

## MEMORANDUM

DATE: August 13, 2002  
TO: The Board of Supervisors  
FROM: Jill E. Schmidle, Senior Planner  
SUBJECT: 2002 Agricultural and Forestal District (AFD) Renewals

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Agricultural and Forestal Districts

In 1977, the Virginia General Assembly created a process to “provide a means for a *mutual* undertaking by landowners and local governments to protect and enhance agricultural and forestal land as a viable segment of the Commonwealth’s economy and an economic and environmental resource of major importance.” The process also provides land owners an opportunity to try to protect their land from the pressure to develop. This process is known as the Agricultural and Forestal Districts (AFD) Act. The Act gives local governments authority, upon landowners’ voluntary application, to establish agricultural districts, forestal districts, and agricultural and forestal districts.

Land within a district is directly affected in three ways:

1. District land qualifies for the benefits of use-value taxation, subject to local regulations; and
2. Restraints are imposed on government, as it may affect a property. More specifically, local governments may not restrict farming or forestry practices, except to protect public health or safety. Local comprehensive plans and zoning/subdivision ordinances apply to district land only to the extent that they do not conflict with either the conditions of the district or the purposes of the AFD Act. Local plans, ordinances, and decisions affecting land adjacent to a district must take into account both the district and the AFD Act. State agencies must modify regulations and procedures to encourage farming and forestry within Districts. Land acquisition by agencies, political subdivisions, or public service corporations (including acquisition by eminent domain) must be reviewed by the Board of Supervisors if the land in question exceeds ten acres from the district or one acre from any one district farm or forestry operation. Finally, no special purpose assessments or taxes may be imposed on the basis of frontage, acreage, or value of land used for agricultural or forestal production within a district; and
3. A property owner wishing to keep his land in farming or forestry is protected from adjacent incompatible uses when his neighbors join with him in an AFD.

Current AFD Statistics and Facts

As shown in the following spreadsheet, there are currently 18,151± acres of land within the AFD program. This acreage represents approximately 20 percent of the total land area of the County. The AFD program began in James City County in 1986 and there have been three previous major review periods of AFD districts (1990, 1994, and 1998).

Of the 16 districts, 11 are set to expire in September and one is set to expire in October. The districts set to expire are highlighted in bold print below.

Agricultural and Forestal Districts  
(As of April 2002)

<u>District</u>	<u>Name and Term of District in Years ( )</u>	<u>Acres</u>	<u>Exp. Date</u>
<b>AFD 1-94</b>	<b>Wright's Island (8)</b>	<b>1,544.41</b>	<b>10/19/2002</b>
<b>AFD 2-86</b>	<b>Croaker (4)</b>	<b>1,081.82</b>	<b>9/22/2002</b>
<b>AFD 3-86</b>	<b>Hill Pleasant Farm (4)</b>	<b>573.62</b>	<b>9/22/2002</b>
AFD 4-86	Pates Neck (6)	624.30	11/17/2006
<b>AFD 5-86</b>	<b>Barnes Swamp (4)</b>	<b>1,943.48</b>	<b>9/22/2002</b>
<b>AFD 6-86</b>	<b>Cranston's Pond (4)</b>	<b>1,073.58</b>	<b>9/22/2002</b>
<b>AFD 7-86</b>	<b>Mill Creek (4)</b>	<b>3,126.04</b>	<b>9/22/2002</b>
<b>AFD 8-86</b>	<b>Casey (4)</b>	<b>197.05</b>	<b>9/22/2002</b>
<b>AFD 9-86</b>	<b>Gordon Creek (4)</b>	<b>3,352.60</b>	<b>9/22/2002</b>
<b>AFD 10-86</b>	<b>Christenson's Corner (4)</b>	<b>562.16</b>	<b>9/22/2002</b>
<b>AFD 11-86</b>	<b>Yarmouth Island (4)</b>	<b>2,082.17</b>	<b>9/22/2002</b>
<b>AFD 12-86</b>	<b>Gospel Spreading Church (4)</b>	<b>971.94</b>	<b>9/22/2002</b>
<b>AFD 13-86</b>	<b>Gilley (4)</b>	<b>202.89</b>	<b>9/22/2002</b>
AFD 1-89	Armistead (4)	311.83	1/27/2006
AFD 1-93	Williamsburg Farms (4)	294.30	1/27/2006
AFD-1-98	Barrett's Ferry (4)	210.49	4/28/2006

	<u>Acres</u>	<u>Square Miles</u>
AFD Total	18,151.84	28.36
Total County Area: Land	92,224.00	144.1
Total County Area: Water	20,224.00	31.6
Total County Area: Land & Water	112,448.00	175.7
AFD % of Total County Area	16.14%	
AFD % of Total Land Area	19.68%	

Length of Terms for Individual Districts

Of the 16 AFD's in existence today, 14 have four-year terms, one has a six-year term, and one has an eight-year term. The State Code governing AFD's allows the establishment of a District for a minimum of four years and to a maximum of ten years. The Code also provides the Board discretion to establish districts for any term it deems appropriate, which may be from four-year to ten-year terms. In the past, the length of the term has been left up to the property owner.

When an AFD Comes Up for Renewal

The review process is similar to other land use cases that come before the Board with several exceptions. The review of Districts begins at least 90 days before the expiration date of the district or districts. If there are any proposed changes to the AFD policy or to the conditions of any of the districts, the County must convey those proposed changes to the affected property owners. During this review period the County sends notice of the renewal to all affected property owners. During this time, the County must give all AFD property owners the opportunity to withdraw any or all of their property from the AFD. Owners do not need Board approval to withdraw at this time. If the Board chooses to renew or "continue" the particular district, the Board simply

renews the district without the acreage that has been voluntarily withdrawn. Owners who choose to add more land to an AFD, either during the review period or during the term of the district, must file a written application to do so. The AFD Advisory Committee, the Planning Commission, and the Board of Supervisors review these requests. Other agencies involved in the review process include the Virginia Department of Forestry and the Soil and Water Conservation Service. The AFD Advisory Committee and the Planning Commission review each new district, and any addition to, or withdrawal from, any existing district. The County notifies adjacent property owners, posts signs, and places public hearing ads in the local newspapers for renewals and additions as required by State Code. While the District renewals require public hearings, voluntary withdrawals of individual properties *during the review period* do not require Board approval or public hearing.

#### Withdrawal of Property from an AFD

Before a proposed district is created, and during the review of an existing district, landowners may withdraw their land simply by filing a written request. Also, when a landowner dies, the heirs may withdraw the land from a district at any time within two years of the date of death. Land withdrawn from a district by these two methods neither terminates a district nor causes a rollback tax to become due. The district continues at least until the time of its expiration date. The rollback tax (five years worth), becomes due only if the use of the withdrawn land is changed to a non-qualifying use (i.e., non-agricultural or non-forestal) during the six succeeding tax-years. At other times, withdrawals must be approved by the Board, which has established withdrawal policies.

#### Conditions of Approval on the Districts Up for Renewal

When AFD's 2-86, 3-86, 5-86, 6-86, 7-86, 8-86, 9-86, 10-86, 11-86, 12-86, and 13-86 were last renewed in 1998, the following conditions were placed on the districts:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the district to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the district. Land inside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be withdrawn from the district in accordance with the Board of Supervisors' policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area, adopted September 24, 1996.
3. No special use permit shall be issued except for agricultural, forestal or other activities and uses consistent with the State Code Section 15.2-4301 et. seq., which are not in conflict with the policies of this district. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

Also, generally any land within the district that is within 25 feet of an adjoining public road is excluded from the district. This exclusion allows for possible future road and/or drainage improvements. Conditions of approval for AFD-1-94 are unique and are discussed separately in the attached staff report.

Summary of Changes to Districts During This Renewal Period and Recommendations

**AFD 2-86 Croaker**

- No changes are currently proposed.
- Staff recommends continuation of the district.
- On July 22, 2002, the AFD Advisory Committee recommended continuation by a vote of 8-0.
- On August 5, 2002, the Planning Commission recommended continuation by a vote of 5-0.

**AFD 3-86 Hill Pleasant Farm**

- No changes are currently proposed.
- Staff recommends continuation of the district.
- On July 22, 2002, the AFD Advisory Committee recommended continuation by a vote of 6-0, with two abstentions.
- On August 5, 2002, the Planning Commission recommended continuation by a vote of 4-0, with one abstention.

**AFD 5-86 Barnes Swamp**

- The estate of Richard Montcastle has requested the withdrawal of 58.60 acres - Tax Map ID (2-4)(1-61).
- Staff recommends continuation of the district.
- On July 22, 2002, the AFD Advisory Committee recommended continuation by a vote of 8-0.
- On August 5, 2002, the Planning Commission recommended continuation by a vote of 5-0.
- After the withdrawal, the size of this district will be 1,884.876 acres.

**AFD 6-86 Cranston's Pond**

- No changes are currently proposed.
- Staff recommends continuation of the district.
- On July 22, 2002, the AFD Advisory Committee recommended continuation by a vote of 8-0.
- On August 5, 2002, the Planning Commission recommended continuation by a vote of 5-0.

**AFD 7-86 Mill Creek**

- The estate of William A. Thompson has requested the withdrawal of 24.681 acres - Tax Map ID (19-2)(1-5).
- Staff recommends continuation of the district.
- On July 22, 2002, the AFD Advisory Committee recommended continuation by a vote of 8-0.
- On August 5, 2002, the Planning Commission recommended continuation by a vote of 5-0.
- After the withdrawal, the size of the district will be 3,101.359 acres.

**AFD 8-86 Casey**

- This district no longer meets the minimum size requirements for an AFD (200 ac.).
- There are two properties within the Casey AFD. Parcel No. (37-3)(1-4) which is 165 acres can be transferred into the Gordon Creek AFD. Because of distance restrictions, the other parcel (47-2)(1-1) which is 31 acres cannot be located within another AFD. This parcel will not be eligible to continue in the AFD program.
- Staff recommends this AFD be terminated.
- On July 22, 2002, the AFD Advisory Committee recommended termination by a vote of 8-0.
- On August 5, 2002, the Planning Commission recommended termination by a vote of 5-0.

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**AFD 9-86 Gordon Creek**

- William Kane has requested the withdrawal of (29-4)(1-3), (30-3)(1-7), (35-2)(1-7), (36-1)(1-1), and (36-1)(1-2), which total 164.33 acres.
- The Gordon Creek Corporation has requested a withdrawal of all of its land within the AFD. This consists of Parcel Nos. (36-2)(1-1), (36-2)(1-1B), (36-2)(1-2), and (36-2)(1-3) which all total 242.427 acres.
- Parcel No. (37-3)(1-4) which is 165 acres will be added from the Casey AFD.
- Staff recommends continuation of the district.
- On July 22, 2002, the AFD Advisory Committee recommended continuation by a vote of 8-0.
- On August 5, 2002, the Planning Commission recommended continuation by a vote of 5-0.
- After the withdrawals and with the addition, the size of the district will be 3,111.420 acres.

**AFD 10-86 Christenson's Corner**

- No changes are currently proposed.
- Staff recommends continuation of the district.
- On July 22, 2002, the AFD Advisory Committee recommended continuation by a vote of 8-0.
- On August 5, 2002, the Planning Commission recommended continuation by a vote of 5-0.

**AFD 11-86 Yarmouth Island**

- James City County has requested the withdrawal of 52 acres - Tax Map ID's (30-1)(1-7) and (30-3)(1-1).
- Staff recommends continuation of the district.
- On July 22, 2002, the AFD Advisory Committee recommended continuation by a vote of 8-0.
- On August 5, 2002, the Planning Commission recommended continuation by a vote of 5-0.
- After the withdrawals, the size of the district will be 2,030.445 acres.

**AFD 12-86 Gospel Spreading Church**

- No changes are currently proposed.
- Staff recommends continuation of the district.
- On July 22, 2002, the AFD Advisory Committee recommended continuation by a vote of 8-0.
- On August 5, 2002, the Planning Commission recommended continuation by a vote of 5-0.

**AFD 13-86 Gospel Spreading Church (Gilley)**

- No changes are currently proposed.
- Staff recommends continuation of the district.
- On July 22, 2002, the AFD Advisory Committee recommended continuation by a vote of 7-0, with one abstention.
- On August 5, 2002, the Planning Commission recommended continuation by a vote of 5-0.

**AFD 1-94 Wright's Island**

- Ilene B. Menzels et. al, has requested the withdrawal of 90 acres - Tax Map ID (20-3)(1-2).
- Staff recommends continuation of the district.
- On July 22, 2002, the AFD Advisory Committee recommended continuation by a vote of 8-0.
- On August 5, 2002, the Planning Commission recommended continuation by a vote of 5-0.
- After the withdrawal, the size of this district will be 1,454.405 acres.

Attached to this report are memorandums containing the detailed reports for each district that is up for renewal. In total, approximately 663 acres of land will be removed from the James City County AFD program during this renewal period, leaving approximately 17,485 acres remaining in AFD.

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Jill E. Schmidle

CONCUR:

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O. Marvin Sowers, Jr.

JES/gs  
AFDrenewcover.mem

Attachments:

1. Planning Commission Minutes
2. Map showing Mill Creek Withdrawals
3. Map showing Casey Withdrawals
4. Map showing Gordon Creek Withdrawals
5. Map showing Barnes Swamp Withdrawals
6. Map showing Yarmouth Island Withdrawals
7. Map showing Wright's Island Withdrawals