

City of Alexandria, Virginia

19
10-28-2003

MEMORANDUM

DATE: OCTOBER 23, 2003

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: CONSIDERATION OF MEMORANDUM OF UNDERSTANDING WITH NORTHERN VIRGINIA CONSERVATION TRUST RELATED TO OPEN SPACE EASEMENTS AND OTHER PRESERVATION MECHANISMS

ISSUE: Memorandum of Understanding with the Northern Virginia Conservation Trust for the purpose of assisting the City to obtain, to hold, and to monitor open space easements.

RECOMMENDATION: That City Council approve the attached one year Memorandum of Understanding with the Northern Virginia Conservation Trust, request the City Manager to finalize the document, including necessary revisions, and sign it on behalf of the City.

DISCUSSION:

Background

The City's Open Space Plan, adopted by City Council in May 2003, recommends several implementation measures the City should pursue in order to preserve and obtain additional open space. At Council's May 13, 2003, work session on open space, staff identified three steps that were critical for immediate action in order to create an structure in the City for achieving the open space goals of the Plan:

- create a source of funding from real estate tax revenues
- continue a reconstituted Open Space Steering Committee on an interim basis
- consider entering into a relationship with the Northern Virginia Conservation Trust

An initial and partial funding mechanism has been created, with Council's approval and dedication of the dollar value of \$.01 contribution from the City's real estate tax rate to an Open Space Fund within the City's Capital Projects Fund. This action will make raise nearly \$2.0 million per year of capital funding for open space activities. The Open Space Steering Committee, a group of citizens and staff representing parks, planning, historic, environmental

and other relevant interests, has been reformed to carry out this effort on behalf of the City and the Committee has held its first meeting. Its mission is generally to identify and prioritize private land for acquisition or other means of preservation, to identify sources of funding for open space other than City tax funds and to help educate the public about the benefits of open space. The next step is to formalize a relationship with the Northern Virginia Conservation Trust, a group which can assist the City with the acquisition of open space land and easements on private property.

Preserving Private Land Under the Open Space Plan

Goal 15 of the Open Space Plan specifically promotes the protection of privately held open spaces in the City. The open space strategies for achieving this goal include the identification of properties with the following benefits for potential preservation:

- privately held open space in already congested and developed areas for passive neighborhood enjoyment, visual relief, scenic value and screening and buffering;
- open space that provides relief from urban closeness, especially small lots in dense urban neighborhoods containing neighborhood gardens, trees or other natural features;
- land areas to enhance buffering and screening between uses, such as between a developed area and a park or historic site;
- land adjacent to public parkland, institution sites, natural areas, water bodies, cemeteries, other land preserved by easement;
- open space that contributes to the scenic enjoyment of the general public if development of the property would impair the scenic character of the urban landscape or would interfere with a scenic panorama that can be enjoyed from a park, nature preserve, road, water body, trail, or historic structure or land area, and such area or transportation way is open to, or utilized by, the public;
- open space that contains any specimen trees, significant groupings of hardwood or other trees that add to the City's tree canopy, open meadowlands, sloping terrain or other significant natural features;

We hope that open space areas, even small ones, with the above characteristics can be identified and conserved. Even with funds to pay for such land, and with the steering committee to identify and prioritize sites worth preserving, the City still needs, in many instances, the assistance of an outside entity to receive, hold and monitor the land for the future. While preserved land could be held by the City, property owners may be more comfortable donating or selling their land to an established land trust.

Northern Virginia Conservation Trust (NVCT)

NVCT is a 501 (c)(3) private, not for profit land trust formed to preserve and enhance natural resources in Northern Virginia. It is governed by a volunteer Board of Directors and its mission includes several activities, including land conservation by acquisition of interests in property through the use of conservation easements, options to purchase, fee simple purchases and other

methods of acquisition. NVCT also performs important land stewardship functions, maintaining and monitoring the land and easements it has acquired, and conducts extensive public education activities. Working with landowners, businesses, private organizations and local, state and federal governments, NVCT has acquired over 1,000 acres of land in Northern Virginia since it began in 1994. NVCT land is located in Arlington, Fairfax, Loudoun and Prince William Counties, and includes both large and small parcels of land. NVCT has already worked in Alexandria in the development context. When the developers of Battery Heights development on North Quaker Lane sought to cluster their site design in order to preserve the large open area that includes a Civil War battery, NVCT was the entity chosen to hold the conservation easement on the land that became part of the development plan and approval requirements.

A conservation easement is a method of obtaining rights in property that amounts to less than full ownership of the land, but that prevents activity, such as development, that would degrade or change the valuable resources present, which may include stream beds, tree canopy or simply open land. The conservation easement mechanism is a flexible one, and can provide great benefit to property owners as well as the public at large. NVCT works with landowners and the public generally to educate them on the benefits of donating land or easements to preserve their properties. In addition to the environmental benefits of preserving and protecting our natural surroundings, there are specific federal and state tax benefits for landowners if they donate or sell their land or their rights to develop their land. As part of its outreach to landowners and the public generally, NVCT conducts seminars, workshops and volunteer environmental activities to generally raise the awareness of the public about the importance of retaining its open space and natural land features.

NVCT works with individual private property owners interested in donating or selling their property or an interest in it, providing assistance to them through the legal transaction. After seeing that proper documentation is recorded in the land records, NVCT then becomes the owner of the land, or the holder of an easement or other interest in the land. It maintains an extensive monitoring system which, after an initial, baseline study to document the condition of the land and its value as open space, includes regular inspections to ensure, for example, that the terms of the easement are honored, and that the value of the land is not degraded. It holds the land interest in perpetuity and is empowered and obligated to bring legal actions if necessary to retain the land in its original condition.

NVCT is similar to the City's Historic Preservation and Restoration Commission (HARC), which performs many of the same functions, but specializes in easements on historic properties designed to preserve historic resources. It is contemplated that NVCT would concentrate on open space easements, and HARC would continue its concentration on historic easements.

NVCT works with Arlington and Fairfax Counties in a specific public/private partnership arrangement documented with a memorandum of understanding, and is agreeable to creating a similar relationship with Alexandria.

Proposed Memorandum of Understanding with NVCT

The attached NVCT Memorandum of Understanding (MOU) is similar to the ones in place in Arlington and Fairfax Counties, and has already been approved by the NVCT Board. In general, it includes the following key components:

1. The agreement will remain in effect for the next seven months, until the end of fiscal year 2004. The arrangements that NVCT has with both Arlington and Fairfax began with one year agreements and were each extended for an additional three years by those jurisdictions.
2. NVCT will engage in educational activities to increase the awareness of the Alexandria public about the benefits of preserving and protecting open space and natural areas. It will distribute its literature and hold at least one of its Adventures in Conservation Programs within Alexandria, and will address civic associations and other environmental groups.
3. NVCT will work with City staff and the Steering Committee to identify specific open space opportunities within Alexandria, and when requested by the City, to facilitate the acquisition of such open space, whether by obtaining title to or an easement in the property or by other means.
4. NVCT will consult with City representatives and the Open Space Steering Committee at least once a quarter, and report on its activities. As to any easements or acquisitions it is pursuing within the City, it will seek comment and advice from the City. It may not proceed with acquisition or easements which will require the use of City funds without prior written City Manager approval.
5. It will elect at least one resident of Alexandria to its Board of Directors.
6. Alexandria will pay NVCT two sums of money: \$16,771 for the remaining seven-month period of FY 2004, to cover staff expense, supervision and management; and \$20,000 for a fund to cover costs that may arise in connection with land transaction, the creation of publications unique to Alexandria, and stewardship obligations to manage Alexandria land in the program. The \$20,000 amount, or what remains of the fund at the end of the City's contract with NVCT, will be returned to the City.

Staff has reviewed the Arlington and Fairfax agreements with NVCT and negotiated the above terms for Alexandria in consultation with NVCT. The agreement will assist staff and the City move forward with the Open Space Plan, and provides one of the tools to achieve additional open space acquisition and preservation. If approved, staff will report to Council after the initial term, assessing the value of the program and making a further recommendation at that time regarding any future agreement with NVCT.

FISCAL IMPACT: The total fee for FY 04 for NVCT's services is \$16,771. An additional payment of \$20,000 is required to create a fund, which will be returned if it is not used. These funds are available in the City's Capital Projects Fund from previously allocated, but unused, Open Space Master Plan study funds.

ATTACHMENT: Memorandum of Understanding

STAFF:

Barbara Ross, Deputy Director, Planning and Zoning

Sandra Whitmore, Director, Recreation, Parks and Cultural Activities

Memorandum of Understanding between the City of Alexandria, Virginia and The Northern Virginia Conservation Trust

In consideration of the City of Alexandria, Virginia (the "City") having appropriated the funds specified to The Northern Virginia Conservation Trust ("NVCT"), NVCT agrees to provide the following services as outlined in the section of this Memorandum entitled, "Scope of Work," and to meet the standards and reporting responsibilities as defined in the section entitled, "Program Standard and Monitoring."

Description of The Northern Virginia Conservation Trust

NVCT is a private, non-profit corporation [Sec. 501(c) (3) of the Internal Revenue Code] registered to do business in the Commonwealth of Virginia. NVCT is governed by a volunteer Board of Directors and is dedicated to protecting and expanding the natural, cultural, and historic resources of Northern Virginia. As part of its mission, NVCT acquires interests in property through the use of conservation easements, options to purchase, fee simple purchases and other methods of acquisition.

Scope of Work

NVCT shall provide the following programs/services to residents of the City of Alexandria, for a period of seven months, beginning on December 1, 2003:

1. The purpose of the MOU is to provide resources and direction from the City of Alexandria to NVCT to help implement the recently adopted Alexandria Open Space Master Plan;
2. The MOU will be for a period of seven months, ending on June 30, 2004, with evaluation and renegotiation after the seven month period;
3. NVCT agrees to consult with the City of Alexandria and the Open Space Steering Committee in carrying out the MOU and agrees to meet with City Staff and/or the Open Space Steering Committee at least once each quarter;
4. NVCT will advise the designated City contact person and the Steering Committee regarding easements under consideration by NVCT, and will give careful consideration to the comments of the designated City person and the Steering Committee in its evaluation process;
5. NVCT agrees to elect at least one resident of Alexandria to its Board of Directors and further agrees that if this MOU is extended beyond the initial seven months, then NVCT will alter its bylaws to require that at least one of the members of its Board of Directors be an Alexandria resident. Although the City agrees to provide a list of such nominees to

NVCT, the NVCT Board reserves the right to approve all members of its Board of Directors;

6. The City agrees to pay NVCT for its services the amount of \$16,771 for the seven month period (“Base Amount”). The payment of \$16,771 shall be due and payable within 30 days of the signing of the MOU. \$14,926 of the Base Amount will pay for staff expense and \$1,845 for supervision and management;
7. NVCT agrees to hold at least one of its Adventures in Conservation Programs within Alexandria each year and will address civic associations and other environmental groups from time to time;
8. The City agrees to assist in the distribution of NVCT literature and to encourage City residents to become supporters of NVCT;
9. NVCT acknowledges that the preferred holder of historic preservation easements is the Historic Preservation and Restoration Commission;
10. The City agrees to pay NVCT \$20,000 for the seven month period which shall be added to, and follow the payment timing of, the Base Amount, to be used solely for the following purposes: land transaction costs; development and printing of Alexandria focused publications and flyers; additional staff time; and stewardship obligations, such amount to be refunded if not spent during the term of this MOU; and
11. For any transaction involving the purchase of options, land, bargain sales or the purchase of conservation easements in Alexandria, NVCT agrees to request such amounts from the City’s designated representative and the City agrees to respond promptly to such requests and, if approved by the City, with such approval provided formally in writing to NVCT in correspondence signed by the City Manager, appropriate and allocate such funds in a timely manner.

Program Standards & Monitoring

NVCT shall be evaluated in reference to the performance measures set forth in the Scope of Work. NVCT agrees to provide a Report on Alexandria Operations to the City within 30 days from the end of the fiscal year detailing the prior seven month performance of NVCT in Alexandria. NVCT also agrees to supply the City with a copy of its annual audit. The City may evaluate the delivery of services to Alexandria City residents and monitor NVCT’s expenditures and financial accounting procedures. The City may perform on-site monitoring and, upon notice by the City at least five working days in advance, NVCT shall make available for inspection and examination all documentation, books of account, program records and other pertinent data in NVCT’s custody or control in order to verify the reports and to ensure that NVCT is operating according to the Scope of Work

Termination of Memorandum of Understanding

NVCT's failure to comply with the terms of this Memorandum of Understanding or any federal, state or local law or regulation, as determined by the City, shall be cause for termination of this Memorandum of Understanding. Termination shall be effective 30 (thirty) days after the City gives written notice of termination to NVCT or if the City does not allocate funds to implement this Memorandum of Understanding. The notice shall be mailed to NVCT via registered mail, at the following address:

Northern Virginia Conservation Trust
4022 Hummer Road
Annandale, Va. 22003

Indemnification

NVCT covenants to save, defend, hold harmless, and indemnify the City, and all of its officers, officials, departments, agencies, agents, and employees (collectively, the "City") from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, resulting from, arising out of, or in any way connected with NVCT's acts or omissions in performance or nonperformance of its obligations under this Memorandum of Understanding.

Miscellaneous

This Memorandum of Understanding represents the entire agreement between The Northern Virginia Conservation Trust and the City of Alexandria and supersedes all prior negotiations, representations or agreements, either written or oral.

This Memorandum of Understanding shall be governed by, and interpreted in accordance with, the laws of the Commonwealth of Virginia.

WITNESS these signatures:

THE CITY OF ALEXANDRIA,
VIRGINIA

THE NORTHERN VIRGINIA
CONSERVATION TRUST

AUTHORIZED SIGNATURE:

AUTHORIZED SIGNATURE:

NAME AND TITLE:

NAME AND TITLE:

DATE:

DATE:

ATTEST:

ATTEST:

OPEN SPACE STEERING COMMITTEE

19
10-28-03

NAME	ADDRESS	Home Number	Work Number	EMAIL
Cynthia Degrood Environmental Policy Commission	2411 Leslie Ave Alexandria, VA 22301	703-519-8946	SAME	cgrotius@ix.netcom.com
William Dickinson Citizen	805 Quaker Lane Alexandria, VA 22302	703-370-3089	SAME	wdickin953@aol.com
Bruce Dwyer Park and Recreation Commission	604 Melrose Street Alexandria, Virginia 22302	703-549-3263	202-628-2500	ouibike@att.net
Glenn Eugster Citizen	2727 Franklin Court Alexandria, VA 22302	703-845-8947	202-619-7492	Glenn Eugster@aol.com
Mark Fields Archeology Commission	4432 Roundhill Rd Alexandria, VA 22310			markfields@cci-eng.com
Kenyon Larson Environmental Policy Commission	107 W. Howell Avenue Alexandria, VA 22301	703-548-3373	703-284-9469	Kenyon Larson@sra.com
Richard Leibach Planning Commission	200 North Picket St.,#507 Alexandria, VA 22304	703-370-3857		Rich Letbach@aol.com
Judy Guse-Noritake Park and Recreation Commission	605 Prince St. Alexandria, VA 22314	703-836-3420		jnoritake@erols.com
Ellen Pickering Citizen	103 Roberts Lane Alexandria, VA 22314	703-836-4218		elpickering@juno.com
J. Lawrence Robinson Planning Commission	624 S. Street Asaph Street Alexandria, VA 22314	703-684-4044	703-684-4044	jlr@cpma.com
Eric R. Wagner Planning Commission	7 W. Windsor Avenue Alexandria, VA 22301			



Northern Virginia Conservation Trust



The
Northern Virginia
Conservation Trust

19
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Special Issue
See Conservation
Map on page 3

Over 1,000 Acres of Local Conservation !



On May 12th NVCT celebrated our 1,000th acre of conservation with the signing of a conservation easement in Clifton. Popes Head Creek and a historic barn are key features of the Clifton Betterment Association property now conserved with a conservation easement.

"It (The Northern Virginia Conservation Trust) is the only active land trust focusing exclusively on Northern Virginia, where open land is rapidly disappearing under a tide of development."

The Washington Post

"But, the agreement between the trust and the association marked more than protecting land in Clifton. Its five acres marked the protection of the trust's 1,000th acre since it started in 1994."

Times Community Newspapers

"In addition to preserving land, NVCT's Adventures in Conservation program provides stewardship and educational opportunities to its supporters and the public."

The Northern Virginia Journal

"The 1,000 acres NVCT has protected in Northern Virginia includes more than 800 acres bordering parkland, trails, waterways and streams."

The Northern Virginia Journal

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Northern Virginia Conservation Trust

NVCT is a 501(c)(3) non-profit land trust dedicated to preserving and enhancing the natural and historic resources of Northern Virginia. Contributions to NVCT are tax-deductible.

Board of Directors

Hon. Jean Packard, Chair
Hon. David Karmol, Vice Chair
William (Rick) Peterson, Treasurer
Nancy Hyde, Secretary
Richard Bliss
Michael Carlin
Patrick Coady
Hon. John Milliken
Glenn Prickett
Elinor Schwartz

Advisory Panel

Hon. Donald Beyer, Jr.
Hon. Joseph Gartlan
Grayson Hanes
Jean Hocker
Hon. Thomas Richards
John May
Preston Caruthers

Natural Resources Advisors

Kurt Johnson
Dr. Judy Okay

Staff

Paul Gilbert,
President
Michael Nardolilli,
Vice President
Katie Goldberg,
Director of Land Protection
Emily Hamner,
Adventures in Conservation Coordinator

Office

4022 Hummer Road
Annandale, VA 22003
Phone: 703-354-5093
Fax: 703-354-5169

Web Page

www.nvct.org

Founded in 1994

High Standards Set for Trust Governance

By: Paul Gilbert, NVCT President

Maintaining the public's faith and trust is vital to any non-profit organization. This is particularly true of land conservation organizations. Our work is sometimes not simple to understand since we deal with real estate transactions, and a host of local, state, and national tax incentives.

A recent series of article in the Washington Post was critical of a number of actions by one of the National conservation organizations. Although the media's criticisms were not all well founded, it reinforces the need for high standards and transparency.

In March, the Board and Advisory Panel of the Trust had a day long retreat were, among other things, we had a presentation from the Land Trust Alliance on the lengthy list of Standards and Practices that they recommend for organizations like ours. We adopted and

implemented these Standards and Practices years ago, and continue to review them to make sure we are operating to the best standards possible.

NVCT has our books audited by an outside CPA. Last year the Board of Directors appointed an Audit Committee to work with the Auditor and provide another level of financial oversight.

At the Northern Virginia Conservation Trust we are doing everything we can so our financial supporters know their money is being well spent to conserve our area.

Below is a list of some of our policies and standard that get to the core of operating in a manner that our supports should be proud of.

Best wishes,



basis to assure adherence to the easement restrictions.

Financial:

- All conservation projects conducted by the Trust conform to the project selection criteria established by the Board of Directors to assure conservation projects have adequate public benefit.
 - Lands donated or sold to the Trust for conservation purposes will be conserved in perpetuity. If the Trust ever conveys such properties to another entity, it will only be done with adequate restrictions to assure the land's long-term conservation.
 - All land conservation transactions are reviewed and approved by the Board of Directors.
 - Every effort is made to assure that those land transactions that may result in Federal or State tax benefits meets appropriate conservation criteria.
 - All conservation easement properties are monitored by a Trust representative on a regular
- An independent CPA audits financial records every year; results of the audit are published in the Trust's Annual Report.
 - The Trust has an Audit Committee to assist the full Board of Directors in issues related to financial procedures and reporting and to assure that the independent auditor has full access to information.
 - The Trust bylaws assure that no earnings from the Trust shall inure to the benefit of any member, director, or officer of the Trust, or any private person.
 - The Trust has a conflict of interest policy to assure the highest standards of ethical behavior.
 - The Trust does not make any loans to Directors, officers or employees of the Trust.

Recent Conservation Successes:

Four Mile Run Conservation

The Colonies Apartment Building in South Arlington has signed a conservation easement that will among other things provide for a trail, and native trees and bushes to be planted along the stream. This project will link Troy Park and Fraser Park in South Arlington.

Thompson House Preserved

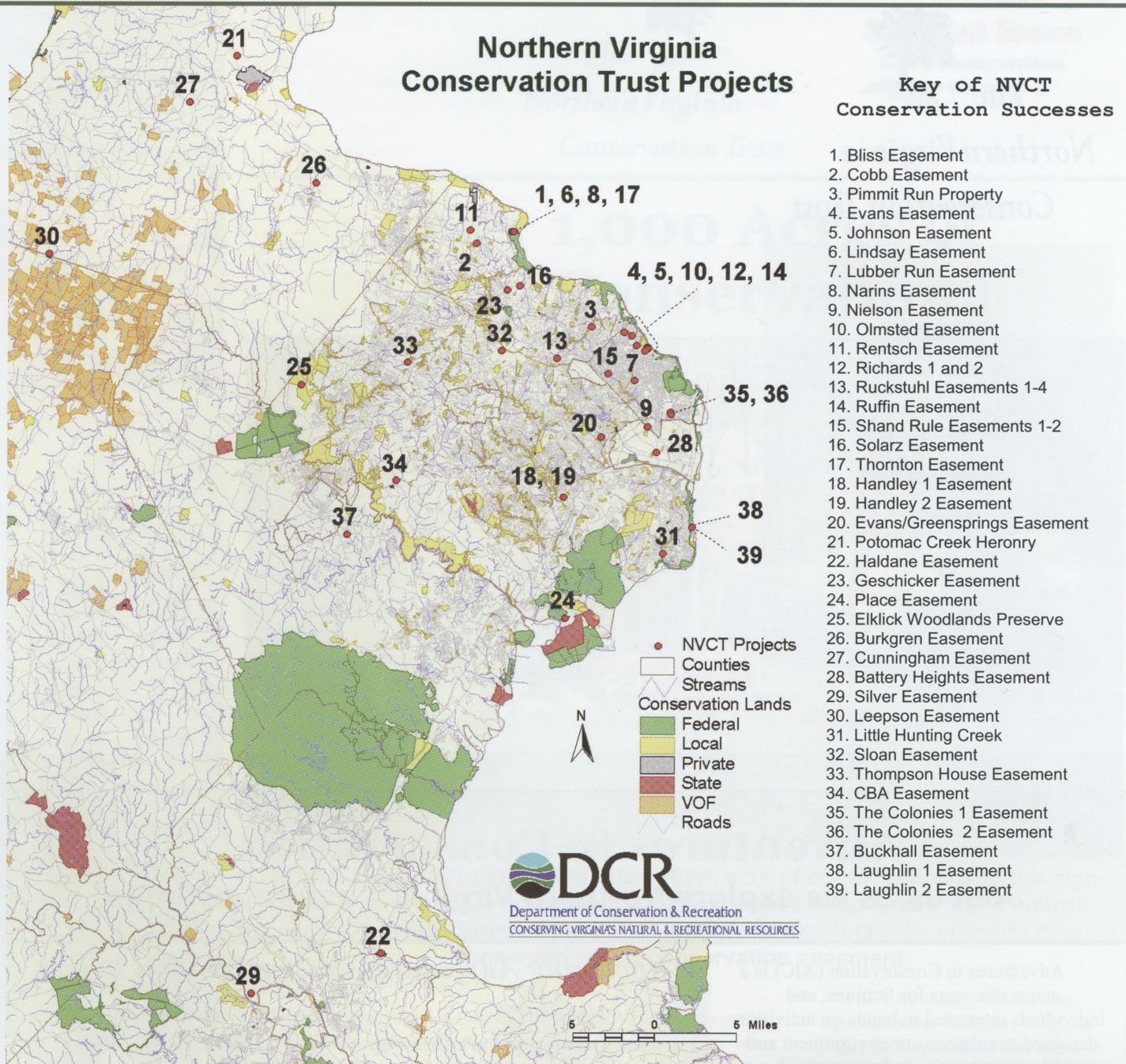
Working with the landowners, VDOT, and Fairfax County officials, NVCT placed a historic easement on a 1920's farm house that is now being

moved to accommodate a widening of West Ox Road. This easement will assure that this structure maintains its historic appearance. Old farm houses are fast disappearing throughout the area.

Land Preserved in Historic Vienna

Chuck Sloan granted a conservation easement that precludes any future building right on a lot in the Windover Heights Historic District in the Town of Vienna. Sloan is a leader in the conservation field and has worked on many easements along the Appalachian Trail.

Conservation Successes Throughout Northern Virginia



Conservation Successes Continued:

Potomac River Easement in Mt. Vernon

Located on the banks of the Potomac River are two largely wooded properties owned by Robert and Miriam Laughlin. In June both of these properties were put under a conservation easement that assures that the property will maintain a good vegetative buffer to along the river for both scenic and water quality purposes. The easements also restrict future building on both sites.

New Easement near Manassas

90 acres east of Manassas are being conserved through an easement. Approximately half the property is in hardwood forest and half in meadow. This is the Trust's first conservation easement in Prince William County.



Meadow view on Buckhall Easement near Manassas



The
Northern Virginia
Conservation Trust

Packard Center
4022 Hummer Road
Annandale, VA 22003

Phone: 703-354-5093
Fax: 703-354-5169

WWW.NVCT.ORG

Adventures In Conservation!

Join us as we explore Northern Virginia's natural heritage.

Adventures in Conservation (AIC) is a series of events for families, and individuals interested in hands-on activities designed to enhance our environment and provide opportunities to learn more about our natural surroundings. Adventures in Conservation consists of the following types of events:

- Guided canoe/kayak trips**
- Guided hiking trips**
- Tree plantings**
- Invasive species removals**
- Park clean-up events**
- Other volunteer opportunities**

Call 703-354-5093 for a brochure, or visit the AIC page at www.NVCT.org.

Upcoming Adventures in Conservation Events

JUNE 21

2nd Annual BBQ and Park Clean-up

11:30am-3:30pm at Riverbend Park

JULY 26

Sunrise Birding Hike

7am-9:30am at Scotts Run Nature Preserve in McLean

AUGUST 2

Guided Nature Hike

9am-12pm at Difficult Run Great Falls

AUGUST 16

Guided Birding Hike

8am-10:30am at Huntley Meadows Nature Center in Alexandria

AUGUST 30

Invasive Plant Removal

9am-12pm at Annandale Community Park

Visit the NVCT.org website for a description of these events and others.

Call us to Come Speak with Your Organization or Club!