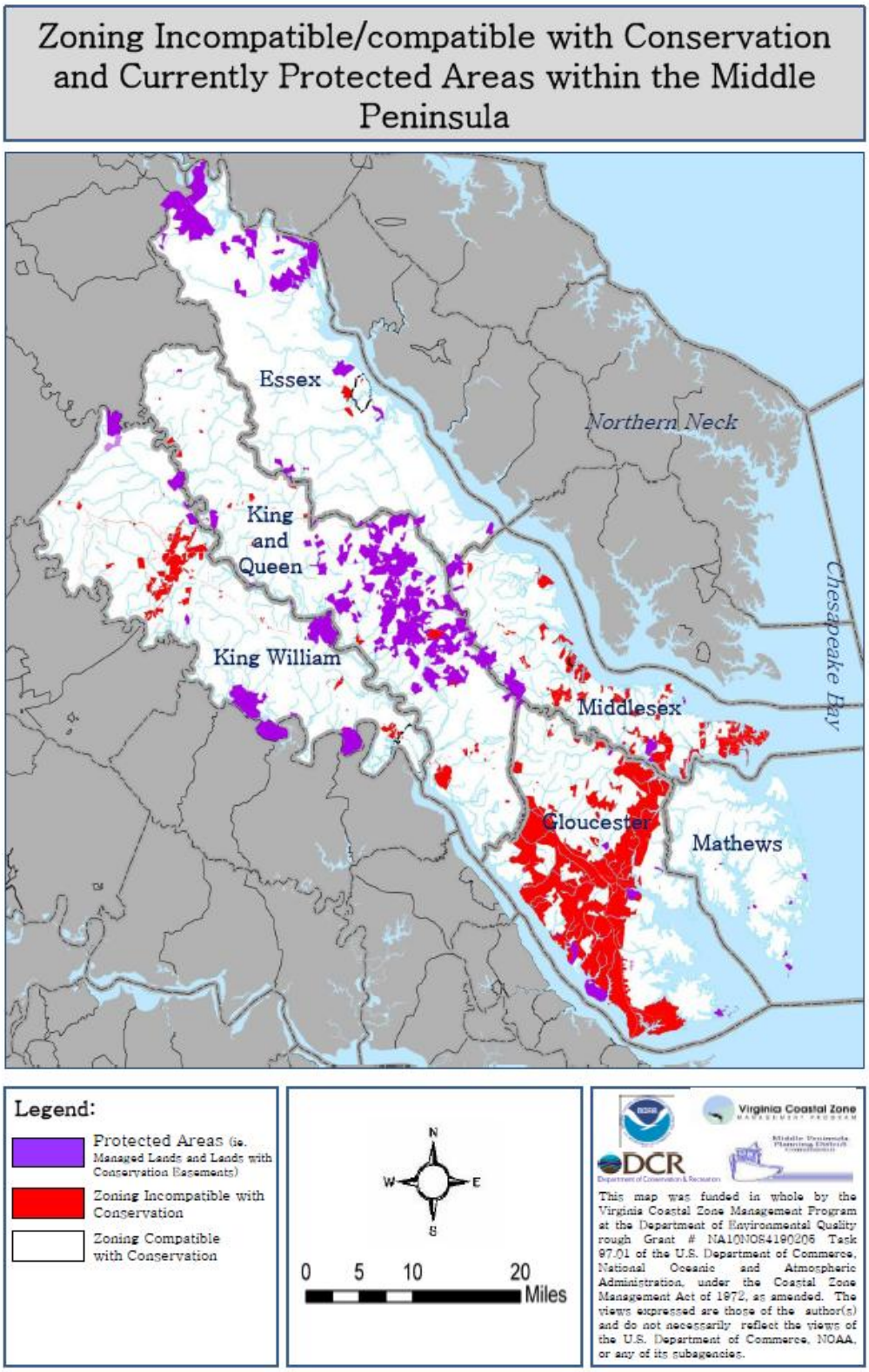


Figure 3: Map of Zoning Incompatible/Compatible with Conservation and Currently Protected Areas (ie. Managed Lands and Lands with Conservation Easements) within the Middle Peninsula 2010.



Appendix D: A GIS Analysis Report

A GIS Analysis Report:

Middle Peninsula Locality Zoning Compatible with Conservation Efforts

Document Purpose

The purpose of this report is to document the GIS analysis undertaken for conservation corridor planning efforts within the Middle Peninsula Region. This report also provides the description language directly from local zoning ordinances of zoning districts determined to be compatible with conservation.

General GIS Zoning Data Explanations

The following GIS layers were created for the Conservation Corridor Project by (1) exporting Middle Peninsula County zoning districts within the MPPDC GIS database, (2) exporting relevant data from original attribute tables of county zoning districts within GIS files, (3) using ArcMap to digitally draw zoning districts (ie. Digitizing).

Group Layer: "All Middle Peninsula Zoning":

- Group Layer: "**Zoning Incompatible with Conservation**":
    - Essex Districts Zoned Planned Unit Development
    - Essex Districts Zoned Industrial M-1 M-2
    - Essex Districts Zoned Limited Business (B-1)
    - EssexIndSites
    - GloucesterNonCZoning
    - K&QNonAzoning
        - MHP (Mobile Home Park)
        - LB (Light Business)
        - I (Industrial)
        - GB/RS (General Business
        - GB (General Business)
        - A/I (Agricultural/Industrial)
        - A/GB (Agricultural/General Business)
    - KWNotConsCompat
    - MathewsParcelsAvoid

        - Group Layer: "Middlesex Zoning Incompatible":
            - GB (General Business)
            - CD (Cluster Development
            - H (Housing)
            - LI (Light Industry)
            - MH (Mobil Homes)
            - R (Residential)
            - VC (Village Community)
            - WC (Waterfront Commercial)
- Group Layer: "**Zoning Compatible with Conservation**":
    - Layer: A-1 District Zoning (Agricultural)
    - GloucesterZonedC (Conservation)
    - K&QZonedA&Null
    - K&QZoned RR (Rural Residential)
    - KWZonedRR (Rural Residential)
    - KWZonedAC (Agricultural Conservation)
    - Group Layer: Middlesex Zoning Compatible with Conservation:
        - MiddlesexZoned-C (Conservation)
        - DRC/CBP (Dragon Run Conservation/Chesapeake Bay Preservation)
        - LDR (Low Density Rural)
        - RH (Resource Husbandry)

Current colors of categories:

- Red: "Parcels/Areas to Avoid-Zoning" or "Incompatible with Conservation"
- Orange: "Compatible with Conservation"
- Purple: "Protected Lands"

Mapping notes:

- *All Towns colored as incompatible with conservation since they are population/business centers.*
- *As most of Middle Peninsula Locality zoning is compatible with conservation, depicting the zones incompatible with conservation was determined to be the most effective since the map was less cluttered.*
- *Essex County zoning data is not completely mapped. GIS data is not available. Most of the county is compatible with conservation. There are four incompatible with conservation and one conservation compatible layer for Essex. The remainder of the county is contained within a zoning district that is compatible with conservation and it was not digitized.*
- *Mathews County zoning data is not completely mapped. GIS data was not able to be used because it was faster to digitize a small number of parcels. Parcels that fell within the proposed VaNLA conservation corridors, and were zoned as a district that was determined to be incompatible with conservation, were digitized to show where in the proposed area should be avoided when considering zoning. Areas zoned as "C" or conservation district were not mapped. Mathews is the only county that does not have a conservation compatible layer.*
- *The special purpose zoning districts are not in the GIS data.*

Essex County

Mapped zoning that is compatible and incompatible with conservation:

- **Compatible**: A-1, A-2 (did not map A-2, it is most of the county)
- **Incompatible**: PUD, M-1, M-2, B-1

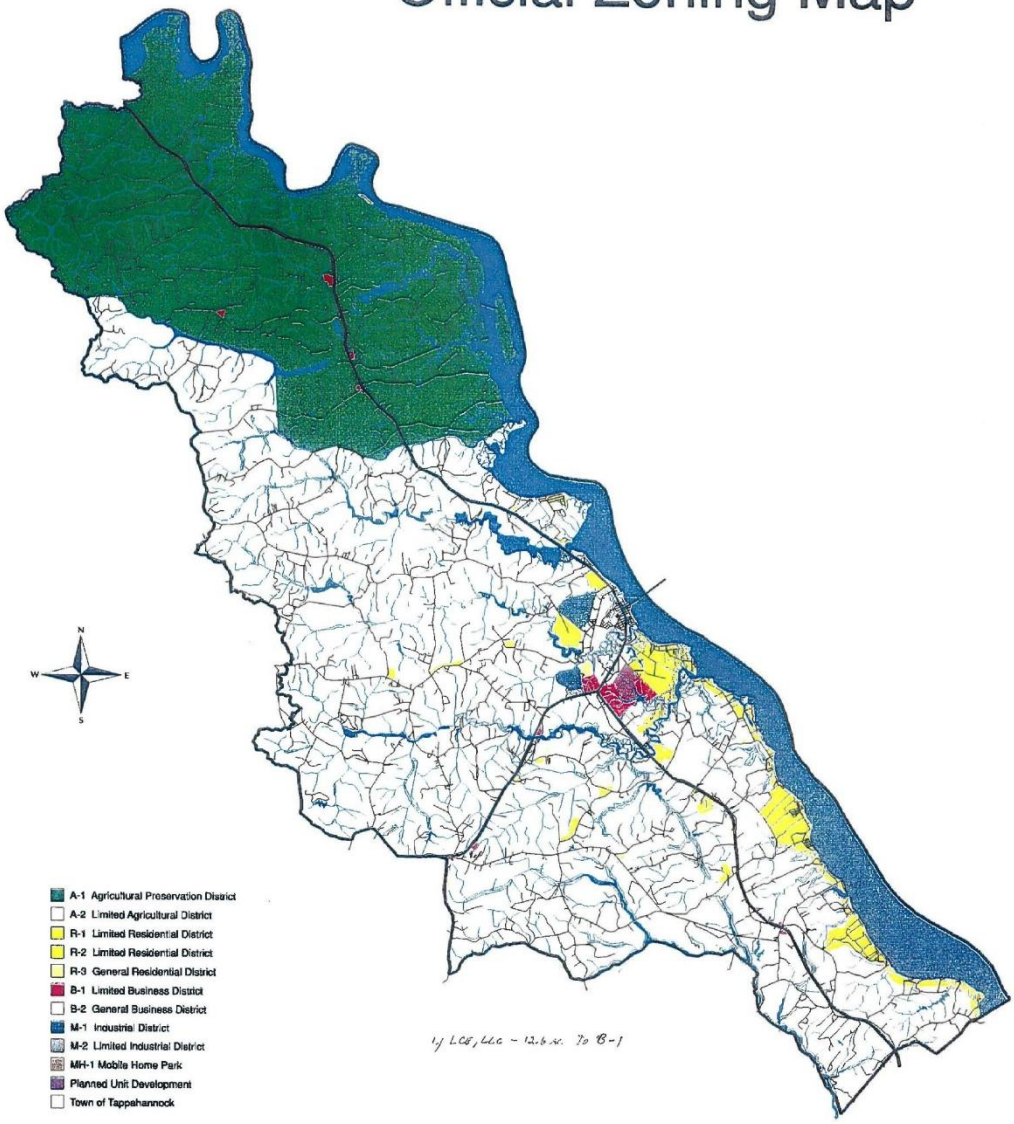
Description of Zoning Districts determined to be Compatible with Conservation

a. ***Purpose of the A-1 Agricultural Preservation:*** Purpose of this A-1 district is to encourage continued agricultural and forest uses and preserve the natural beauty of the rural areas of the County where urban services, such as sewer and water mains, are not planned. This district generally corresponds to areas of the county represented as the Agricultural Preservation District in the County Comprehensive Plan. At the same time, the District is intended to provide for limited residential development for those who choose to live in a rural environment and to protect this development where it occurs. In order to protect against premature subdivision of land and the formation of urban clusters where none are planned, subdivisions are controlled to maintain and protect the land base necessary to support the County's agricultural economy (Essex County Zoning Ordinance, VI-1).

b. ***Purpose of the A-2 Limited Agricultural District:*** Purpose of this district is to protect farming operations and at the same time allow for low density residential uses. This district generally corresponds to areas of the County represented as the Countryside District and Rural Residential District in the County Comprehensive Plan. Generally, this district covers certain portions of the County now devoted entirely or predominantly to various open uses, such as farms, forest, parks or lakes, into which residential or other types of development could reasonably be expected to expand in the foreseeable future. In order to protect against premature subdivision of land and the formation of urban clusters where none are planned, subdivisions are controlled to maintain the rural character of the district (Essex County Zoning Ordinance, VII-1).

Please see the following page for an image of the Essex County Official Zoning Map.

Essex County
Official Zoning Map



MPPDC, 1998

Although this data base has been used by the Middle Peninsula Planning District Commission (MPPDC), no warranty, expressed or implied is made by the MPPDC as to the accuracy or application of the database and related materials, nor shall the fact of distribution constitute any such warranty; and no responsibility is assumed by the MPPDC in connection therewith.

Gloucester County

Mapped zoning that is compatible and incompatible with conservation:

- **Compatible**: C-1, C-2, RC-1 and RC-2.
- **Incompatible**: B-1:4, I-1, MF-1, PUD-1, SC-1 and SF-1.

Description of Zoning Districts determined to be Compatible with Conservation

a. ***Purpose of the Conservation District (C-1):*** The intent of the C-1 district is to conserve water and wildlife resources, to reduce soil and shore erosion, to protect watersheds, to reduce hazards from flood and fire, to protect the wetlands, and to set aside large areas as open space by permitting only those uses compatible with natural areas. (Sec. 4-2 in Gloucester County Zoning Ordinance)

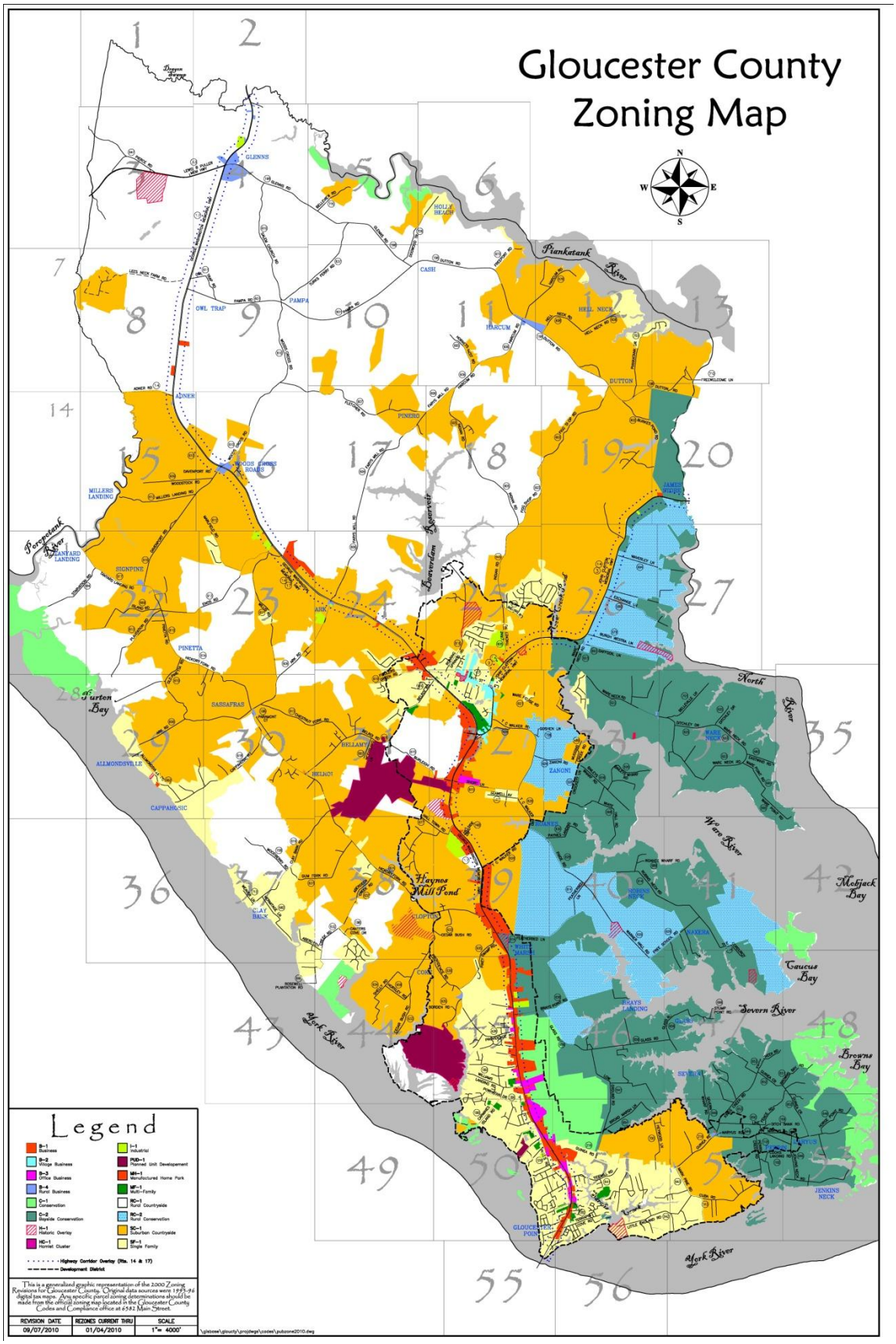
b. ***Purpose of the Bayside Conservation District (C-2):*** The intent of the C-2 district is to allow low density residential development in a manner which protects natural resources in a sensitive environment. The intent is further to prevent soil and shore erosion, to reduce hazards from flood, hurricane, and fire, and to protect wetlands. A limited amount of residential development is permitted and clustering is encouraged to achieve the district's intent. (Sec. 4-3 in Gloucester County Zoning Ordinance)

c. ***Purpose of the Rural Countryside District (RC-1):*** The intent of the RC-1 district is to conserve farm and forest land and to encourage agricultural activities, thereby helping to ensure that commercial agriculture and silviculture will continue as long term land uses and viable economic activities within the county. The RC-1 district is also established to preserve natural features and the rural landscape, while allowing low density, clustered residential development. Residential development is to be permitted only when it is located and designed to minimize its impact on agricultural land, farming and silviculture, and sensitive environmental features; to create attractive rural developments; and to respect existing features of the rural landscape. Cluster development is encouraged to better achieve these goals (Sec. 4-4 in Gloucester County Zoning Ordinance).

d. ***Purpose of the Rural Conservation District (RC-2):*** The intent of the RC-2 is to protect the natural resources of the bayside area of the county, to preserve prime agricultural soils, to protect watersheds and wildlife habitat, to reduce hazards from flood, hurricane, and fire, to protect wetlands, and to preserve large contiguous areas of open space and forests. A limited amount of residential development is permitted and clustering is encouraged to achieve the district's intent (Sec. 4-5 in Gloucester County Zoning Ordinance).

(Gloucester County, Appendix B-Article 4)

Please see the following page for an image of the Gloucester County Zoning Map.


Gloucester County
Zoning Map
N
W
E
S
Piankatank River
Haynes Mill Pond
North River
Warn River
Mobjack Bay
Caucus Bay
Severn River
Browns Bay
York River
Forrestant River
Burton Bay
Legend
B-1 Business
B-2 Village Business
B-3 Office Business
B-4 Rural Business
C-1 Conservation
C-2 Bayside Conservation
H-1 Historic Overlay
HC-1 Hornlet Cluster
I-1 Industrial
PUD-1 Planned Unit Development
MH-1 Manufactured Home Park
MF-1 Multi-Family
RC-1 Rural Countryside
RC-2 Rural Conservation
SC-1 Suburban Countryside
SF-1 Single Family
Highway Corridor Overlay (Rts. 14 & 17)
Development District
This is a generalized graphic representation of the 2000 Zoning Revisions for Gloucester County. Original data sources were 1993-96 digital tax maps. Any specific parcel zoning determinations should be made from the official zoning map located in the Gloucester County Codes and Compliance office at 6582 Main Street.
REVISION DATE
09/07/2010
REZONES CURRENT THRU
01/04/2010
SCALE
1"= 4000'

King and Queen County

Mapped zoning that is compatible and incompatible with conservation:

- **Compatible**: A & RR
- **Incompatible**: A/RS, RS, LB, MHP, GB, GB/RS/I, A/I, A/GB, GB/A, A/LB, A/RG, RG

Table of Zoning Districts and Codes:

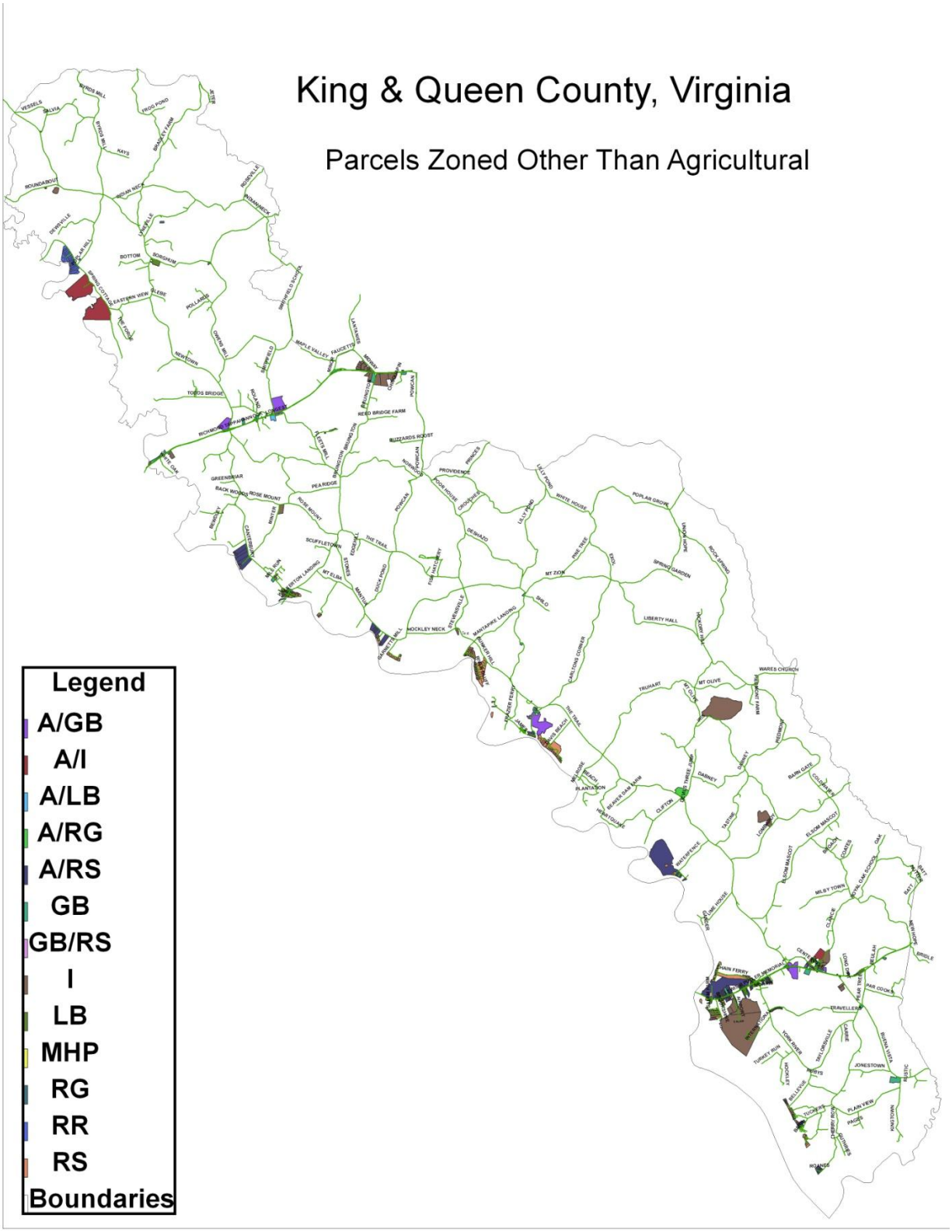
NAME OF ZONING DISTRICT	ABBREVIATED CODE
Primary Zoning Districts	
Agricultural	A
Residential, Rural	R-R
Residential, Single-Family	R-S
Residential, General	R-G
Limited Business	LB
General Business	GB
Industrial	I
Special Purpose Zoning Districts	
Airport Safety Overlay District	AIR
Chesapeake Bay Preservation Area	CBPA
Dragon Run Conservation District	DRCD
Floodplain Overlay District	FLD
Planned Unit Development District	PUD
Rural Residential Cluster District	RRC

Description of Zoning Districts determined to be Compatible with Conservation:

a. ***Purpose of the Agricultural (A) District:*** This district is designed to protect existing farms, forests, conservation areas and other types or rural uses; to encourage future development only when it promotes the preservation of the rural qualities of the county; and to provide for supportive commercial uses, along with necessary community facilities. The use restrictions and other regulations within the district are intended to reflect the importance of agriculture and forestry to the character and economy of the county and to discourage development of other uses, except where they promote the preservation of the rural qualities of the county. Residential uses are permitted primarily: to accommodate farm families and workers; to provide opportunities for a limited number of independent home sites, while avoiding pressures for major residential subdivisions and strip development along highways (King and Queen, Part II-Chapter 3 –Article 3).

b. ***Purpose of the Residential-Rural (R-R) District:*** The purpose of the residential-rural (R-R) district is to provide for moderately low-density residential development together with accessory and support uses including recreational facilities and public service uses. The predominant development in this district is envisioned to be subdivisions of moderate density, including rural residential cluster subdivisions, which do not require public water or public sewerage systems (King and Queen, Part II-Chapter 3 –Article 3).

Please see the following page for an image of the map of parcels in King and Queen County that are not zoned agricultural.


King & Queen County, Virginia
Parcels Zoned Other Than Agricultural
Legend
A/GB
A/I
A/LB
A/RG
A/RS
GB
GB/RS
I
LB
MHP
RG
RR
RS
Boundaries

King William County

Mapped zoning that is compatible and incompatible with conservation:

- **Compatible**: A-C & R-R
- **Incompatible**: R-1, B-1, B-2, M, HP, “[2]

Table of Zoning Districts with Code:

Name of Zoning District	Abbreviated Code
Primary Zoning Districts	
A-C agricultural-conservation district	A-C
R-R rural residential district	R-R
R-1 suburban residential district	R-1
B-1 local business district	B-1
B-2 general business district	B-2
M industrial district	M
R-C rural-conservation district	R-C
Special Purpose Zoning Districts	
PUD planned unit development district	PUD
HP historic preservation district	HP
TC transportation corridor district	TC
RPA resource protection area	RPA
RMA resource management area	RMA

Descriptions of Zoning Districts determined to be Compatible with Conservation:

a. ***Purpose of the A-C agricultural-conservation district:*** The purpose of the A-C agricultural-conservation district is to encourage continued agricultural and forestal uses and preserve the natural beauty of rural areas of the county where urban services, such as sewer and water mains, are not planned or expected to be planned. At the same time, the A-C district is intended to provide for limited residential development for those who choose to live in a rural environment and to protect this development where it occurs. In order to aid in reduction of access points and traffic hazards, wider lots and deeper front yards are required when fronting on major thoroughfares. In order to protect against premature subdivision of land and the formation of urban clusters where none are planned, large-scale subdivisions are not intended in this A-C district.

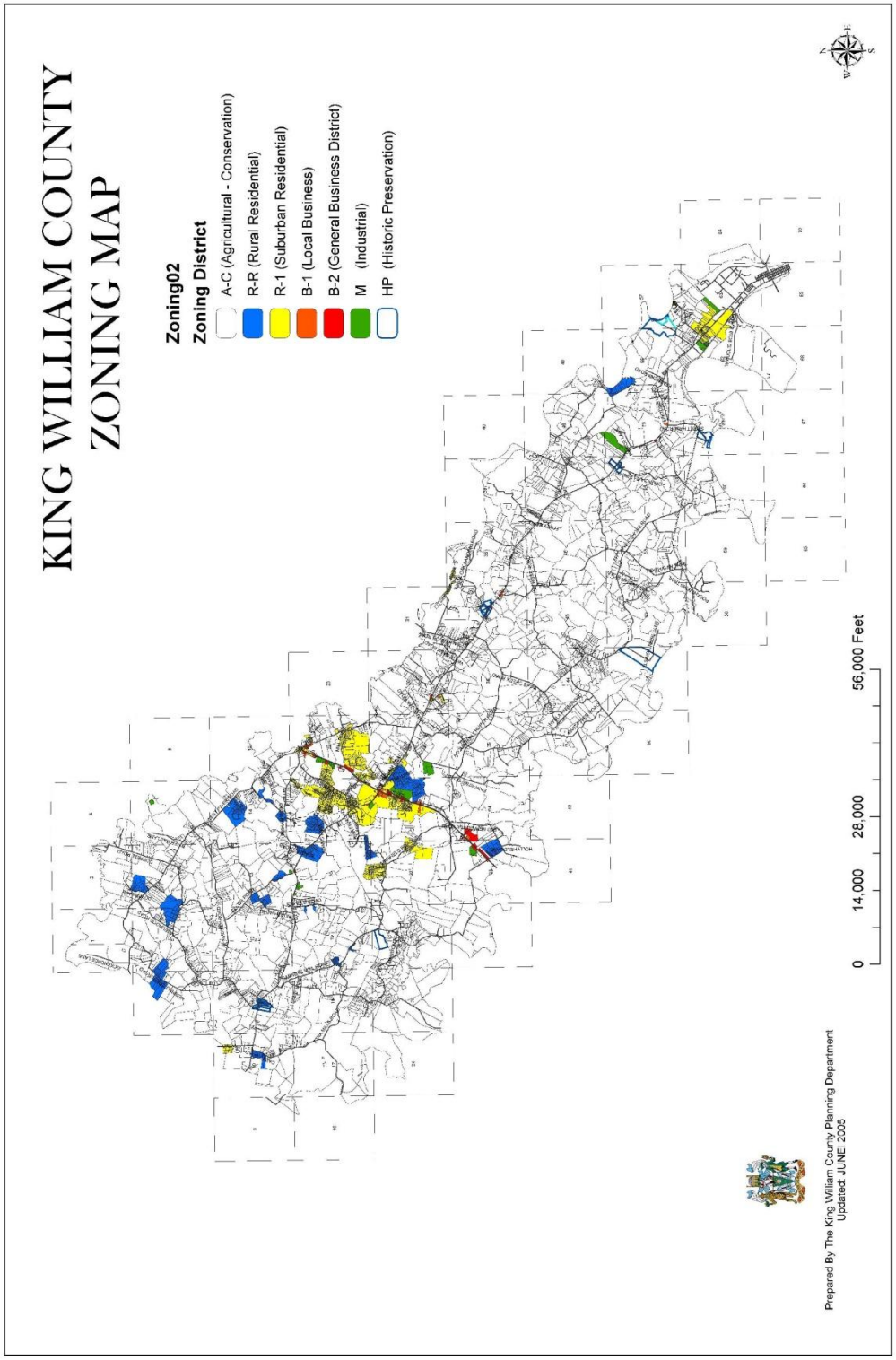
b. ***Purpose of the R-R rural residential district:*** The purpose of the R-R rural residential district is to provide for moderately low-density residential development together with such churches, recreational facilities, public uses and accessory uses as may be necessary or are normally compatible with residential surroundings. Since substantial tracts of vacant land are or may be included in the R-R district, agricultural and open uses are expected to be intermixed with rural cluster subdivisions which emphasize

[2] “ = null values in attribute table, grouped in with not compatible zoning districts

preservation of agricultural and forestal lands. Major subdivisions with very low densities and no central water system are envisioned as the major development style of this R-R district, although slightly lower densities are acceptable where public water is provided for larger subdivisions.

(King William County Code, Chapter 86-Article IV)

Please see the following page for an image of the King William County Zoning Map.


KING WILLIAM COUNTY
ZONING MAP
Zoning02
Zoning District
A-C (Agricultural - Conservation)
R-R (Rural Residential)
R-1 (Suburban Residential)
B-1 (Local Business)
B-2 (General Business District)
M (Industrial)
HP (Historic Preservation)
0
14,000
28,000
56,000 Feet
Prepared By The King William County Planning Department
Updated: JUNE 2005

Mathews County

Mathews County zoning GIS data was unable to function away from the county offices (geodatabase and layer files pull data from Mathew's system that doesn't transfer, need to export layer file as a shapefile). MPPDC staff mapped the parcels in Mathews that are zoned something other than "C" or "RU" AND are within the VaNLA network proposed by DCR.

Mathews County Zoning Districts:

- B-1: Business-1 District
- B-2: Business-2 District
- C: Conservation District
- I: Industrial District
- R-1: Residential-1 District
- RU: Rural Residential
- R-2: Residential-2 District

Descriptions of Zoning Districts determined to be Compatible with Conservation:

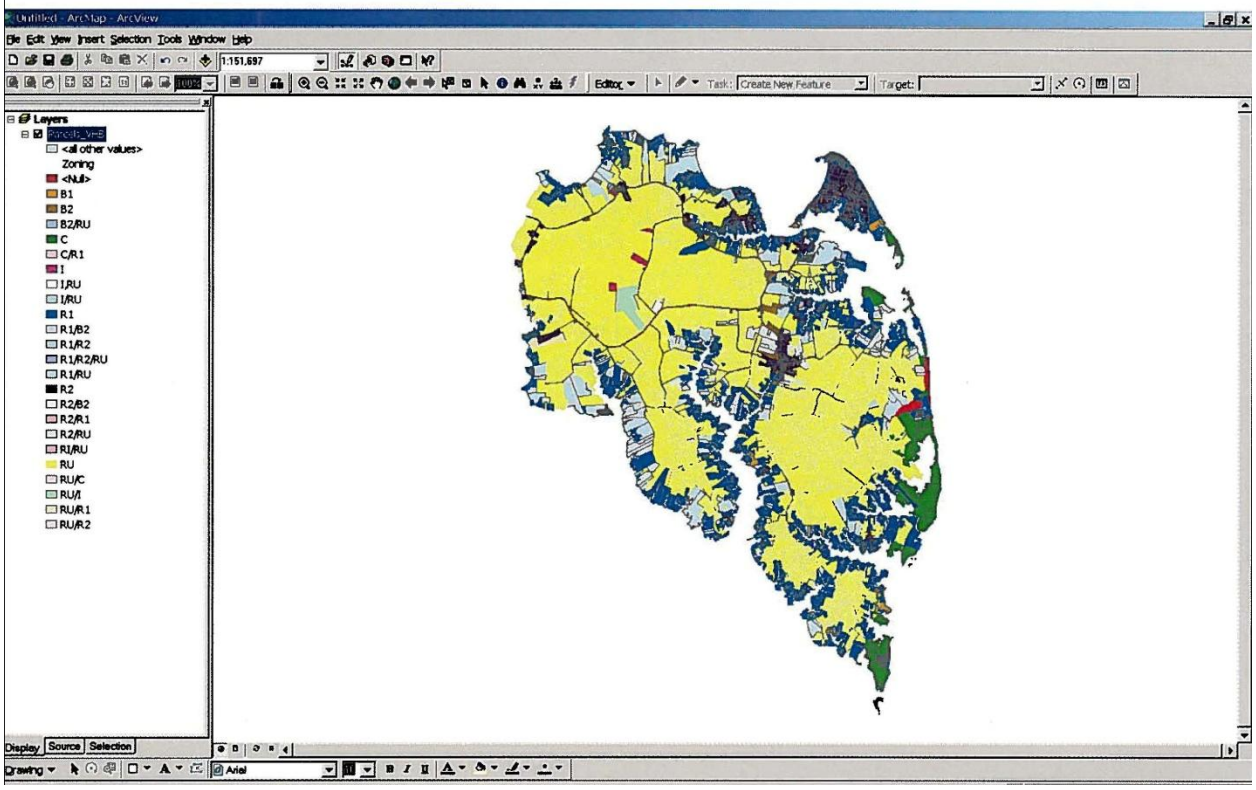
a. ***Purpose of the Conservation District (C):*** This district is intended to protect, preserve and propagate the County's living marine environment and its natural resources. The district is intended for use in water, wetlands and shoreline areas and other areas which are not suited for development and where such development would have an adverse effect on the environment and public and private areas which have been set aside for conservation purposes. Areas within the district generally are unsuitable for development or intensive use due to soil, water or high flood hazard conditions.

b. ***Purpose of the Rural District (RU):*** This district covers portions of the county which are occupied by various open uses, such as forests, parks, and farms necessary public and private industrial, recreational and religious facilities, single-family and two-family dwellings and certain transient uses in a rural environment. Manufactured home parks and certain commercial and light manufacturing uses are allowed by Conditional Use Permit. This district is established for the specific purpose of facilitating existing and future farming operations, conservation of land and other natural resources, reducing soil erosion, and reducing hazards from flood, fire, and storms. Uses not consistent with the existing character of this district are not permitted.

(Mathews County, 29)

Image of the Mathews County zoning map and GIS data layer containing the zoning codes.

Mathews Zoning
GIS Data



Middlesex County

Zoning that is compatible and incompatible with conservation:

- **Compatible**: C, DRC, LDR, RH
- **Incompatible**: GB, CD, H, LI, MH, R, VC, WC, A

All Middlesex Zoning Districts from Zoning Ordinance:

Name of Zoning District	Abbreviated Code
Dragon Run Conservation	DRC
Conservation	C
Resource Husbandry	RH
Low Density Rural	LDR
Residential	R
Village Community	VC
Cluster Development	CD
General Business	GB
Waterfront Commercial	WC
Light Industrial	LI
Mobile Home	MH
Airport	A

Descriptions of Zoning Districts in Middlesex County determined to be Compatible with Conservation:

a. **Purpose of the Dragon Run Conservation (DRC) District:** The purpose of the Dragon Run Conservation "DRC" District is to protect and conserve fragile resource areas which perform valuable functions in their natural state and which are unsuitable for development and intense use. Areas to be designated as the DRC primarily include wetlands and swamps, but may include other areas deemed to be important for flood plain management, aquifer recharge, water storage, critical wildlife habitat, or similar functions.

b. **Purpose of the Conservation (C) District:** The purpose of the "C" District is to protect and conserve fragile natural resource areas which perform valuable functions in their natural state and which are unsuitable for development and intense use. Areas to be designated as "C" District primarily include wetlands and swamps, but may include other areas deemed to be important for flood control, aquifer recharge, water storage, critical wildlife habitat, or similar functions.

c. **Purpose of the Resource Husbandry District (RH):**The purpose of the Resource Husbandry "RH" District is to conserve and protect from competing or incompatible uses, traditional agricultural and forestry uses of large tracts which are particularly well suited for such uses by virtue of soil, topographic, and other natural conditions. The protection of large agricultural and forestry tracts is necessary to promote the general health and welfare of the County by insuring that valuable natural resources such as timber and fertile farmlands are properly managed and preserved for present beneficial environmental effects and for use of future generations. To this end, the "RH" District is intended to be occupied and used almost exclusively by large-scale agricultural and forestry uses and to provide areas in which these uses may be freely

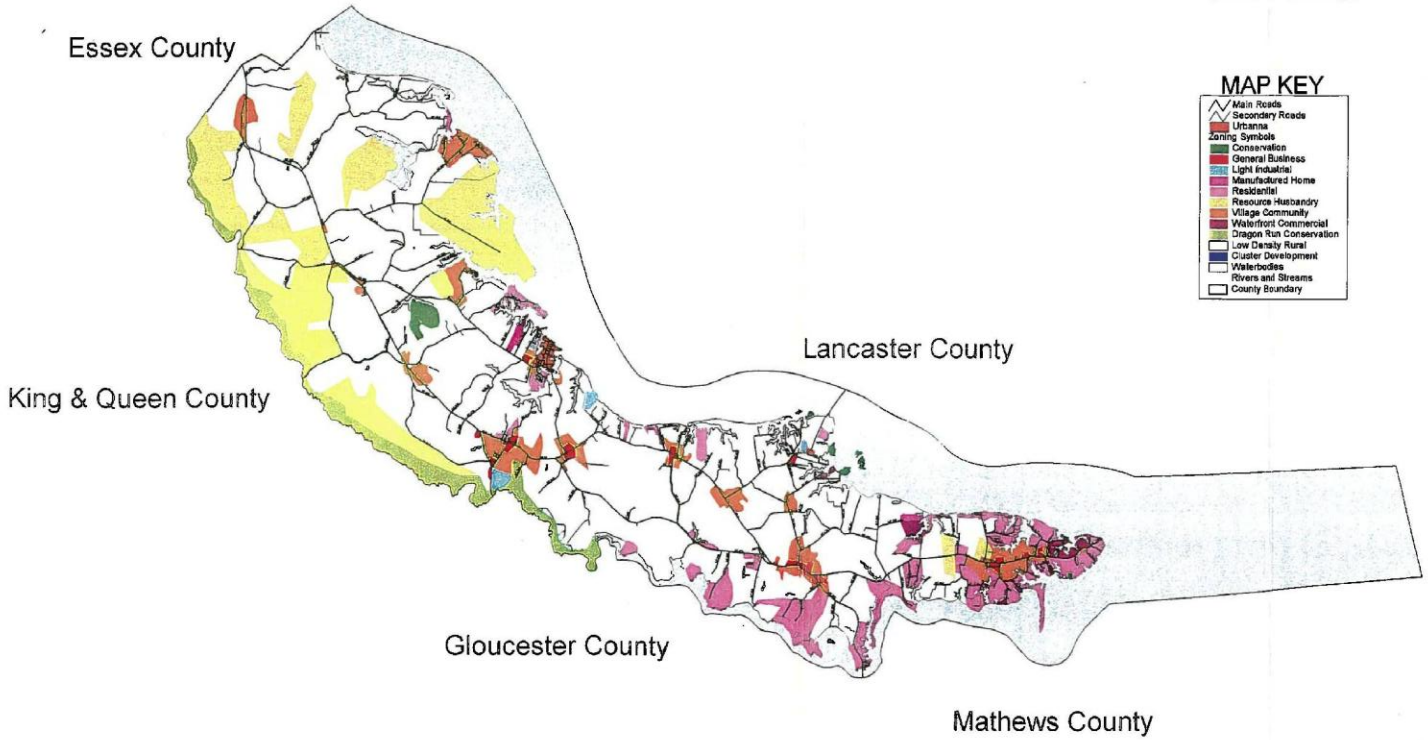
and intensively conducted with minimum potential for conflict with or competition from incompatible uses. In addition to agricultural and forestry, permitted uses in the "RH" District will be limited to those which support the two primary uses or which offer no potential for competition or conflict. Residential uses are permitted, but the "RH" District is not intended to be a general residential district. The residential use is included primarily to accommodate farm families and farm laborers, and secondarily to enable retired farmers to sell a limited number of home sites for income purposes, thereby reducing the risk that farms will be sold to reduce the financial burden of taxes and maintenance expenses. To this end, subdivision of land is severely restricted in the "RH" District. Residential uses will be encouraged to locate considerable distances from highways and to avoid strip development along highways.

d. **Purpose of the Low Density Rural (LDR) District:** Most of Middlesex County is zoned as LDR-low density rural, determined compatible with conservation for this project. Middlesex County is predominantly rural in character and should remain so according to the Comprehensive Plan. The rural character of the County promotes the general health, welfare and safety of the citizens of the County by insuring them with a quiet, peaceful, uncluttered and safe living environment. The "LDR" District is intended to aid in the achievement of this goal by providing ***for a low density mixture of the primary uses of agriculture and forestry and secondary residential, recreational, and selected non-intensive commercial and public or quasi-public uses, throughout a major portion of the County***. In order to protect agricultural and forestry uses, the range of other permitted uses is limited, but not to the same degrees as in the "RH" District. Strip development will be discouraged in favor of cluster development in order to avert undue pressures on land values and to prevent landlocking of parcels which do not abut highways.

(Middlesex County, 15-55)

Please see the following page for an image of the Middlesex County General Zoning Map.

MAP V-5
MIDDLESEX COUNTY, VIRGINIA
GENERAL ZONING



This map represents a generalized depiction of features based on Geographic Information System data provided by the Middle Peninsula Planning District Commission (MPPDC) and/or Middlesex County. Although this data has been used by the Middle Peninsula Planning District Commission (MPPDC), no warranty, expressed or implied is made by the MPPDC as to the accuracy or application of the database and related materials. This map should be used for conceptual planning purposes only.

LANDMARK DESIGN GROUP
Engineers • Planners • Surveyors
Landscape Architects • Environmental Scientists

Resources

Essex County, Virginia. Essex County, Virginia Zoning Ordinance. Essex County, Virginia: Essex County, 2003.

Gloucester County, Virginia. CODE County of GLOUCESTER, VIRGINIA. Codified through Ordinance of May 4, 2010 (Supplement No. 50 Redo). <http://library1.municode.com/default-test/home.htm?infobase=10843&doc_action=whatsnew>

King and Queen County, Virginia. CODE OF THE County of KING AND QUEEN, VIRGINIA. Codified through Amendment of Nov. 16, 2009 (Supplement No. 16). <http://library.municode.com/index.aspx?clientId=13622&stateId=46&stateName=Virginia>.

King William County, Virginia. CODE OF THE COUNTY OF KING WILLIAM, VIRGINIA. Codified through Ordinance of Nov. 23, 2009 (Supplement No. 10). <http://library1.municode.com/default-test/home.htm?infobase=13752&doc_action=whatsnew>.

Mathews County, Virginia. Zoning Ordinance of Mathews County, Virginia. Mathews County, Virginia: Mathews County, 2010.

Middlesex County, Virginia. Middlesex County Virginia Zoning Ordinance, Reprinted: March 17, 2010 to include revisions. Middlesex, Virginia: Department of Planning and Community Development, 2010.

Acknowledgement and Disclaimer

Although this data has been used by the Middle Peninsula Planning District Commission (MPPDC), no warranty, expressed or implied is made by the MPPDC as to the accuracy or application of the database and related materials, nor shall the fact of distribution constitute any such warranty; and no responsibility is assumed by the MPPDC in connection herewith.

This project was funded in whole by the Virginia Coastal Zone Management Program at the Department of Environmental Quality through Grant #NA10NOS4190205 Task 97.01 and Task 95 of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, under the Coastal Zone Management Act of 1972, as amended.

The views expressed are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Commerce, NOAA or any of its subagencies.

Appendix E: County Comprehensive Plan Language Relevant to land conservation and preservation

MIDDLESEX County

County Wide:

-The citizens will continue to place high priority on maintaining the rural nature of the territory while accommodating desirable new development. (pg. 17)

-The rural nature of the County, which combines watercourses, forests, and fields, provides ideal circumstances for quality wildlife habitats and biological diversity (pg. 55)

-to preserve agricultural/open space land or release it to unrestrained development. Agriculture is a land use activity which has supported Middlesex economically for generations. Furthermore, it may be even more important to recognize that agricultural lands are a major element of the open space which defines the rural nature of the County. This particularly visible component of the country scene contributes directly to the quality of life and satisfaction its residents enjoy.(pg.104)

-First, highest priority must be placed on the preservation of the rural character of the County. As defined, the rural character includes natural and open spaces between concentrations of activities. (pg. 105)

-the County should adopt and or promote additional methods of land conservation.(pg. 123)

-Enhance the rural and environmental character of the County through the preservation of agricultural and forestall lands, wetlands, flood hazard areas, and Chesapeake Bay Resource Protection Areas (pg. 136)

Within the Dragon Run Watershed:

-Low intensity land uses that are consistent with the conservation of the area's natural resources should be the dominant land uses in the Watershed and new development should be compatible with surrounding rural areas as well as incorporate development standards and management practices that ensure protection of the area's natural resources (pg.111)

- The County should consider implementation strategies that preserve existing land uses and protect the natural resources in the Watershed such as conservation zoning and subdivision approaches, additional stream buffers and setbacks, the purchase of development rights, donation of private ***easements****, landowner compacts, and land use taxation (pg. 112)*

-The County should protect the key natural resources in the Watershed, including the ground and surface water quality, wetlands, and sensitive environmental features; native plant and animal species and their natural habitats; and the productive soils that support farming and forestry uses. (pg.112)

GLOUCESTER County

-To protect the unique character and identity of Gloucester County careful management of the natural resources (pg. 17)

-To project and enhance the environmental quality and the Chesapeake Bay for present and future residents (pg. 17)

-To conserve and manage Gloucester's natural resources and community assets. Objectives: (3)to conserve prime agricultural and forested land sand guide residential, commercial and industrial development to areas suitable for urban growth, (4) to cooperate and actively work with local, regional, state, and federal environmental agencies to implement safe and effective programs and policies to protect Gloucester's natural resources and (5) to update and revise local ordinances as needed in order to protect and enhance the County's natural resources (pg.20)

- To place high priority on selective acquisition, preservation, and recreational uses of areas with natural resources.(pg. 21)

-special emphasis should be placed on the preservation of natural resources, sensitive natural areas, and waterfront areas (pg. 45)

-To protect our wetlands and natural resources from unnecessary destruction due to increased drainage, filling or construction that would hamper vegetation, water storage, erosion control, or support for plant and wildlife (pg. 71)

- balance population growth with the ability or capacity of the County to provide adequate public facilities and services while maintaining the rural nature and quality of the County. inherent to the quality of life in Gloucester county is its abundant natural environmental assets including an extensive shoreline, broad estuarine rives, forested areas, rural landscapes and waterfront vistas. (Appendix B- pg.3)

-Protect open space and groundwater recharge areas through use of existing ordinances, development and implementation of an open space plan, consideration of conservation subdivisions and incentives for open space preservation through the land use tax assessment program. (Appendix B- pg. 69)

-Use existing land use regulations and incentives to protect existing habitat for wildlife and preserve potential habitat areas for future use to preserve biodiversity in technologies and protect the County's recreation opportunities for hunting, fishing and wildlife observation. (Appendix B – pg. 71)

-Prepare a Countywide open space inventory and evaluation as baseline for an open space plan. The concept of the plan would be to evaluate as baseline for an open space plan. The concept of the plan would be to evaluate existing open space resources and provide the basis for to develop future County goals for preservation of environmentally sensitive lands and planning for the sustainable development use of the County's existing land resources consistent with the County's growth management goals. Preserve and protect open space resources as ground water recharge areas and to reduce non-point source pollution. (Appendix B – pg. 71)

ESSEX County

- Conserve farmland, forested areas, open space and rural character (pg.71)

-Protect and enhance the natural resources and environmental quality of the County through measures which protect the County's natural resources and environmentally sensitive lands and waters (pg. 74):

- *Conserve forest resources while supporting the timber harvesting industry as an important component of the County economy*
- *Protect the important natural function of floodplains within the County by limiting disturbances caused by development activity*
- *Protect important plan and wildlife habitats within the county*
- *Coordinate environmental quality protection efforts with future opportunities to establish public parks, natural recreation areas, and open spaces*

-Protect the land resources necessary to support the County's agricultural and timber harvesting industries and maintain and enhance its rural character (pg. 78):

- *Preserve the land base of productive agricultural soils in rural areas for a farming*
- *Manage and maintaining forestland resources in the County*
- *Minimize the conflicts which can occur between farm activities and residential development. Establish provisions in the Zone Ordinance which support the farmers "right to farm" in the Agricultural Preservation and country-side plan districts*
- *Encourage the implementation of soil conservation and water quality management plans, nutrient management plans and integrated pest management on all farms in the county*

-Preserve and enhance the County's rich cultural and historic heritage (ie. significant and important historic sites, properties, and structures) (pg. 79)

-Two guiding objectives of the Essex County Land Use Plan are the preservation of the County's rural character and protection of its natural resources. (pg. 87)

-The County's natural environment, its wildlife, steep slopes, masses of forest cover, riverfront and tributaries all literally define the county. As such they reflect the character and culture of the County. (pg. 118)

KING WILLIAM County

-The preservation and protection of the County's forests are of prime concern based on survey responses and comments made by citizens at public meetings. (pg. II-9)

-To minimize the reduction of vegetative cover caused by development (pg. VIIi-4)

-To preserve the large forested areas of the County (pg. VIII-5)

-To maintain and preserve rural, agricultural, environmental and historic qualities of the County (pg. VIII-5)

-To ensure that sound land use and development practices are employed and guide future development in an efficient and serviceable manner which is protective of King William County's predominantly rural and ecologically sensitive character. (pg. VIII-5)

- To ensure the continuation of forestry as an industry and the preservation and establishment of woodlands for their aesthetic and ecological value. (pg. VIII-10)

-Support programs and efforts to protect the County's prime agricultural lands from conversion to non-compatible land uses (pg. VIII-10)

- Evaluate alternative tax structures such as land use taxation as tools to promote agricultural land preservation. (pg. VIII-11)

- Support programs and efforts to promote woodlands as one of the best preventions of soil and pollutants from entering the Bay. (pg. VIII-11)

-Support programs and efforts to preserve woodlands. (pg. VIII-11)

-Establish incentives which encourage sensitive areas to be avoided while preserving the owner's development rights of the property. Some tools that may be pursued include cluster development, protective ***easements****, and limited density transfers.(pg. VIII-23)*

-To protect natural wetlands and habitat areas and other environmentally-sensitive areas from loss or degradation as a result of development.(pg. VIII-27)

-To ensure that critical and unique environmental areas are protected and preserved for the general welfare of King William County citizens and marine and wildlife populations, and the enjoyment of visitors (pg. VIII-27)

-Study incentives to encourage conservation ***easements****. (pg. VIII-28)*

KING & QUEEN County

Countywide:

-Rural Atmosphere: It is the general policy of the County to maintain and preserve the rural atmosphere and scenic beauty of the County while allowing moderate and carefully managed growth. The preservation of existing agricultural and forest lands by protecting them from excessive fragmentation, development, and incompatible uses is essential, as is innovative and attractive design and thoughtful placement of both residential and commercial development. Cluster housing, village development, open space requirements, attractive landscaping, vegetative buffers, conservation ***easements****, and effective outdoor lighting and sign policy are among the tools and concepts which can make this possible. Preservation of the rural atmosphere and beauty was a major theme of both the citizen survey responses and the citizen committee reports.(pg. 2)*

- Continuation of land uses customarily associated with farming and forestry is to be permitted and encouraged in these areas. (pg.3)

- The use of conservation or similar ***easements*** *to preserve open spaces and limit fragmentation is encouraged. Land use taxation or a program for purchase of development rights would be helpful in preserving farm and forest land if economically feasible, and should be investigated.(pg.3)*

- This [Cluster and Planned Unit Development] method of development enables the owner of a large tract of agricultural or woodland to use only part of the land for development as residential lots while preserving the majority of the land for agriculture, woodland, or conservation areas. (pg.6)

Within the Dragon Run Watershed

-Adoption of Dragon Run Special Area Management Plan (Appendix C)

-The Mission of the Plan is to support and promote community-based efforts to preserve the cultural, historic and natural character of the Dragon Run, while preserving property rights and the traditional uses within the watershed (Appendix A – pg. 13)

-A variety of tools (ie. Conservation ***easements****, PDR, Agricultural and Forestall Districts, etc) exist with which to preserve forest and farmland (Figure 3) and unique natural resources within the Dragon Run watershed. (Appendix C - pg. 18)*

MATHEWS County

-Committed leadership to managing future growth and development in a way that balances development, jobs, revenues, and public services while sustaining the rural character and special natural features of Mathews County (pg. 2)

-Increased conservation and management of large tract agriculture and forests (pg. 4)

-Preserve and protect the natural environment and resources of Mathews County, which are fundamental to the community's quality of life and prosperity. (pg. 7)

- Environmental conservation - wetlands, forests, water, soils, etc.; rising sea levels (pg. 14)

-Encourage grouped development for new housing subdivisions to preserve open space and the environment.

-Of particular importance worthy of greater conservation efforts are the maritime forests of Mathews County. These forests are important coastal habitats that are now challenged by climate change and rising sea levels (pg. 104)

- Protect the environment by promoting and encouraging the use of best management practices and riparian buffers in agriculture and forestal operations. Promote environmental stewardship among landowners and operators by actively working with them in educational efforts and incentive or recognition programs. Tie reduced land use taxation to use of effective environmental practices. Encourage landowners to consider conservation ***easements*** *for their properties. (pg. 144)*

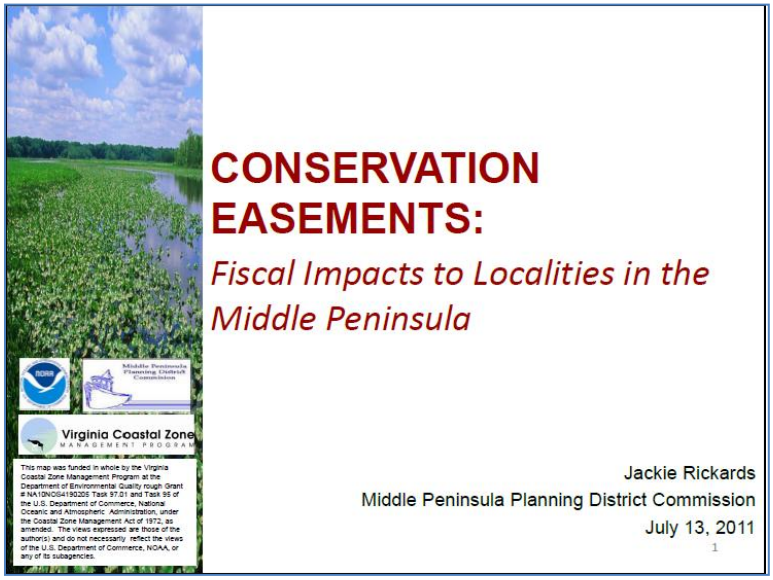
-Where possible, conservation measures should be employed to protect natural communities and prevent investment losses in the future. (pg. 146)

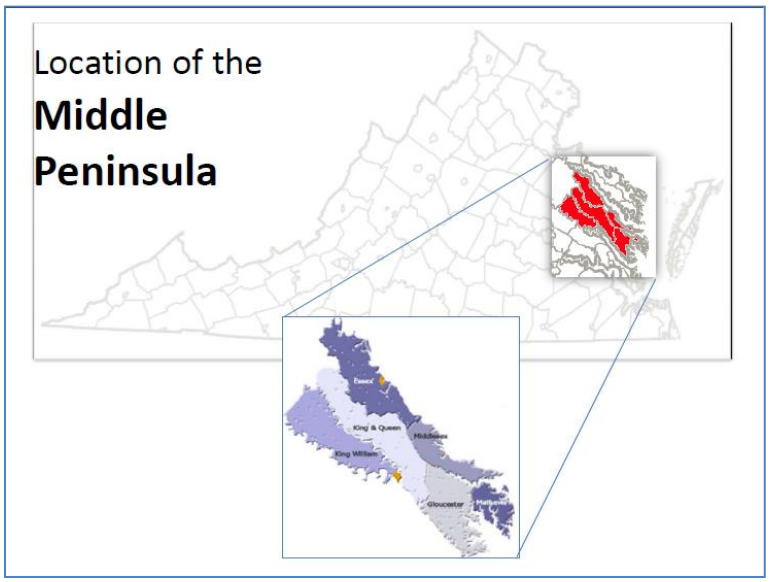
-In addition, Mathews County supports preservation of land through conservation or open-space ***easements*** *(pg.151)*

-Rural Preservation/Conservation areas include public open space, natural preserves, and areas that should have carefully managed development or be conserved because of special ecosystems or natural conditions. (pg. 156)

-Amend the County Zoning Ordinance to increase lot sizes for rural agriculture and forested lands. Consider using agricultural and forestal districts to preserve the lands for production. (pg. 208)

Appendix F: Conservation Easement Presentation given at the VaULT Conference (6/1/2011) as well as the Virginia Association of Assessing Officers Educational Seminar (7/13/2011)





Middle Peninsula Landscape

Coastal

Forestal/Silviculture

Agriculture

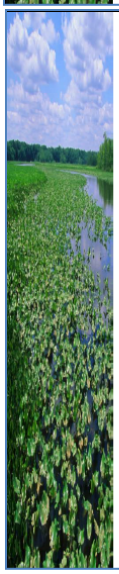
Dragon Run, King & Queen County

3

Background

- Dragon Run Steering Committee (DRSC) promotes conservation easements
- Significant focus on conservation easements and land holding
- Difficult economic times
- Localities' concern over fiscal impacts of conservation easements and land holdings
- DRSC and MPPDC resolutions to study and help promote policy changes

4

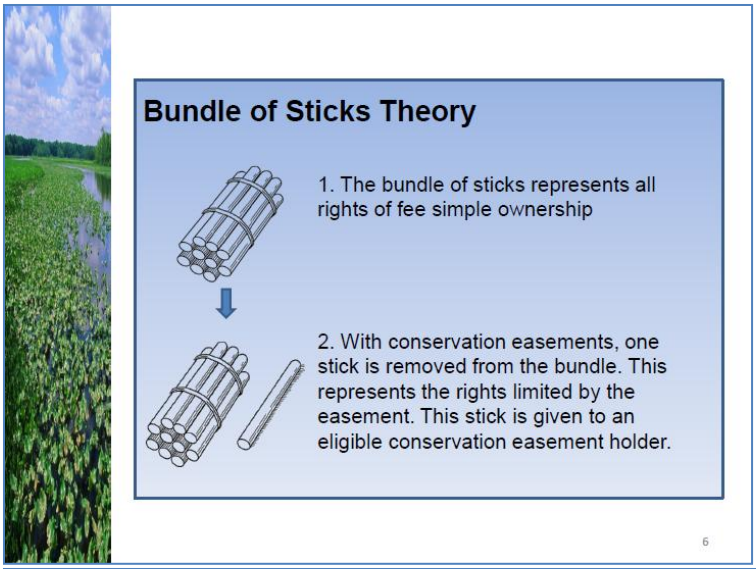


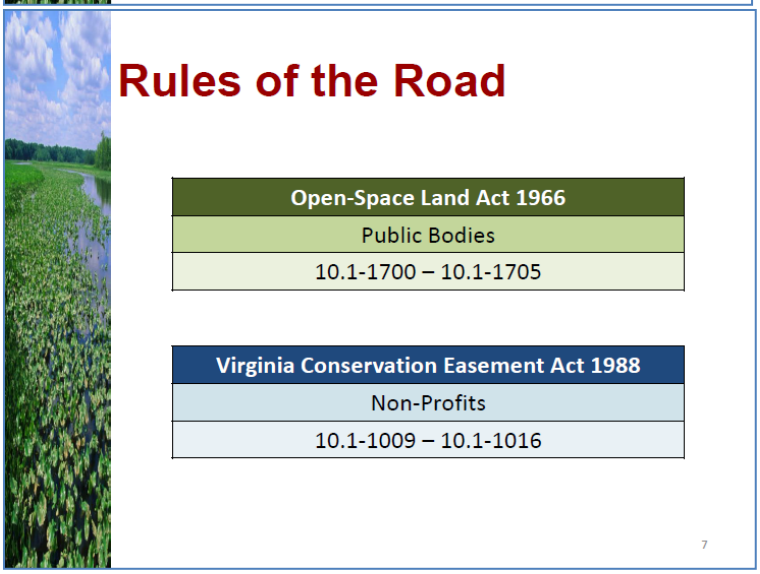
Phase 1-

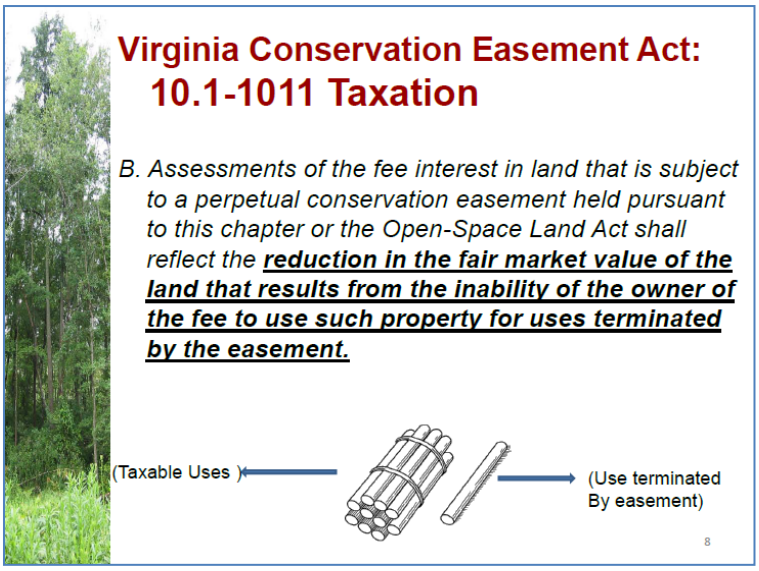
Project Goals

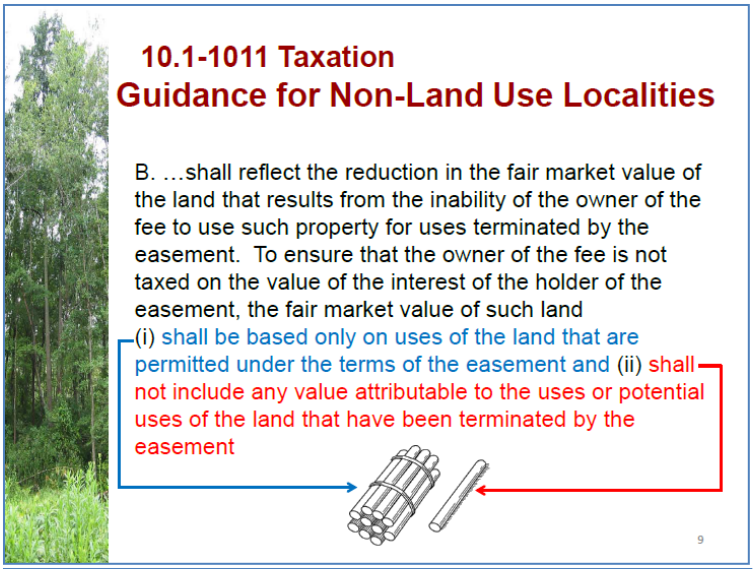
1. Understand the impact of conservation easements and tax exempt land holdings on local tax revenue
2. Understand the cost of public services in open lands compared to developed lands
3. Understand the process by which easements are valued
4. Identify policy changes to help Commissioners of Revenue improve consistency
5. Maximize county fiscal benefit from composite index

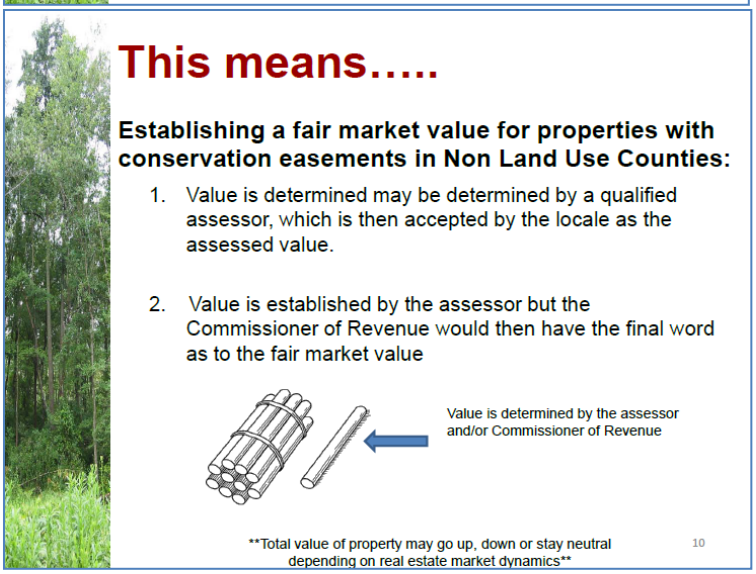
5

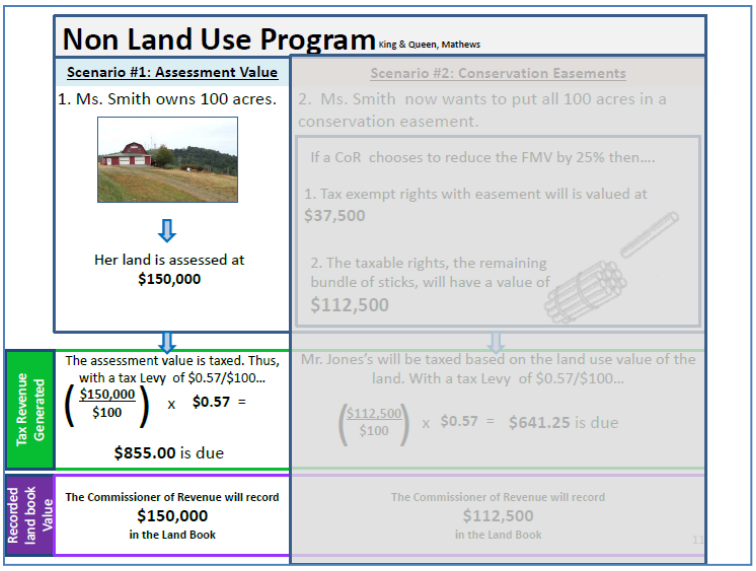

Bundle of Sticks Theory
1. The bundle of sticks represents all rights of fee simple ownership
2. With conservation easements, one stick is removed from the bundle. This represents the rights limited by the easement. This stick is given to an eligible conservation easement holder.
6


Rules of the Road
Open-Space Land Act 1966
Public Bodies
10.1-1700 – 10.1-1705
Virginia Conservation Easement Act 1988
Non-Profits
10.1-1009 – 10.1-1016
7


Virginia Conservation Easement Act:
10.1-1011 Taxation
B. Assessments of the fee interest in land that is subject to a perpetual conservation easement held pursuant to this chapter or the Open-Space Land Act shall reflect the reduction in the fair market value of the land that results from the inability of the owner of the fee to use such property for uses terminated by the easement.
(Taxable Uses)
(Use terminated By easement)
8

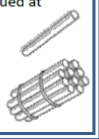

10.1-1011 Taxation
Guidance for Non-Land Use Localities
B. …shall reflect the reduction in the fair market value of the land that results from the inability of the owner of the fee to use such property for uses terminated by the easement. To ensure that the owner of the fee is not taxed on the value of the interest of the holder of the easement, the fair market value of such land
(i) shall be based only on uses of the land that are permitted under the terms of the easement and (ii) shall not include any value attributable to the uses or potential uses of the land that have been terminated by the easement
9


This means…..
Establishing a fair market value for properties with conservation easements in Non Land Use Counties:
1. Value is determined may be determined by a qualified assessor, which is then accepted by the locale as the assessed value.
2. Value is established by the assessor but the Commissioner of Revenue would then have the final word as to the fair market value
Value is determined by the assessor and/or Commissioner of Revenue
Total value of property may go up, down or stay neutral depending on real estate market dynamics
10


Non Land Use Program
King & Queen, Mathews
Scenario #1: Assessment Value
1. Ms. Smith owns 100 acres.
Her land is assessed at $150,000
Scenario #2: Conservation Easements
2. Ms. Smith now wants to put all 100 acres in a conservation easement.
If a CoR chooses to reduce the FMV by 25% then….
1. Tax exempt rights with easement will is valued at $37,500
2. The taxable rights, the remaining bundle of sticks, will have a value of $112,500
Tax Revenue Generated
The assessment value is taxed. Thus, with a tax Levy of $0.57/$100…
($150,000 / $100) x $0.57 =
$855.00 is due
Mr. Jones's will be taxed based on the land use value of the land. With a tax Levy of $0.57/$100…
($112,500 / $100) x $0.57 = $641.25 is due
Recorded land book Value
The Commissioner of Revenue will record $150,000 in the Land Book
The Commissioner of Revenue will record $112,500 in the Land Book

Non Land Use Program

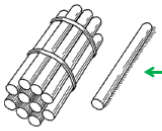
King & Queen, Mathews

Scenario #1: Assessment Value	Scenario #2: Conservation Easements
1. Ms. Smith owns 100 acres. Her land is assessed at **$150,000**	2. Ms. Smith now wants to put all 100 acres in a conservation easement. If a CoR chooses to reduce the FMV by 25% then…. 1. Tax exempt rights with easement will is valued at **$37,500** 2. The taxable rights, the remaining bundle of sticks, will have a value of **$112,500** 
Tax Revenue Generated The assessment value is taxed. Thus, with a tax Levy of $0.57/$100… $\left(\frac{\$150,000}{\$100}\right)$ x **$0.57** = **$855.00** is due	Mr. Jones's will be taxed based on the land use value of the land. With a tax Levy of $0.57/$100… $\left(\frac{\$112,500}{\$100}\right)$ x **$0.57** = **$641.25** is due
Recorded land book Value The Commissioner of Revenue will record **$150,000** in the Land Book	The Commissioner of Revenue will record **$112,500** in the Land Book

12

10.1-1011 Taxation
Guidance for Land Use Localities

C. …in any county, city or town which has provided for land use assessment and taxation of any class of land within its jurisdiction pursuant to 58.1-3231 or 58.1-3232, **shall be assessed and taxed at the use value for open space, if the land otherwise qualifies for such assessment at the time the easement is dedicated**. If an easement is in existence at the time the locality enacts land use assessment, the easement shall qualify for such assessment. Once the land with the easement qualifies for land use assessment, it shall continue to qualify so long as the locality has land use assessment.

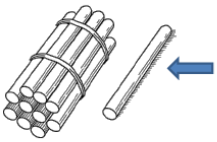


Because of the stick, the land eased receives the land use value

13

This means…..

In Land Use Counties, the Commissioner of Revenue must determine the use value under the land use program and shall be assessed and taxed as such



Assessed value dictated by the county's land use program

Total value of property may go up, down or stay neutral depending on real estate market dynamics

14

Attorney General's Opinion

November 19, 1993

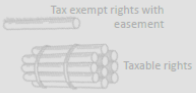
to the honorable Joyce L. Clark, Commissioner of Revenue for Orange County, VA

Question 3: *If a locality has adopted a use value assessment program that does not cover forest or open space uses, would land under such easement that is used for forest or open-space purposes quality for open-space use assessment?*

Answer: **if a locality has a use value program that does not cover forest and open-space uses, land under conservation or open-space easement used for forest or open-space still will qualify for the open-space use value assessment.** Land encumbered by such a perpetual easement meets the definition requirements in 58.1-3230 being "preserved for…conservation of land or other natural resources…or scenic purposes." Section 10.1-1011, reflects the General Assembly's conclusion that this tax treatment is appropriate, because the owners of land that is subject to such open-space or conservation easements permanently have protected open space and thus permanently have given up part of their land's value.

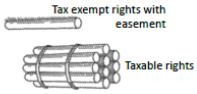
15

Land Use Program Essex, King William, Gloucester, Middlesex

	Scenario #1: Land Use Value	Scenario #2: Conservation Easements
	1. Mr. Jones owns 100 acres. His land is assessed at **$150,000** But , the Land use rate for agriculture land is **$550/acre** Therefore, the land use value of the land is **$55,000**	2. Mr. Jones now wants to put all 100 acres in a conservation easement.  In accordance with VA Tax Code 10.1-1011, Mr. Jones's land under easement will have a fair market value equal is to the land use value of $55,000
Tax Revenue Generated	The land use value is taxed. Therefore with a tax levy of $0.57/$100… $\left(\frac{\$55,000}{\$100}\right)$ x **$0.57** = **$313.50** is due	Mr. Jones's will be taxed based on the land use value of the land. With a tax levy of $0.57/$100… $\left(\frac{\$55,000}{\$100}\right)$ x **$0.57** = **$313.50** is due
Recorded land book Value	The Commissioner of Revenue will record **$150,000** in the Land Book	The Commissioner of Revenue will record **$55,000** in the Land Book

16

Land Use Program Essex, King William, Gloucester, Middlesex

	Scenario #1: Land Use Value	Scenario #2: Conservation Easements
	1. Mr. Jones owns 100 acres. His land is assessed at **$150,000** But , the Land use rate for agriculture land is **$550/acre** Therefore, the land use value of the land is **$55,000**	2. Mr. Jones now wants to put all 100 acres in a conservation easement.  In accordance with VA Tax Code 10.1-1011, Mr. Jones's land under easement will have a fair market value equal to the land use value of **$55,000**
Tax Revenue Generated	The land use value is taxed. Therefore with a tax levy of $0.57/$100… $\left(\frac{\$55,000}{\$100}\right)$ x **$0.57** = **$313.50** is due	Mr. Jones's will be taxed based on the land use value of the land. With a tax levy of $0.57/$100… $\left(\frac{\$55,000}{\$100}\right)$ x **$0.57** = **$313.50** is due
Recorded land book Value	The Commissioner of Revenue will record **$150,000** in the Land Book	The Commissioner of Revenue will record **$55,000** in the Land Book

17

PROPERTY ASSESSMENT, TOTAL LAND BOOK VALUE, COMPOSITE INDEX and their CONNECTION

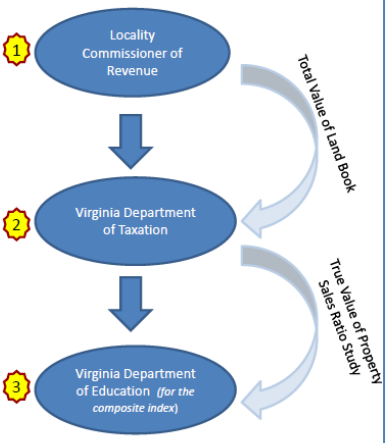
18

Flow of information :

Commissioner of Revenue's objective is to maintain a land book and generate a total land book value . This value is ultimately used as a factor in the composite index

The VaTAX sends the Department of Education a copy of the annual sales ratio study and the Total Land Book Value.

Department of Education will generate the composite index which reflects a county's ability to pay education cost.

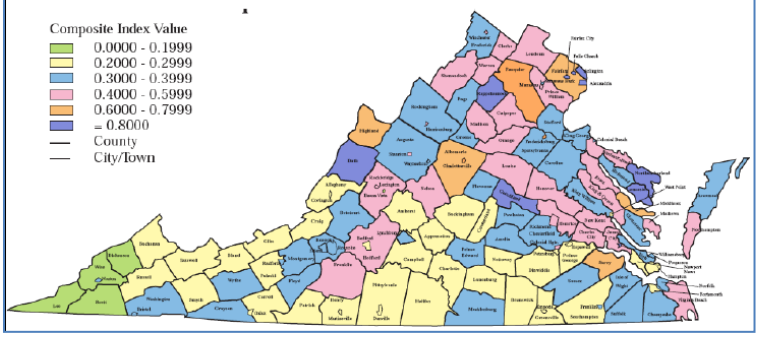


Richer versus poorer: Local Ability to Pay?

2010-2012 Composite Index

2010-2012 COMPOSITE INDEX OF LOCAL ABILITY-TO-PAY - Updated March 2010

Div. Num.	Division	INDICATORS OF ABILITY-TO-PAY (BASE YEAR: 2007) TRUE VALUE OF PROPERTY	ADJUSTED GROSS INCOME (Including Nonresident AGI)	ADJUSTED GROSS INCOME (Excluding Nonresident AGI*)	TAXABLE RETAIL SALES	MARCH 31, 2008 ADM	TOTAL POPULATION	2010-2012 Composite Index Calculated Including Nonresident AGI	2010-2012 Composite Index Calculated Excluding Nonresident AGI*	Final 2010-2012 Composite Index
001	ACCOMACK	$5,396,097,584	$660,577,282	N/A	$265,974,290	4,971	39,009	.3753	N/A	.3753
002	ALBEMARLE	$19,097,534,323	$3,935,915,142	N/A	$1,255,468,142	12,356	92,312	.6872	N/A	.6872
003	ALLEGHANY	$1,193,547,316	$293,371,675	N/A	$71,914,959	2,875	16,804	.2151	N/A	.2151
004	AMELIA	$1,609,994,102	$256,929,946	N/A	$61,359,503	1,849	12,652	.2472	N/A	.2472
005	AMHERST	$2,526,391,128	$559,456,811	N/A	$237,365,796	4,586	32,205	.2684	N/A	.2684



What's the problem….

The Commissioners of Revenue may be over reporting the total land book value

↓

Not maximizing localities' state aid under the Composite Index

Composite Index Factors

- True value of real property (weighted 50%)
- Adjusted gross income (weighted 40%)
- Taxable retail sales (weighted 10%)

22

Example 1 – *Middlesex County (LU)*

Owner

Owner Address
1
DELTAVILLE VA
, 23043

Total Land Area
52.318 Acres
Land Use Value
$29,200

Property Address
1172 NORTH END RD
DELTAVILLE, VA 23043

Legal Description(s)
NORTH END
52.318 AC (LUCA)
D118-455,P457,471,199-757,416-583
D299-406,P14-284,P16-484

Zoned
R

Prior Assessment
$497,500

Magisterial District
PINE TOP

Deed Bk/Pg
299 / 406

Remarks

Assessment Values (Map#: 40 8C)

No Building	0
Land Value:	$1,133,300
Other Improvements:	0
Total Value:	$1,133,300

Acreage Description (Map#: 40 8C)

Size In Acres	Description	Lump Sum or Per Acre	Unit Value	Adj %	Utility Value	Acreage Value
1.00	Homesite	Lump Sum	800,000	0.00		$800,000
2.00		Per Acre	100,000	0.00		$200,000
2.96		Per Acre	9,000	0.00		$26,640
46.358		Per Acre	2,300	0.00		$106,623

Total Value: $1,133,263

Example 2 – *Essex County (LU)*

Property Address
0 PASSING RD (OFF)

Map#: 9 40
Acct#: 665-1

Owner Name/Address
PINE HILL LLC
C/O TOM DESHAZO
94 HOLLYWOOD FARM RD
FREDERICKSBURG VA 22405

Legal Description: CEDAR GROVE (PART)

Occupancy: VACANT
Dwelling Type:
Use/Class: SNGL FAM RES - SUBURBAN
Year Assessed: 2008
Zoning: AGRICULTURAL
District: 01 OCCUPACIA
MH/Type:
Condition:

Inst#: 07 0 1209 00
Plat Bk/Pg: 24/65
Acreage: 19.330
Year Built: 0
Year Rmld:
Year Eff:
On Site Dte: 11/21/2006
Review Date: 10/10/2007

Land Use: 0
Tot. Mineral:
Total Land: 9700
Total Imp.:
Total Value: $9,700

Improvement Description

Exterior	Interior	Site
		9787-NO PUB RD
		TOPO-ELEVE

Land Valuation

Meth Cls	Desc	Grd	Size	Depth	Rate	PV/Pct	Value
A	13 NONO/OFFRD	N	19.330		2400.00	36727-	9685
Total Land Value			19.330				9700

Comments

2007:PR NUMBRY S & MARLIN S FOOS (INS 07-1209)
2008:19.33 AC CHANGE (PB 24-65)
2008:CONSERVATION EASEMENT (DB 08-1418)
2009:NCON DEPR -25% (CONSERVATION EASEMENT)
2009:LAND USE
2010:NCON DEPR -36.727 (CONSERVATION EASEMENT)
2010:REMOVED FROM LAND USE (CONSERVATION EASEMENT)

Total Property Value 9700

Sec	Type	Str	Description	Area
		Chr. Value	Prev. Value	Xfer.
Land		9700	11000	
Improvements				
Total		9700	11000	
Average Price Per Acre			2400	
Sale Date/Amount		5/23/2007	36900	

24

Example 2 – *Essex County (LU)*

Property Address
0 PASSING RD (OFF)

Map#: 9 40
Acct#: 665-1

Owner Name/Address
PINE HILL LLC
C/O TOM DESHAZO
94 HOLLYWOOD FARM RD
FREDERICKSBURG VA 22405

Legal Description: CEDAR GROVE (PART)

Occupancy: VACANT
Dwelling Type:
Use/Class: SNGL FAM RES - SUBURBAN
Year Assessed: 2008

Inst#: 07 0 1209 00
Plat Bk/Pg: 24/65
Acreage: 19.330
Year Built: 0
Land Use: 0

|----------Land Valuation----------|

Math Clas	Desc	Grd	Size	Depth	Rate	FV/Pct	Value
A 19	WOOD/OFFRD	E	19.330		2400.00	36727-	9665
Total Land Value			19.330				9700

|----------Comments----------|

2007: FR ROBERT G & HARILYN G FOGG (DBS 01-1209)
2008: 19.33 AC CHANGE (PB 24-65)
2008: CONSERVATION EASEMSNET (DE 08-1418)
2009: ECON DEPR -25% (CONSERVATION EASMENT)
2009: LAND USE
2010: ECON DEPR -36,727 (CONSERVATION EASEMENT)
2010: REMOVED FROM LAND USE (CONSERVATION EASEMENT)

|----------|

Total Property Value 9700

Phase I:
Findings

Regional Summary

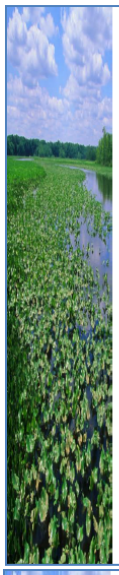
	Acres under Conservation Easements	Acres held by Tax-exempt Conservation Entities	Acres Conserved Total	Tax Revenue Loss due to Conservation Easements	Tax Revenue Loss due to Tax-exempt Conservation Land Holdings	Total Tax Revenue Loss	Percentage of the County's Budget
Middlesex	4,291	521	4,812	$37,778	$5,428	$43,206	.18%
Gloucester	1,010.02	3,114.95	4,124.97	$32,406	$16,779	$49,185	.0005%
Essex	12,343.81	1,170.18	13,514	$115,288	$14,790	$130,078	.44%
King William	6,729.3	2,630.09	9,359.39	$59,893	$53,500	$113,393	.54%
King and Queen	14,156.45	12,971.25	27,127.70	$14,953	$64,007	$78,960	.39%
Mathews	341	257.97	598.97	$1,107	$1,836	$2,942	.01%
Regional Total	38,872	20,665	59,537	$262,974	$156,340	$419,313	-

27

Capturing Conservation Easements: additional fiscal benefits

	Additional Devaluation due to easements	VaTax Sales Ratio Study	True Value of Property over reported
Middlesex	$10,793,682	79.53%	**$13,571,837**
Gloucester	$5,587,222	85.11%	**$6,564,707**
Essex	$18,594,806	95.23%	**$19,526,206**
King and Queen	$3,115,224	70.00%	**$4,450,320**
King William	$7,394,152	89.89%	**$8,225,778**
Mathews	$197,600	62.56%	**$315,857**

Virginia Department of Taxation Sales Ratio Study – Determines the relationship between the assessed value of real estate and what properties have actually sold for during the past year.



Phase 1- Identified Problems

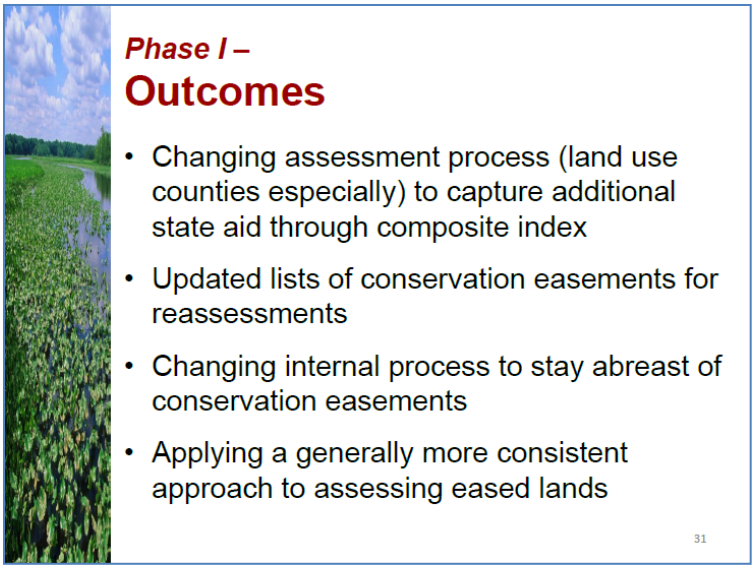
- 10.1 (Conservation) vs 58.1 (Taxation)
- No standard administrative mechanism to "capture" the recordation of conservation easements
- The Commissioners of Revenue are provided limited or no guidance on valuing easements or reporting for the purposes of maximizing composite index aid
- Different approaches to valuing easements depending on the locality
- Some data does not transfer between reassessments
- Not maximizing composite index return for state aid for schools

29

Phase 1- Key Findings

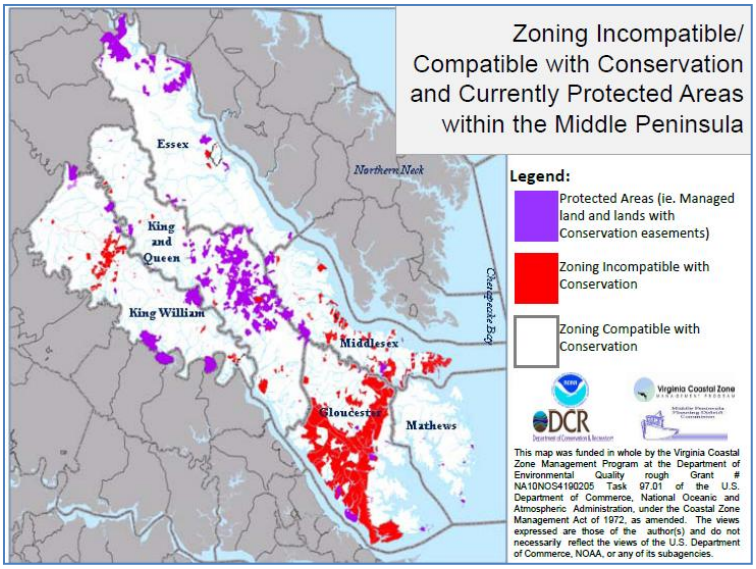
- Conservation easement impacts are a very small percentage of a county's budget – Less than 0.5%
- Easements lower land value and thereby should help increase state aid from the composite index

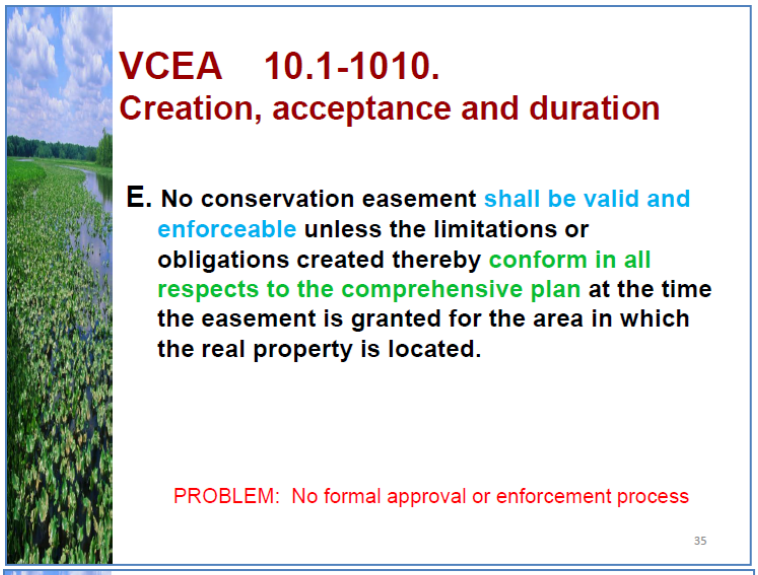
30


Phase I –
Outcomes
• Changing assessment process (land use counties especially) to capture additional state aid through composite index
• Updated lists of conservation easements for reassessments
• Changing internal process to stay abreast of conservation easements
• Applying a generally more consistent approach to assessing eased lands
31

Phase II:
Land Use Impacts

Is there a disconnect between what our planning tools encourage and what our elected officials value currently and what our conservation community is accomplishing?
Promote agriculture and forestry
Preserve Rural Character
Chesapeake Bay and Water Quality Values
33


Zoning Incompatible/ Compatible with Conservation and Currently Protected Areas within the Middle Peninsula
Essex
Northern Neck
King and Queen
King William
Middlesex
Gloucester
Mathews
Chesapeake Bay
Legend:
Protected Areas (ie. Managed land and lands with Conservation easements)
Zoning Incompatible with Conservation
Zoning Compatible with Conservation
DCR
Virginia Coastal Zone
This map was funded in whole by the Virginia Coastal Zone Management Program at the Department of Environmental Quality rough Grant # NA10NOS4190205 Task 97.01 of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, under the Coastal Zone Management Act of 1972, as amended. The views expressed are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Commerce, NOAA, or any of its subagencies.


VCEA 10.1-1010.
Creation, acceptance and duration
E. No conservation easement shall be valid and enforceable unless the limitations or obligations created thereby conform in all respects to the comprehensive plan at the time the easement is granted for the area in which the real property is located.
PROBLEM: No formal approval or enforcement process
35

Enhancing accountability of Conservation Easements
• Stakeholder engagement
• Development of MOU
• Policy Recommendations
• Administrative Recommendations
36

Appendix G:
A Guidance Document: Consistently Accounting for Conservation Easements within Your Jurisdiction

A Guidance Document:
Consistently Accounting for Conservation Easements within Your Jurisdiction

This report was funded in whole by the Virginia Coastal Zone Management Program at the Department of Environmental Quality rough Grant # NA10NOS4190205 Task 97.01 and Task 95 of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, under the Coastal Zone Management Act of 1972, as amended. The views expressed are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Commerce, NOAA, or any of its subagencies.

As a legal agreement made between a landowner (grantor) and a public body (grantee), conservation easements place restrictions on both the present and the future use of a property, which helps to preserve the rural quality of the region in perpetuity. However as conservation easements become a more popular land use tool in the Middle Peninsula, there are fiscal impacts to localities. In order to reduce these fiscal impacts, the Middle Peninsula Planning District Commission (MPPDC), funded through the Virginia Coastal Zone Management Program, has been working with local Commissioners of Revenue, Conservation Entities, and County Planners to understand the fiscal impacts, while at the same time taking advantage of the composite index benefits (ie. receiving the proper amount of State aid for county education).

This document will assist counties participating within the Virginia Use Value Assessment Program (ie.land-use counties), and those counties that are not (ie. non-land use counties), in accounting for conservation easements within their jurisdiction – connecting the Commonwealth's legislative requirements to the County's role in meeting those requirements.

As the Virginia Conservation Easement Act, Section §10.1-1011 Taxation, provides legislative guidance to properly assess conservation easements within the Commonwealth of Virginia, below is a simplified outline of how one may approach adjusting the fair market value of conservation easements which is authorized by VA Conservation Easement Act.

NON LAND-USE counties-

1. **The Commissioner of Revenue, or a qualified assessor, may reduce the fair market value of conservation easements based on the encumbrances placed on the property.** According to Code (Section §10.1-1011 Part B), *Assessments of the fee interest in land that is subject to a perpetual conservation easement held pursuant to this chapter or the Open Space Land Act shall reflect their reduction in the fair market value of the land that results from the inability of the owner of the fee to use such property for uses terminated by the easement.*

2. Specifically, **reduce the fair market value of lands with conservation easements based on only the uses of the land remaining after the easement and not on the uses or potential uses of the land that have been terminated by the easement**. Directly from the Code, *the fair market value of such land* [lands with conservation easements] *(i) shall be based only on uses of the land that are permitted under the terms of the easement and (ii) shall not include any value attributable to the uses or potential uses of the land that have been terminated by the easement.*

3. With the reduced fair market value, the Commissioner of Revenue is to **record the reduced value of the property with the conservation easement in the County Landbook and therefore report this reduced value to the Virginia Department of Taxation**. Reporting the reduced value will ultimately lower the total landbook value and benefit the county through the composite index.

4. The County may tax the reduced fair market value of the land with the conservation easement. As conservation easements are take exempt, the County may only tax those property right that remain.

LAND-USE counties-

1. **The Commissioner of Revenue, or a qualified assessor, may reduce the fair market value of conservation easements based on the encumbrances placed on the property.** According to Code (Section §10.1-1011 Part B), *Assessments of the fee interest in land that is subject to a perpetual conservation easement held pursuant to this chapter or the Open Space Land Act shall reflect their reduction in the fair market value of the land that results from the inability of the owner of the fee to use such property for uses terminated by the easement.*

2. As VA Code provides direct guidance as to how conservation easements are to be addressed. In short, **conservation easements may be valued using the county's adopted land-use values.** According to the legislation, *land which is (i) subject to a perpetual conservation easement held pursuant to this chapter or the Open-Space Land Act (§ 10.1-1700 et seq.), (ii) devoted to open-space use as defined in § 58.1-3230, and (iii) in any county, city or town which has provided for land use assessment and taxation of any class of land within its jurisdiction pursuant to § 58.1-3231 or § 58.1-3232, shall be assessed and taxed at the use value for open space, if the land otherwise qualifies for such assessment at the time the easement is dedicated. If an easement is in existence at the time the locality enacts land use assessment, the easement shall qualify for such assessment. Once the land with the easement qualifies for land use assessment, it shall continue to qualify so long as the locality has land use assessment.*

3. With the reduced fair market value, the Commissioner of Revenue is to **record the reduced value of the property with the conservation easement in the County Landbook and therefore report this reduced value to the Virginia Department of Taxation**. Reporting the reduced value will ultimately lower the total landbook value and benefit the county through the composite index.

4. The County may tax the land-use value of the land with the conservation easement.

FOR THOSE LAND-USE COUNTIES THAT ARE CONCERNED…..

If your locality has adopted a use value assessment program that does not cover forest or open space uses, would land under such easement that is used for forest of open-space purposes quality for open-space use assessment?

According to a Attorney General opinion (November 13, 1993):

> If a locality has a use value program that does not cover forest and open- space uses, land under conservation or open-space easement used for forest and open space still will quality for the open space use value assessment. Land encumbered by such a perpetual easement meets the definition requires in §58.1-323- being "preserved for…conservation of land other natural resources…or scenic purposes." Section §10.1-1011 reflects the General Assembly's conclusion that this tax treatment is appropriate, because the owners of land that is subject to such open space or conservation easements permanently have protected open space and thus permanently have given up part of their land's value.

ADDITIONAL PUBLIC POLICY OPTIONS AND RECOMMENDATIONS:

Through a series of meetings with local Conservation entities, County Commissioners of Revenue, as well as County Planning Staff, a list of challenges associated with conservation easements were identified. Therefore to assist localities in dealing with these challenges, MPPDC staff developed a public policy matrix that provides solutions to improve accounting for conservation easements within your jurisdiction.

Accounting for Conservation Easements within your Locality:
Public Policy Options and Recommendations

	Challenge	Public Policy Recommendation and Description	Components of Public Policy Strategy	Supporting Material	Thoughts/Comments
1	**Communication between Conservation Community and Locality**	Develop a MOU between conservation entity and locality to provide the locality an opportunity to respond to the placement of conservation easements and its consistency with local land use tools, including the comprehensive plan as well as other county adopted land management plans (ie. Dragon Run Management Plan).	1. Reference to Article XI of Constitution 2. Reference to the Open Space Land Act of 1966 (Chapter 461 of the Assembly (Chapter 17, Title 10.1 Sections 10.1-1700 et seq. of the Code of Virginia, as amended) 3. Reference to Virginia Conservation Easement Act (Section 10.1-1010) 4. A space for citations from the County's Comprehensive Plan indicating consistency with the plan and/or other county adopted land management plans 5. An agreement between the conservation entity and the County/Town	Please see last page of this document for the MOU template	
2	**Disconnect between land use tools and current views of local officials**	A. Educate and discuss current local and state policy associated with conservation easements with local elected officials.	Develop outreach material (ie. pamphlets, presentations, etc) about policies associated with conservation easements (ie. VA Conservation Act, etc) and facilitate discussions.		Designating areas to receive conservation easements may help comply with water quality requirements through the TMDL program, (ie. RPA's may be identified as locations for Conservation Easements). Such areas would act as buffers to the waterways and assist in reducing nutrient loads into the Bay. If conservation easements are not consistent at the time of recordation/donation with the comprehensive plan, the easement is not "valid and enforceable" therefore the county has the availability to: (1) Tax land at 100% value and (2) Send a letter to the VA Department of Taxation identifying an inconsistency with the comprehensive plan, to determine the property owners legibility for receiving tax credits.
		B. Update/change land use planning tools to match perceptions or policy need of local elected officials.	Update comprehensive plan to denote where CE's are consistent and where they are not consistent; Zoning Ordinances with CE overlay districts; designate areas on future land maps within the Comprehensive Plan or an "Official Map"; or establish location criteria for conservation easements to provide to private property owners as well as conservation entities.		

	Challenge	Public Policy Recommendation and Description	Components of Public Policy Strategy	Supporting Material	Thoughts/Comments
3	**Commissioners of Revenue and Planning Staff are unable to easily track/search for easements once recorded**	A. Recommend the clerk take action to add deed type code to the land transaction list from Supreme Court used in recordation of the conservation easement;	A. The CoR and/or the clerk may submit a Service Request Form to the Supreme Court to add a deed type code to the land transaction list specific to conservation easements.	As an internal document of the VA Supreme Court, the Service Request Form may be obtained from the Department of Accounts. For more information, please contact Ms. Norma Gates, Circuit Court Services Manager at Supreme Court of Virginia, at (804) 786-6455	
		B. Have clerks flag conservation easements on monthly transaction sheets from the Clerk's office to inform CoR of a recorded conservation easement. The CoR may then improve the searchable of conservation easement within the county database (ie. Either through adding CE at the end of a parcel number or adding CE in the legal description); and	B. For those counties with a CAMA (computer-assisted mass appraisal) system – the "legal description can be search by conservation easement which may also be used by the planning department; the sub lot field is also searchable.		
		C. Localities may identify a staff person responsible to keep an ongoing list of conservation easements within its jurisdiction as well as associated GIS data.	C. MPPDC staff may provide current GIS data to all localities that will be a starting point to identify the location of conservation easements. However updating this data will be the responsibility of county staff.		
4	**Consistency in accounting for the reduction of fair market values with conservation easements**	Establish a method in which conservation easements are valued within the county that provides consistency.	The Contract may consist of verbiage to: A. Have the assessor reduce the fair market value of the property with conservation easement based on the encumbrances placed on the land; or B. Have the assessor assess lands with conservation easements as if they do have an easement. The assessor will provide a fair market value to CoR, and then the CoR will reduce the fair market value based on the encumbrances placed on the land due to the easement.		

MEMORANDUM OF UNDERSTANDING AND PROCESS AGREEMENT BETWEEN [*insert name of conservation entity*] Authorized Representative AND COUNTY ADMINISTRATOR/TOWN MANAGER/ COUNTY LIASON FOR [*insert name of locality/town]*, VIRGINIA

WHEREAS, Article XI of the Constitution of Virginia states in pertinent part:

Section 1. Natural resources and historical sites of the Commonwealth
To the end that the people have clean air, pure water, and the use and enjoyment for recreation of adequate public lands, waters, and other natural resources, it shall be the policy of the Commonwealth to conserve, develop, and utilize its natural resources, its public lands, and its historical sites and buildings. Further, it shall be the Commonwealth's policy to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth.

Section 2. Conservation and development of natural resources and historical sites.
In the furtherance of such policy, the General Assembly may undertake the conservation, development, or utilization of lands or natural resources of the Commonwealth, the acquisition and protection of historical sites and buildings, and the protection of its atmosphere, lands, and waters from pollution, impairment, or destruction, by agencies of the Commonwealth or by the creation of public authorities, or by leases or other contracts with agencies of the United States, with other states, with units of government in the Commonwealth, or with private persons or corporations. Notwithstanding the time limitations of the provisions of Article X, Section 7, of this Constitution, the Commonwealth may participate for any period of years in the cost of projects which shall be the subject of a joint undertaking between the Commonwealth and any agency of the United States or of other states.

WHEREAS, The Open Space Land Act of 1966, Chapter 461 of the 1996 Acts of the Assembly, (Chapter 17, Title 10.1, Sections 10.1-1700 *et seq.* of the Code of Virginia, as amended) declares that the preservation of open-space land serves a public purpose by promoting the health and welfare of the citizens of the Commonwealth by curbing urban sprawl and encouraging more desirable and economical development of natural resources, and authorizes the use of easements in gross to maintain the character of open-space land; and

WHEREAS, the Virginia Conservation Easement Act declares that conservation easements should be designed for the purposes of which include retaining or protecting natural or open-space values of real property, assuring its availability for agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property.

WHEREAS, the Open Space Land Act of 1966 states the use of the real property for open-space land shall conform to the official comprehensive plan for the area in which the property is located and the Virginia Conservation Easement Act, Section 10.1-1010 of the Code of Virginia declares that no conservation easement shall be valid and enforceable unless the limitations or obligations created thereby conform in all respects to the comprehensive plan at the time the easement is granted for the area in which the real property is located; and

WHEREAS, [*citations from the Comprehensive Plan of the locality indicating that preserving property in open-space/cultural heritage use is consistent with said Plan*]; and

WHEREAS, land under open-space or conservation easement typically require fewer public service dollars than land that is fully developed as authorized by the county's zoning ordinance and other planning documents; and

WHEREAS, land under open-space or conservation easement benefits the [*insert locality/town name*] Composite Index formula by reducing the proportionate fair market value of property in the county.

NOW, THEREFORE, BE IT UNDERSTOOD AND AGREED, by the Authorized Representative of the [*insert name of conservation entity*]and the planning director or other county assigned liaison of County/Town of [*insert locality name*], Virginia, in recognition of the aforesaid, and in consideration of the mutual covenants and benefits hereinabove stated, that the Authorized Representative of the [*insert name of conservation entity*] and the planning director or other county assigned liaison of the County/Town [*insert locality name*], Virginia, do hereby adopt collaborative understandings and process agreements, as follows:

- It shall be the responsibility of the Authorized Representative [*insert name of conservation entity*] to notify the planning director, or other county assigned liaison, of all [*insert name of conservation entity]* proposed easements in [*insert locality/town name*] at an early stage in the easement process, preferably prior to the landowner making a significant financial investment in the process to allow the locality adequate time to review consistency of the easement with the county comprehensive plan.

- It shall be the responsibility of the planning director to advise the [*insert name of conservation entity*] Authorized Representative of the open-space or conservation easements' consistency, or inconsistency, with the county's comprehensive plan, as per Section10.1-1010 of the Virginia Conservation Easement Act.