

**CLARKE COUNTY PLANNING COMMISSION  
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December 1, 2023 Business Meeting Packet**

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# Clarke County Planning Commission

AGENDA – Business Meeting

Friday, December 1, 2023 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

1. **Approval of Agenda**
2. **Approval of Minutes**
  - A. October 31, 2023 Work Session **pp. 3-7**
  - B. November 3, 2023 Business Meeting **pp. 8-12**

## PUBLIC HEARING

3. **TA-23-04, Solar Power Plant Use and Regulations.** Proposed text amendment to amend the use regulations for “solar power plant” per Section 5.2C (Business Uses) of the Zoning Ordinance. The amendment modifies the location restriction in Use Regulation 1 to state that solar power plants must be located adjacent to and all facilities located within one mile of the electrical substation located at 234 Double Tollgate Road (Tax Map #27A-4-D) or the electrical substation located at 362 Ramsburg Lane (Tax Map #13-A-62A). The term “behind-the-meter” solar is also clarified to include onsite consumption of solar-generated electricity and incidental resale through a net metering program. **pp. 13-16**

## CONTINUED PUBLIC HEARING

4. **SUP-22-01/SP-22-02, Horus Virginia I LLC (applicant)/Bellringer Farm, LLC (owner).** Request approval of a special use permit and site development plan to construct a 50MW solar power plant on two lots per Section 5.2C of the Zoning Ordinance. The subject properties are identified by Tax Map #13-A-13 and #13-A-56, are located on the west side of Westwood Road (Rt. 636) with access via proposed entrances on Bellringer Lane and Triple J Road (Rt. 632), consist of approximately 400 acres, are zoned Agricultural-Open Space-Conservation (AOC), and are within the Russell Election District. \* **NOTE – A one-month deferral has been requested by the applicant.** **pp. 17-35**

## MINOR SUBDIVISION APPLICATION

5. **MS-23-10, Corey A. Cather.** Request approval of a two-lot minor subdivision including a residual lot of 111.9372 acres for the property identified as Tax Map #7-A-7, located on the east side of Cather Road (Rt. 674) and the north side of Russell Road (Rt. 660), Russell Election District, zoned Agricultural-Open Space-Conservation (AOC). **pp. 36-56**

## BOARD AND COMMITTEE REPORTS

6. **Board and Committee Reports**
  - Board of Supervisors (Terri Catlett)
  - Board of Septic & Well Appeals (George Ohrstrom, II)
  - Board of Zoning Appeals (Jeremy Camp)
  - Historic Preservation Commission (Bob Glover)

- Conservation Easement Authority (George Ohrstrom, II)
- Broadband Implementation Committee (Brandon Stidham)

**OTHER BUSINESS**

**7. Projected Upcoming Agenda Items, January 2024 – March 2024 pp. 57-58**

**ADJOURN**

<b>UPCOMING MEETINGS:</b>	
<b>Comprehensive Plan Committee</b>	Thursday, December 14 (2:30PM) – A/B Meeting Room
<b>Policy &amp; Transportation Committee</b>	No upcoming meetings
<b>Plans Review Committee</b>	No upcoming meetings
<b>Ordinances Committee</b>	No upcoming meetings
<b>Commission Work Session</b>	Tuesday, January 2, 2024 (3:00PM) -- Main Meeting Room
<b>Commission Business Meeting</b>	Friday, January 5, 2024 (9:00AM) -- Main Meeting Room



# Clarke County Planning Commission

**DRAFT** MINUTES – Work Session

Tuesday, October 31, 2023 – 3:00PM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓	Ronnie “Ron” King (Buckmarsh)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Frank Lee (Berryville)	✓
Terri Catlett (Board of Supervisors)	✓	Gwendolyn Malone (Berryville)	✓
Buster Dunning (White Post)	✓	John Staelin (Millwood)	✓
Robert Glover (Millwood)	✓	Doug Lawrence (BOS alternate)	X
Pearce Hunt (Russell)	✓		

**STAFF PRESENT:** Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner / Zoning Administrator), Kristina Maddox (Office Manager / Zoning Officer), Chris Boies (County Administrator)

**OTHERS PRESENT:** None.

**CALL TO ORDER:** By Chair Ohrstrom at 3:00PM.

## 1. Approval of Agenda

The Commission had no additions to the agenda as presented by Staff.

The Commission unanimously voted to approve the October 31, 2023 Work Session agenda as presented by Staff.

Motion to approve the October 31, 2023 Work Session agenda as presented by Staff:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	King	AYE
Catlett	AYE	Lee	AYE
Dunning	AYE	Malone	AYE (moved)
Glover	AYE	Staelin	AYE (seconded)

## 2. Review of November 3 Business Meeting Agenda Items

### A. Agenda Review

Mr. Stidham reviewed the staff report and draft text amendment for solar plant use and regulations. He noted the action item for the Business Meeting is to set public hearing for the text amendment if the Commission is content with the draft changes. He added that the public hearing would be scheduled for Friday, December 1<sup>st</sup>.

Mr. Stidham said the text amendment would not prohibit the Commission from working on the concepts of community scale solar in the context of the Rural Lands Plan. He said the plan development process

would be the best venue to come up with policies on how to address community scale solar in the future. He commented that after attending a Fauquier County meeting, he and Chair Ohrstrom learned that Dominion Power is the only utility company currently required by state law to do a form of community scale solar. Commissioner Staelin asked if Dominion Power is required or if they are the only company allowed. Mr. Stidham replied they are required but there are also limits as to how much can be resold from individual, residential properties. Commissioner Staelin asked if other utility companies are prohibited from doing this. Mr. Stidham replied that other companies are not compelled to do it as they are creating competitors to their own power generation abilities. He said he plans to touch base with Rappahannock Electric's solar representative to understand their future solar goals.

Chair Ohrstrom commented that Dominion Power tried not to be part of this by instituting fees, however, the General Assembly and the State Corporation Commission blocked them from doing this. He gave the example of Dominion Power charging high fees for a school to install community solar on their roof.

Mr. Stidham said the next action item on the agenda is the 2024-2029 Capital Improvement Plan which will be discussed later in the Work Session.

#### B. Status of Deferred Applications

Mr. Camp provided an overview of the current deferred applications. He said the Markee minor subdivision received some comments from VDOT that they are addressing and may redesign the subdivision. He continued that the Foster minor subdivision applicant has been out of town and not able to submit resistivity testing and therefore may be a few months from being ready for review. Lastly, he said the Virginia Department of Health is requiring the Cather minor subdivision applicant to install a new system on the residue lot which had a unapproved cesspool system. He said they found a new site and are currently under resistivity review.

Mr. Camp said Berryville Berries has to submit a new Virginia Department of Health campground application as the previous one was denied due to the privy system which needs to be updated for a permanent campground facility. He added that it is his understanding that they received preliminary approval for the new privy system and that they are still in the Department of Health permit process.

With regards to Horus Virginia, Mr. Camp said it has been deferred until December 1<sup>st</sup> but that the applicants have yet to submit any details.

Mr. Stidham said it seems that the minor subdivisions are often delayed by resistivity testing for various reasons and as such he proposes to draft a text amendment in 2024 for applicants to have this process completed prior to submitting a minor subdivision application.

Mr. Camp said he is unclear on the timeline of the Regan Partnership minor subdivision as they are working on a conservation easement. He said they want to wait until further along in the process before they come forward and that they have requested private road design waivers for the Commission to issue. Mr. Camp said there needs to be an underlying reason for the waiver request as we do not want to set a precedent for future waiver requests. He said the applicant hopes to submit their minor subdivision and conservation easement concurrently.

**3. Old Business – None scheduled**

**4. New Business**

A. Discussion, 2024-2029 Capital Improvement Plan

Mr. Boies noted that state code requires the county to have a Capital Improvement Plan (CIP) and also requires the Commission to review the plan before it goes to the Board of Supervisors. He provided a review of the 2024-2029 Capital Improvement Plan. Regarding the extension of water and sewer from Frederick County, Chair Ohrstrom asked if anything was to be run through the Lake Frederick Plant. Mr. Boies responded that the Lake Frederick Plant will be shut down when everything is completed as they have an environmental issue regulation they are unable to meet. He added that all sewer would be directed to the Parkins Mill Plant.

Mr. Stidham said the Commission's action item is to move the CIP forward to the Board of Supervisors if they are comfortable with the proposed language.

B. Discussion, Text Amendment Request – Minor Commercial Public Assembly Use in the Neighborhood Commercial (CN) District

Mr. Camp explained a phone complaint he received regarding dog competitions on a particular parcel conducted by Ms. Thompson in White Post. He said he learned that these events host small groups of people at a time but are continuously conducted throughout the day at various intervals. He said he informed the property owner that it is not permitted in the code and that the volume at which the shows are operating are qualified as a minor commercial public assembly. He said the events would require a special use permit in the Agricultural-Open Space-Conservation (AOC) District and are not allowed in the Rural Residential (RR) District. He said that one can have five events before it is considered a minor commercial public assembly in the RR District and, depending on the volume of people, possibly a special activity permit from the County Administration office. He continued that the property owner has restructured the events so they are spread over five parcels as a temporary solution in order to finish out the year. He added that the donations are used to benefit the community with lights, street lights, etc.

Mr. Camp said Ms. Thompson has taken an interest in this and made a request for the county to consider a text amendment to allow for minor commercial public assembly in the Neighborhood Commercial (CN) District. He said the parcel is not zoned as Neighborhood Commercial currently, however, Ms. Thompson hopes to rezone the property and then apply for a special use permit. He continued that Ms. Thompson has submitted a code amendment request and that the Commission or Board of Supervisors can make it a project by resolution.

Chair Ohrstrom asked if the property owners have AOC property that could be used instead with a special use permit. He noted that it would set a precedent for additional minor commercial assembly events in CN zoned areas. Mr. Stidham replied that the owners have other AOC zoned properties but that they wish to have the shows located on this particular property.

Vice-Chair Buckley said he may have a conflict as he is on the Board of the White Post Village Association who serves as the beneficiary to the donations. He said he wanted to point out that a parcel needs to be at least six acres to have a minor public assembly in neighborhood commercial, which limits

the lots in Millwood, Pine Grove, and White Post. Chair Ohrstrom noted that this may not happen until parcels are merged. Mr. Stidham commented that these events were originally brought to attention by a neighbor complaint.

Commissioner Glover asked how many people would be allowed within the minor public assembly to which Chair Ohrstrom replied up to 149 people.

Commissioner Catlett asked how many events they propose to have. Mr. Camp responded they have not specified a number but they have had at least 36 events. Chair Ohrstrom asked if the Commission could specify how many events they can have annually. Mr. Stidham said yes and added that the neighbors will probably say that each event is a distraction. Commissioner Staelin asked if the 149 person allotment is at once or throughout the entirety of the day. Mr. Stidham replied that it is limited to the number of people on the property at one time.

Chair Ohrstrom asked Mr. Stidham if it is his recommendation for Ms. Thompson to pursue other options. Mr. Stidham replied yes.

Vice Chair Buckley added that the parcel Ms. Thompson is suggesting to rezone to Neighborhood Commercial has a vehicle storage building which is a part of their current business. He said it makes sense for it to be rezoned. Commissioner Glover said it would be good to see the property on a map to locate the Rural Residential boundaries and surrounding zoning areas.

Commissioner Catlett asked if the property could be rezoned to Neighborhood Commercial but not allow the minor commercial public assembly so that the building can be used for other events but not weddings, parties, and similar events. Vice-Chair Buckley said that is what they are proposing to do and that it is a long process to include the text amendment, the rezoning of the property from Rural Residential to Commercial Neighborhood, and the special use permit application with a site plan.

Mr. Stidham said the Commission does not have to make any decisions at this time. He continued that Ms. Thompson can apply for a text amendment and pay the \$6,000 fee and choose to bring it to the Board or the Planning Commission to initiate consideration of the text. He said that if the Commission decides not to initiate the text amendment, she would get her money back and added that all of this could be avoided if the Commission is not interested in the text amendment.

The Commission discussed the various options and suggested that Ms. Thompson do five events per year on the RR zoned parcel and the remaining events can be located on the AOC zoned parcel across the street with a special use permit for minor public assembly.

Commissioner Lee commented that Mr. Thompson's restoration business has done many good things for the community and that he would hate for that to cease but that that property may not be the best place to hold events and that the AOC side is a better option.

## **ADJOURN**

The Work Session adjourned by consensus at 3:42PM.

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George L. Ohrstrom, II (Chair)

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Kristina Maddox (Clerk)





# Clarke County Planning Commission

**DRAFT** MINUTES – Business Meeting

Friday, November 3, 2023 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓	Ronnie “Ron” King (Buckmarsh)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Frank Lee (Berryville)	✓
Terri Catlett (Board of Supervisors)	✓	Gwendolyn Malone (Berryville)	✓
Buster Dunning (White Post)	✓	John Staelin (Millwood)	✓
Robert Glover (Millwood)	✓	Doug Lawrence (BOS alternate)	X
Pearce Hunt (Russell)	X		

E – Denotes electronic participation

**STAFF PRESENT:** Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/Zoning Administrator), Kristina Maddox (Office Manager/Zoning Officer)

**OTHERS PRESENT:** None.

**CALL TO ORDER:** By Chair Ohrstrom at 9:00AM.

## 1. Approval of Agenda

The Commission voted 9-0-1 to approve the November 3, 2023 Business Meeting agenda as presented by Staff.

Motion to approve the November 3, 2023 Business Meeting agenda as presented by Staff:			
Ohrstrom (Chair)	AYE	Hunt	ABSENT
Buckley (Vice-Chair)	AYE (moved)	King	AYE
Catlett	AYE	Lee	AYE
Dunning	AYE	Malone	AYE (seconded)
Glover	AYE	Staelin	AYE

## 2. Approval of Minutes

### A. October 3, 2023 Work Session

The Commission voted 9-0-1 to approve the October 3, 2023 Work Session meeting minutes as presented by Staff.

Motion to approve the October 3, 2023 Work Session meeting minutes as presented by Staff:			
Ohrstrom (Chair)	AYE	Hunt	ABSENT
Buckley (Vice-Chair)	AYE (seconded)	King	AYE (moved)
Catlett	AYE	Lee	AYE
Dunning	AYE	Malone	AYE
Glover	AYE	Staelin	AYE

**B. October 6, 2023 Business Meeting**

The Commission voted 9-0-1 to approve the October 6, 2023 Business Meeting minutes as presented by Staff.

<b>Motion to approve the October 6, 2023 Business Meeting minutes as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>ABSENT</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	King	<b>AYE</b>
Catlett	<b>AYE</b>	Lee	<b>AYE (seconded)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>

**SCHEDULE PUBLIC HEARING**

**3. TA-23-04, Solar Power Plant Use and Regulations.**

Mr. Stidham noted the Commission reviewed the text amendment in the work session and that the action item is to set public hearing for December. He said one of the changes made was to list the physical addresses and tax map numbers of the two county substations rather than stating that solar power plants must be located adjacent to an existing and operational substation. Additionally, he said language was added to further define behind the meter solar that would include on site consumption of electricity generated by solar panels as well as the incidental resale of excess electricity. He said draft language was removed stating that one can only have a solar power plant use that had special use permit approval prior to the text amendment adoption.

Commissioner Staelin asked about the study of other forms of solar. Mr. Stidham replied that we would continue to research community scale solar as an evolving industry through the Rural Lands Plan to develop policies and future guidance. Commissioner Staelin commented that there is a level of capacity and allowance for the future but that we should explore other ways of adding solar that are complementary to the county’s other zoning regulations.

There were no questions or comments from the Commission.

The Commission voted 9-0-1 to set public hearing for **TA-23-04, Solar Power Plant Use and Regulations** to the December 1, 2023 Business Meeting.

<b>Motion to schedule public hearing for <u>TA-23-04, Solar Power Plant Use and Regulations</u> to the December 1, 2023 Business Meeting:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>ABSENT</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	King	<b>AYE</b>
Catlett	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (seconded)</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>

## **BOARD AND COMMITTEE REPORTS**

### **4. Board and Committee Reports**

#### **Board of Supervisors (Terri Catlett)**

Commissioner Catlett commented that it is great to have an awarded “conservation superhero” on the Commission and thanked Chair Ohrstrom for his contributions to Clarke County.

Commissioner Catlett said the Board of Supervisors has a work session the following week where they will be discussing the Capital Improvement Plan and camping regulations. Mr. Stidham noted that a couple of supervisors were not comfortable removing all possible opportunities for commercial campgrounds especially low impact primitive camping. He said all of the minutes, maps, and details from the committee and commission meetings were sent to the Board to provide as a reference on how the process evolved from start to finish. He suggested that if the opportunity arises, each Commission member should speak directly with their district-appointed supervisor to see if any questions can be answered.

#### **Board of Septic & Well Appeals (George L. Ohrstrom, II)**

Nothing to report.

#### **Board of Zoning Appeals - BZA (Jeremy Camp)**

Nothing to report.

#### **Historic Preservation Commission – HPC (Bob Glover)**

Commissioner Glover said the HPC has a meeting on November. Mr. Camp noted his attendance at a Certified Local Government (CLG) training session in Leesburg relating to historic preservation. He explained that in order to maintain their CLG status that a certain number of training hours must be maintained by Staff and committee members.

#### **Conservation Easement Authority – CEA (George L. Ohrstrom, II)**

Chair Ohrstrom commented that the CEA is working on a few easements where one is complicated in that there is a right-of-way issue. He added that he does not believe the number of preserved acres will match last years numbers.

#### **Broadband Implementation Committee (Brandon Stidham)**

Mr. Stidham noted that All Points Broadband representatives provided an update on their progress at a board meeting last month. He said the representatives reported that they hope to begin residential hook-ups in the second quarter of 2025 but that they are still in the process of getting design approval. He explained that Rappahannock Electric Cooperative (REC) has to approve the design of each pole they plan to attach to which explains the overall magnitude of the regional project. Commissioner Catlett explained the review factors such as the weight of the wires with ice and that their scope of the project has increased. She said REC has changed the definition of underserved from 25 MB to 100 MB which is going to open up some of the areas that were not previously eligible in the first round of grant funding. Mr. Stidham noted that All Points has been operating on reimbursements and that the work has to be certified by the Department of Housing and Community Development before the approval by the Northern Shenandoah Valley Regional Commission where he serves as Treasurer.

**OTHER BUSINESS**

**5. 2024-2029 Capital Improvement Plan**

Mr. Stidham stated the Commission reviewed the Capital Improvement Plan (CIP) in the work session and that he is looking for an action item to recommend it be moved forward to the Board of Supervisors for approval. He added that one item to discuss is the transportation project for the pedestrian bridge over Route 7. He said the project is closer to being in full conformance with the Comprehensive Plan but that it needs to be added to the Transportation Plan which is currently in draft form. He said he will be able to recommend that it is fully conforming once the plan is adopted.

The Commission voted 9-0-1 to forward a recommendation of approval to the Board of Supervisors for the 2024-2029 Capital Improvement Plan.

<b>Motion to forward a recommendation of approval to the Board of Supervisors for the 2024-2029 Capital Improvement Plan:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>ABSENT</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	King	<b>AYE</b>
Catlett	<b>AYE</b>	Lee	<b>AYE (seconded)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>

**6. Projected Upcoming Agenda Items, November 2023-February 2024**

Mr. Stidham reviewed the upcoming agenda items and noted that it is possible that he will have the Transportation Plan updated. He said he previously reported that VDOT reviewed the project list and noted that the priorities need to be consistent with their VTrans statewide plan and supported by data. He said some of the priorities are current projects on the list and some are new that are all supported by crash data. He continued that if he can send and have the draft returned by Thanksgiving that it may be on the agenda for November 28<sup>th</sup> Work Session.

Mr. Stidham said Horus Virginia has yet to resubmitted information and may be deferred, that the Bullard Campground special use permit application is pending, and there are four minor subdivisions pending as well.

Vice-Chair Buckley asked for clarification on Berryville Berries that was previously mentioned. Mr. Stidham said it is also known by Bullard Campground. He also said that the neighbors that live across the Opequon in Frederick County attended the Board’s public hearing in support of the campground regulations due to some problems they have encountered with how the applicant has been operating to date.

**ADJOURN:**

The Commission adjourned the November 3, 2023 Planning Commission Business Meeting at 9:20AM.

George L. Ohrstrom, II (Chair)

Kristina Maddox (Clerk)

**ZONING ORDINANCE TEXT AMENDMENT (TA-23-04)**

**Solar Power Plant Use and Regulations**

**December 1, 2023 Planning Commission Business Meeting – PUBLIC HEARING**

**STAFF REPORT – Department of Planning**

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The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.  
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**Description:**

Proposed text amendment to amend the use regulations for “solar power plant” per Section 5.2C (Business Uses) of the Zoning Ordinance. The amendment modifies the location restriction in Use Regulation 1 to state that solar power plants must be located adjacent to and all facilities located within one mile of the electrical substation located at 234 Double Tollgate Road (Tax Map #27A-4-D) or the electrical substation located at 362 Ramsburg Lane (Tax Map #13-A-62A). The term “behind-the-meter” solar is also clarified to include onsite consumption of solar-generated electricity and incidental resale through a net metering program.

**Requested Action:**

Conduct advertised public hearing and take action on the proposed text amendment.

**Background:**

A “solar power plant” is a business use set forth in Zoning Ordinance Section 5.2C and is defined as follows:

*A utility-scale commercial facility with a rated nameplate capacity greater than 100kW (DC), which uses solar energy specifically for the conversion of sunlight into electricity by photovoltaics (a technology that converts light directly into electricity).*

Use Regulation 1 establishes a strict limitation on the location and size of solar power plant sites. All plants that are not part of a “behind-the-meter” program are required to be located adjacent to and all facilities located within one mile of a pre-existing electrical substation of 138kV or higher voltage. There are two substations in the County that meet this specification – the Potomac Edison substation at 234 Double Tollgate Road (Tax Map #27A-4-D) and the Rappahannock Electric Cooperative (REC) substation located at 362 Ramsburg Lane (Tax Map # 13-A 62A).

One solar power plant has been approved since the 2010 adoption of this use and regulations – the 20MW Hecate Energy facility located in Double Tollgate (Phase I 10MW constructed and operational, Phase II 10MW to be constructed). One application for a new solar power plant is currently in process – Horus Virginia I LLC’s proposed 50MW plant located southwest of Berryville. These plant sites meet current requirements by being located or proposed to be located adjacent to these substation properties.

At their July 18, 2023 meeting, the Board of Supervisors voted unanimously on a resolution to initiate consideration of a text amendment that would propose the following changes to the “solar power plant” use and regulations:

1. Prohibit the development of any new solar power plants in the County.
2. Preserve solar power plants in existence or with zoning approval as conforming uses with the ability to expand within one mile of the pre-existing electrical substation which originally qualified the facility for development.
3. Protect the ability of County landowners to use “behind-the-meter” solar power primarily for their own onsite consumption and with incidental resale of excess power to service providers.

The Board adopted this resolution based on concerns that solar developers and some County property owners want the regulations to be relaxed so that solar power plants can be constructed in other parts of the County. Supervisors are also concerned with the potential loss of farmland due to conversion to nonfarm uses.

**Proposed Text Amendment:**

The text amendment accomplishes the Board’s three objectives set forth in the aforementioned resolution.

The Board’s first objective is to prohibit new solar power plant development. As noted previously, Use Regulation 1 strictly limits solar power plants to be located adjacent to and all facilities located within one mile of a 138kV or higher voltage substation. The Potomac Edison substation in Double Tollgate and the REC substation southwest of Berryville are the only two substations that meet this requirement. This current language can be interpreted as allowing new solar power plants in other areas of the County if future 138kV or higher voltage substations are built. Staff has interpreted that in this scenario the substation would have to be approved by special use permit and site development plan, constructed, and be operational before an application for a solar power plant could be filed for review.

To address this scenario and accomplish the Board’s first objective, the description of a qualifying substation in Use Regulation 1 is modified to read as follows:

*If such plant is not part of a “behind-the-meter” **solar** program, then such plant shall be adjacent to and all facilities located within one mile of ~~the a pre-existing~~ **electrical substation sub-station of 138-kV or higher voltage located at 234 Double Tollgate Road (Tax Map #27A-4-D) or the electrical substation located at 362 Ramsburg Lane (13-A-62A).***

The change would strengthen the location restriction by not allowing solar power plants to be developed adjacent to any future substations of 138kV or higher voltage that may be approved and constructed. This would limit development of all future solar power plants to the two existing substations operated by Potomac Edison and REC. This approach also furthers the

Board’s second objective of ensuring that existing and approved solar power plants remain conforming rather than nonconforming uses. This includes Hecate Energy’s Phase I and Phase II facilities and, if ultimately approved, the Horus Virginia I facility as all would comply with the proposed location restriction.

The text amendment also meets the Board’s third objective of protecting the use of “behind-the-meter” solar which is electricity generated from solar panels primarily for onsite use. These systems are referred to “behind-the-meter” because the electricity is generated separately from the metered electricity provided by the electric service provider. Behind-the-meter solar can also include limited resale of excess power generated by the property owner to the electric service provider in exchange for credits, also known as “net metering.” To reflect this practice and to further clarify the term, a new definition for behind-the-meter solar is proposed to be added at the end of Use Regulation 1:

***For the purposes of this regulation, “behind-the-meter” solar includes onsite consumption of electricity generated by solar panels and the incidental resale of excess electricity through a net metering program.***

This change would allow County property owners to continue to use solar energy generation and to participate in net metering programs without additional restrictions. Staff notes that behind-the-meter solar systems, whether ground-mounted and/or building-mounted solar arrays, are regulated as building features or accessory structures and are required to meet lot requirements such as building height limitations and setbacks. There are no specific limitations on the size of ground-mounted solar arrays aside from the limits that would be placed on other accessory structures. However the proposed language would require systems to be sized primarily to generate power for onsite use and a lesser or incidental amount of excess power to resell for credit via net metering.

**Staff Recommendation:**

Staff has no outstanding concerns with the adoption of this text amendment.

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**History:**

- |                         |   |
|-------------------------|---|
| <b>July 18, 2023.</b>   | <b>Board of Supervisors voted unanimously to initiate text amendment and forward to Planning Commission for development, public hearings, and formal recommendation to the Board.</b> |
| <b>August 29, 2023.</b> | <b>Placed on the Commission’s Work Session agenda for initial discussion.</b>   |
| <b>October 3, 2023.</b> | <b>Placed on the Commission’s Work Session agenda for continued discussion.</b>   |



November 3, 2023.

Commission voted 9-0-1 (Hunt absent) to schedule public hearing for the Commission’s December 1, 2023 Business meeting.

December 1, 2023.

Placed on Commission’s Business Meeting agenda and advertised for public hearing.

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Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

SOLAR POWER PLANT	
Permitted Use	None
Accessory Use	None
Special Use	AOC

**Definition:**

A utility-scale commercial facility with a rated nameplate capacity greater than 100kW (DC), which uses solar energy specifically for the conversion of sunlight into electricity by photovoltaics (a technology that converts light directly into electricity).

**Use Regulations:**

The following regulations establish minimum requirements and standards for the placement, construction and modification of large photovoltaic solar power plants, while promoting the safe, effective and efficient use of such energy systems.

1. Location. If such plant is not part of a “behind-the-meter” *solar* program, then such plant shall be adjacent to and all facilities located within one mile of ~~the a pre-existing~~ electrical ~~substation sub-station of 138 kV or higher voltage~~ *located at 234 Double Tollgate Road (Tax Map #27A-4-D) or the electrical substation located at 362 Ramsburg Lane (13-A-62A).* *For the purposes of this regulation, “behind-the-meter” solar includes onsite consumption of electricity generated by solar panels and the incidental resale of excess electricity through a net metering program.*

# SPECIAL USE PERMIT & SITE DEVELOPMENT PLAN (SUP-22-01 / SP-22-02)

December 1, 2023 PLANNING COMMISSION BUSINESS MEETING

## Continued Public Hearing

STAFF REPORT– Department of Planning

**\*\*\* DEFERRAL REQUESTED BY APPLICANT UNTIL 01/5/2024 \*\*\***

The purpose of this staff report is to provide information to the Planning Commission to assist them in reviewing this land use request. It may be useful to members of the general public interested in this request.

### Case Summary

#### Applicant:

Horus Virginia I LLC (primary contact: Braden Houston, OPDE / managing director: Luis Polo Gomez)

#### Agents:

Integrity Federal Services (engineer: Ben Svedlow)

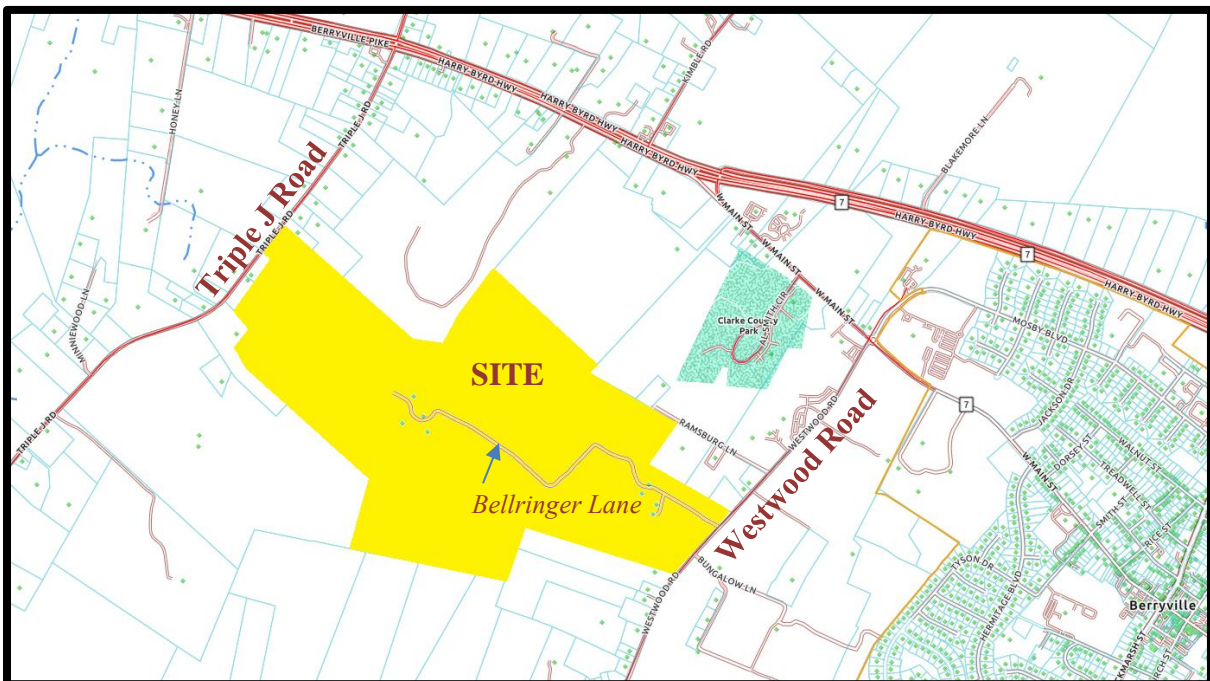
Thomas Moore Lawson of Counsel Williams Mullen (attorney: “Ty” Lawson)

#### Property Owner:

Bellringer Farm, LLC

#### Location:

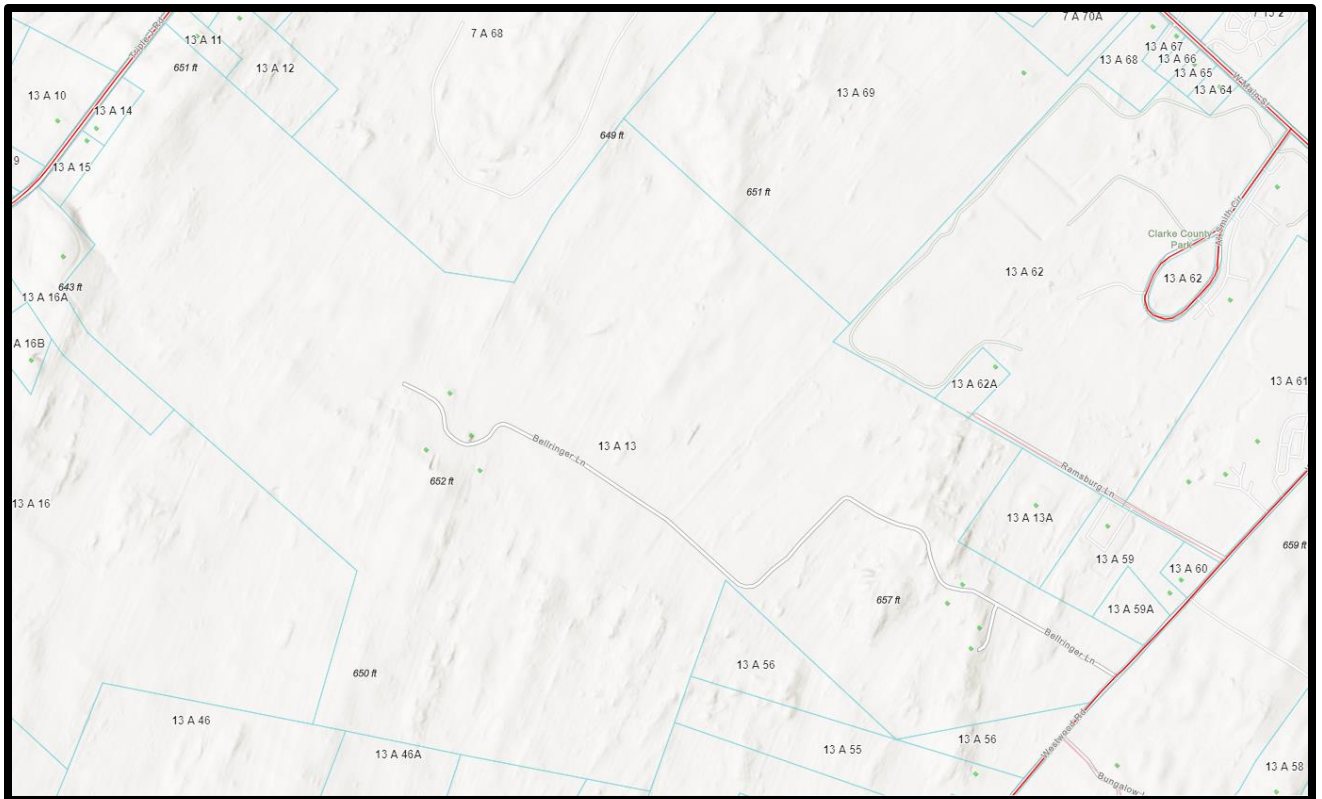
The site is located on Tax Map #s 13-A-13 and 13-A-56, consisting of approximately 400 acres in the AOC (Agricultural-Open Space-Conservation) Zoning District. Existing access to these properties is via Westwood Road (Rt. 636). The proposed Solar Power Plant would include access off of Bellringer Lane (existing driveway) and an entrance off of Triple J Road (Route 632). Both of the subject properties are within the Russell Election District.

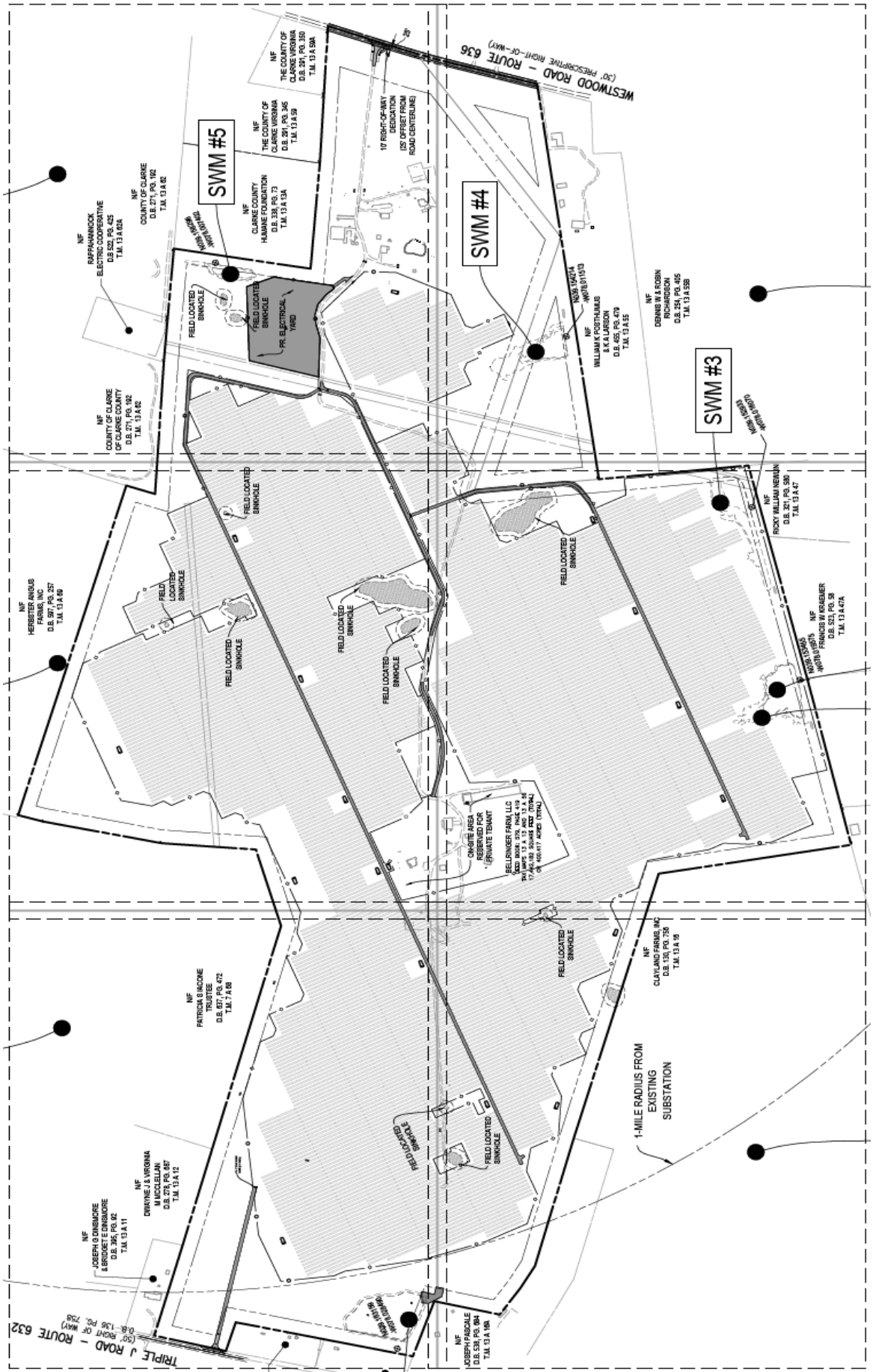


#### Request:

The Applicant has requested approval of a 50MW Solar Power Plant. Pursuant to Section 5.2C of the Clarke County Zoning Ordinance, Solar Power Plants require approval of a special use permit application. A site development plan application was submitted concurrently with the special use permit application as required by Section 6.3.1B-3a of the Clarke County Zoning Ordinance.

**Illustrations & Site Photos:**







(a)



(b)



(c)



(e)



(d)

(a) Picture from existing driveway (Bellringer Lane) about where the solar panels would begin on the property, (b) Picture of the soil in the soybean field in Spring, (c) View looking outward from the property to Triple J Road, (d) Picture of westernmost house existing on the property, (e) Picture of large powerlines that traverse the property.

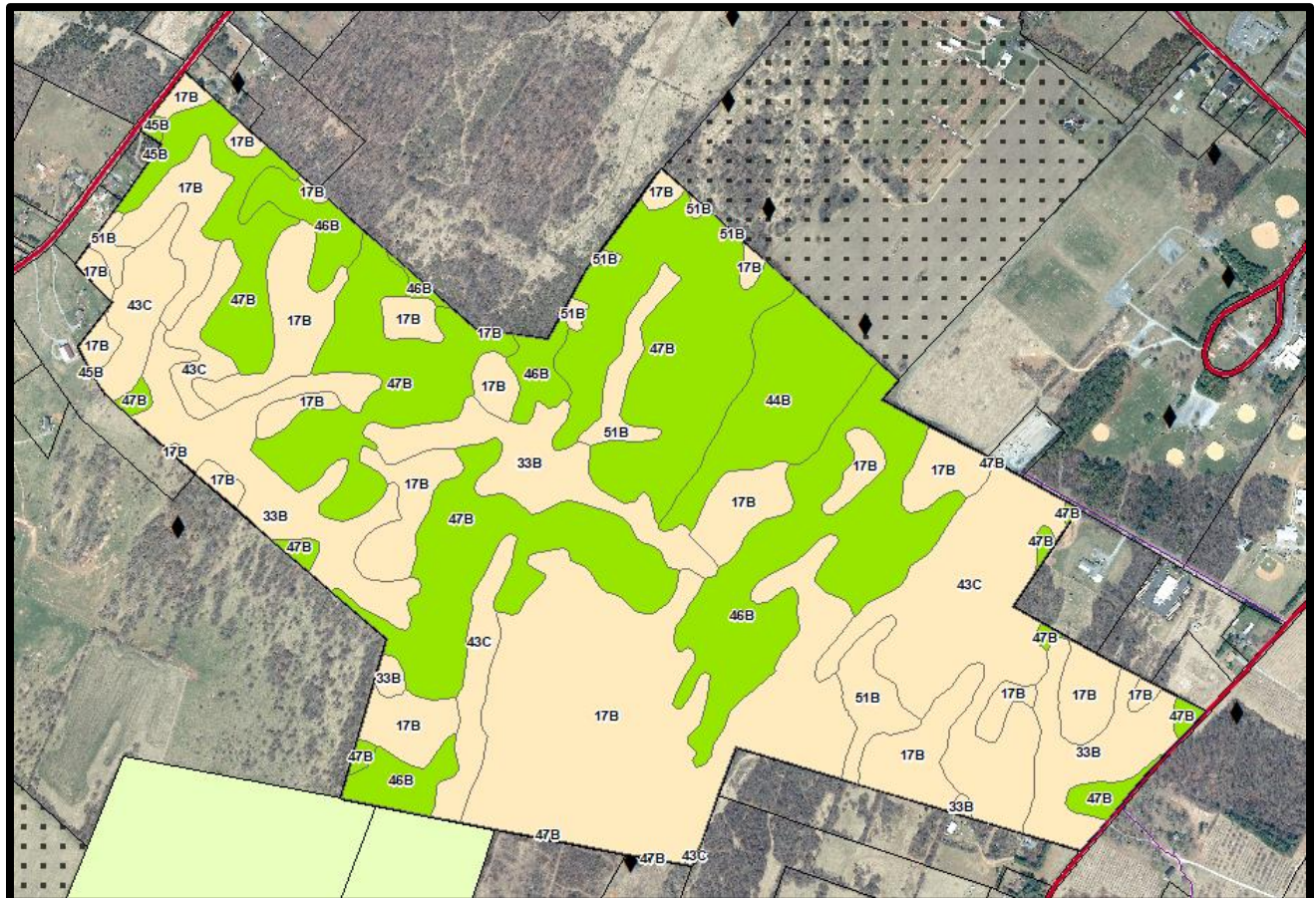
**General Site Conditions:**

There are 4 dwellings located on the property based on Clarke County real estate, and confirmed by the Applicant. Two of these are pre-1980 dwellings (exemptions). Two of these dwellings are located in the front of the property near Westwood Road, along with several other agricultural buildings. The other two are located in the center of the property. All of these existing dwellings use Bellringer Lane for access. The proposed solar panels are excluded from these residential areas.

The property currently is not located within the Agricultural and Forestal District and is not located within a conservation easement. It is part of the land use program as it is in active farming use. This includes planted crops and pasture.

The site mixes between gently rolling hills and flat terrain. No floodplains exist on the property. No springs are identified on the property. Several sinkholes are located on the property and identified on the site development plan. No streams are on the property other than a small portion of an intermittent stream located close to Triple J Road, outside of where the solar panels are proposed.

The soils on the property generally include patches of soils identified as prime farmland mixed-in with soils that are not prime farmland. A visual inspection of the property soils suggests they are heavily clayed soils for the most part. Below is a map that identifies the prime (green) and non-prime (tan) farmland soils types located on the property. The Clarke County LESA (Land Evaluation and Site Assessment) score was calculated to be 80.1. Just based on the soil types the land evaluation score calculated to be 76.53.



### **Application Documents:**

The applicant submitted a complete application form, applicable review fees. The additional items listed below have also been submitted for review.

- Special Use Permit Application Narrative. A document of 428 pages submitted with the application. It consists of an executive summary, property information, solar facility use regulations, special use permit review factors, supplemental information, and the following appendix documents:
  - Karst Plan
  - Phase 1 Environmental Study
  - Wetland Study
  - Rare Threatened Endangered Species Letter
  - Cultural Resource Survey
  - Site Renderings
- Site Development Plan. A large sized document of 51 pages with details on the proposed site improvements, erosion and sediment control measures, and stormwater management plan.
- Decommissioning Plan. This document was submitted by the Applicant as required by Virginia Code §15.2-2241.2
- Emergency Action Plan. This is a document submitted by the Applicant based on Staff comments that a plan is needed to ensure that procedures are in place to assess and repair solar panels if they become damaged by natural or other causes.

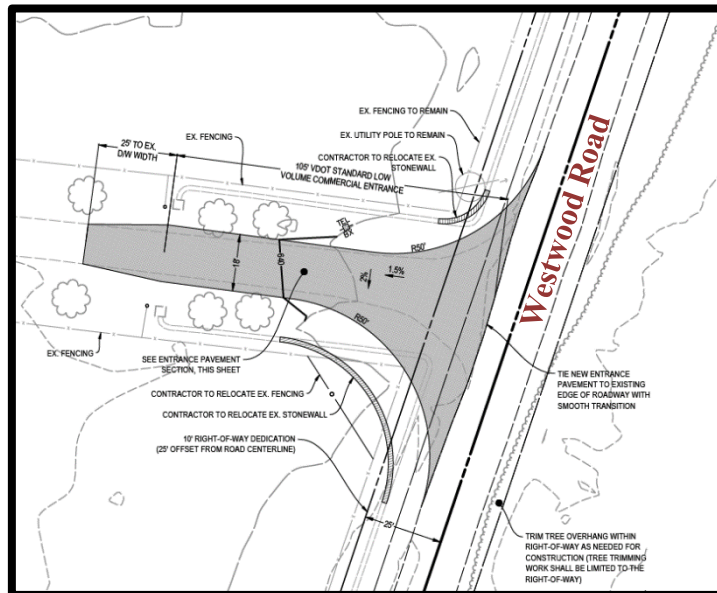
The above documents are provided with this Staff report along with relevant correspondence with the Applicant since the application was initially submitted. The appendix items of the Special Use Permit Application Narrative are not included due to their vast size. However, these are available upon request.

**Proposed Improvements:**

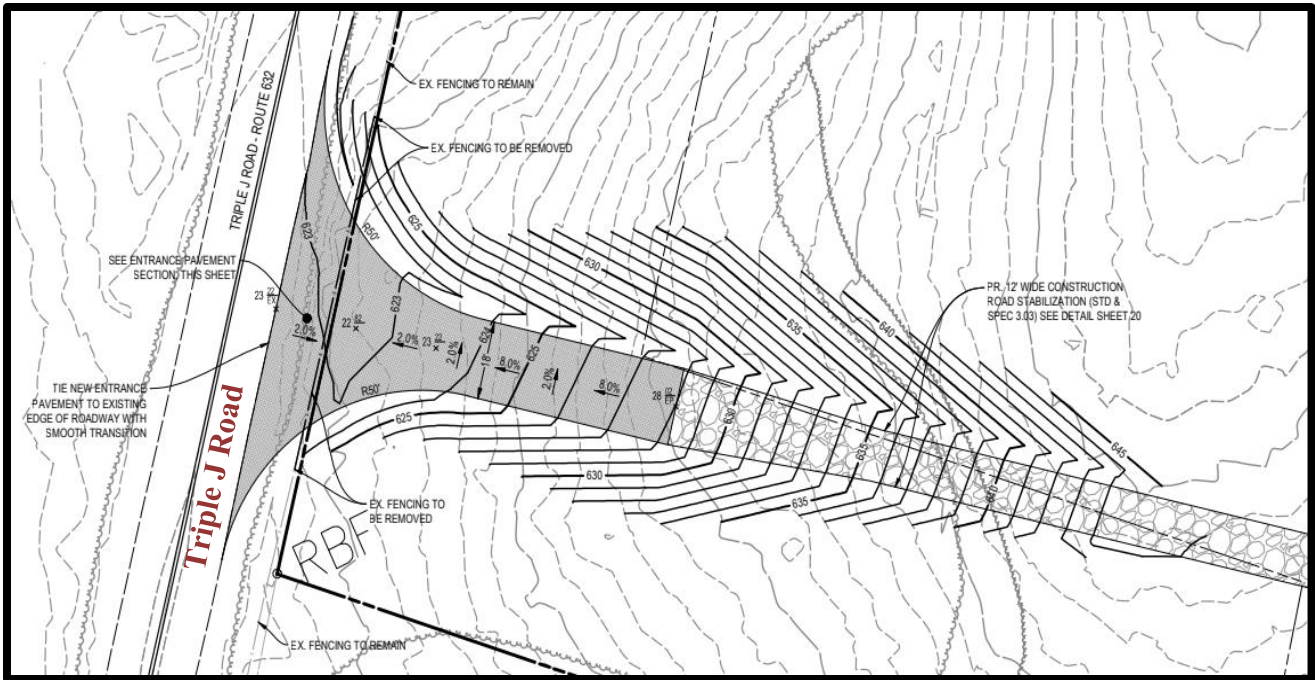
Page 11/51 of the Site Development Plan provides an overall view of the proposed site improvements associated with this application. A small illustration of this is shown above on page 3 of this report. The Applicant intends to use the same type of solar panels that they are utilizing on a solar farm that is under construction in Jefferson County, WV, just outside of the City of Charles Town, WV. Below are a couple pictures taken from this site during a visit of it by the Plans Review Committee. The project is currently under construction, but some of the panels have been installed.



The site development plan also depicts several smaller stormwater basins, fencing around the facility, an electrical yard, landscaping, internal access drives, improvements to the entrance at Westwood Road (Route 636), and a new entrance off of Triple Road (Route 632). The entrance improvements are depicted in detail on pages 49 & 50 of the site development plan. A snapshot of these entrances are shown below and on the top of the following page.







**Current Review Status:**

While review is ongoing, the special use permit and site development plan applications have been reviewed by multiple review agencies at this time. The list below provides a list of the review agencies that have reviewed the application and that status of their comments. In brief overview, the applicant has been working with DEQ for over a year to address the stormwater management requirements. This process is nearly complete as indicated by DEQ. The County’s engineering consulting firm, Hurt & Proffitt, is currently reviewing recent changes to the site development plan made by the Applicant that includes an entrance off of Triple J Road. They previously recommended approval of the plan prior to this recent change. Their primary role is to review the plans for compliance with the County’s erosion and sediment control regulations. VDOT has already approved the additional entrance. A number of issues remain unaddressed by the Planning Department which the applicant is working on addressing for a resubmission in the near future. These comments are elaborated on further down this report.

- ***Planning Department.***  
[See Preliminary Comments section of this report below for a summary and the attached correspondence, including Planning Department review letters and CTL approval of the Karst Plan]
- ***Hurt & Proffitt.*** (engineering consultant – erosion and sediment plan review)  
Approved previously but under re-review currently due to the Applicant adding the entrance to Triple J Road.
- ***Commissioner of Revenue.***  
The Commissioner of Revenue reviewed the application and commented that rollback taxes will become due and the property will not qualify for the land use program if developed for a Solar Power Plant. [see attached review letter dated August 8, 2022]

- ***Sherriff's Office.***

The Chief Deputy of the Sheriff's Office review the application and provided the following three comments. [see attached review letter dated August 8, 2022]

1. *If approved, require a Knox box for emergency services to enter the property if needed.*
2. *This may be more of a VDOT issue. I would suggest that the construction entrance for this project be located off of Westwood Road, not Triple J Road. The area of the property that connects with Triple J Road is residential and a heavily traveled commuter road. Also concerned about sight distance on Triple J Road. Westwood Road is less traveled and the entrance to Bellringer Lane is a short distance from Business 7. In that travel distance, only one house is affected. May also want to consider a time restriction on deliveries on school days so as not to delay school buses and parents picking up / dropping off kids. The afternoon pickup is far busier than the morning drop-off.*
3. *I would try to avoid having any construction vehicles access the portion of the property on Ramsburg Lane. This is a private lane, owned by the County and Rappahannock Electric. I am not sure if the pavement just placed down for the animal shelter is thick enough to handle heavy equipment.*

- ***Virginia Department of Health (VDH).***

VDH reviewed the application and had no issues with it since it does not proposed any use that requires water or sewer facilities, nor does it change existing on-site water and sewer facilities of the existing homes. They did request that the plan identify the existing drainfields which the applicant added in a later revision. [see attached review letter dated August 8, 2022]

- ***Virginia Department of Transportation (VDOT ).***

VDOT has provided several review comments since the original application was submitted. The most recent communication they provided was that the changes of the plan meet their requirements. [See email letter dated August 2, 2023]

- ***Economic Development.***

No comments

- ***Emergency Services.***

No comments

- ***Building Department.***

No comments

- ***Rappahannock Electric Coop.***

No comments

- ***Virginia Department of Environmental Quality (DEQ).***

DEQ indicates that the review process is nearly complete and no layout changes are expected at this time. [see attached email dated June 22, 2023 from DEQ/Cathy Hill, P.E.]

## **Solar Power Plant Regulations:**

Section 5.2C of the Clarke County Zoning Ordinance includes the regulations for Solar Power Plants. They are allowed in the AOC District with approval of a special use permit. The regulations include a number of specific design requirements and special review factors, as shown below.

1. **Location.** If such plant is not part of a “behind-the-meter” program, then such plant shall be adjacent to and all facilities located within one mile of a pre-existing electrical sub-station of 138 kV or higher voltage.
2. **Minimum Lot Size.** No such plant shall be erected on any lot less than twenty acres in size.
3. **Setbacks.** All above ground facilities associated with such plant (excluding perimeter security fencing) shall be considered a structure for the purposes of determining required setbacks.
4. **Safety/Access.** A security fence (height and material to be established through the special use permit process) shall be placed around the perimeter of the solar power plant and electrical equipment shall be locked. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Warning signage shall be placed on electrical equipment and plant entrances.
5. **Noise.** No such plant shall exceed sixty-five dBA as measured at the property line or fifty dBA as measured at the nearest neighboring inhabitable building.
6. **Landscaping.** Such a power plant shall be considered a commercial use for the purposes of determining landscaping requirements.
7. **Local, State, and Federal Permits.** Such a plant shall be required to obtain all necessary permits from the U.S. Government, Commonwealth of Virginia, and Clarke County, and comply with standards of the major code and safety organizations that apply to generation projects (the National Fire Protection Association (NFPA), Underwriters Laboratories (UL), and Institute of Electrical and Electronics Engineers (IEEE)).
8. **Electrical Interconnections.** All electrical interconnection or distribution lines shall comply with all applicable codes and standard commercial large-scale utility requirements. Use of above ground transmission lines shall be minimized.
9. **Additional Special Use Factors.** The following additional factors shall be addressed in the Special Use Permit application for such plant:
  - a. **Project description and rationale.** Identify the type, size, rated power output, performance, safety and noise characteristics of the system, including the name and address of the manufacturer, model. Identify time frame, project life, development phases, likely markets for the generated energy, and possible future expansions.

- b. Economic analysis. Provide economic cost/benefit analysis describing generated property taxes, sales taxes, other taxes, construction dollars spent locally, estimated construction jobs and construction payroll, estimated permanent jobs and continuing payroll, and costs associated with impact on roads and other county infrastructure in the area.
- c. Visual impacts, appearance and scenic view sheds. Provide visual simulations providing vantage points considering a three hundred sixty degree view of the project site.
- d. Wildlife habitat areas and migration patterns. Address potential impact on wildlife especially endangered or threatened species, on the site and in a biologically significant area surrounding the site.
- e. Environmental analysis. Identify impact analysis on historic, cultural and archaeological resources, soil erosion, flora in the project area, water quality and water supply in the area, dust from project activities, and cumulative impacts of other adjacent power plant projects.
- f. Waste. Identify solid waste or hazardous waste generated by the project and methods of disposal.
- g. Lighting. Provide lighting plan showing impacts on adjacent properties.
- h. Transportation plan. Provide access plan during construction and operation phases. Show proposed project service road ingress and egress access onto primary and secondary routes, layout of the plant service road system and degree of upgrade plan to new and existing roads, anticipated volume and route for traffic, including oversized and heavy equipment needed for construction, maintenance and repairs, methodology of repairs and maintenance of roads and bridges used for the project, and related public pedestrian and vehicular access and associated fencing.
- i. Public safety. Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways, communities, aviation, etc., that may be created and address response to such hazards.
- j. Noise limitations. Identify noise levels at the property line of the project boundary.
- k. Telecommunications interference. Identify electromagnetic fields and communications interference generated by the project.
- l. Life of the project and final reclamation. Describe the decommissioning and final land reclamation plan after anticipated useful life or abandonment or termination of the project, including evidence of an agreement with the property owner that ensures proper final removal of power generating equipment.

## **Special Use Permit Review Criteria:**

Section 6.3.1C-2 of the Clarke County Zoning Ordinance specifies review criteria for the Planning Commission and Board of Supervisors to consider when reviewing special use permit applications. These review criteria are listed below with some preliminary remarks by Staff. The applicant also provides responses in their narrative document. It should be noted that Staff's comments are not complete at this time for the following reasons: 1) the Applicant has not resubmitted new information since the September 1<sup>st</sup> Planning Commission meeting to address the review comments previously provided. As such, review is incomplete at this time; and, 2) the Applicant requested deferral of the application because they are making design changes to the site development plan. This resubmittal will require re-review of the application. As described by the applicant's agent, the changes would include relocating the Electrical Yard to avoid areas of prime farmland that have a significant amount of rock outcrops.

### **a. Consistency with the Clarke County Comprehensive Plan and any applicable implementing component plans.**

*In 2010 the Board of Supervisors adopted regulations to allow "Solar Power Plants" as a special use in the AOC District. These regulations were retained in later updates to the Zoning Ordinance, including the comprehensive re-write of the Zoning Ordinance that was adopted in 2021.*

*The following goals of the Comprehensive Plan were referenced in support of the original text amendment, as adopted in 2010. These goals were retained in the 2022 update of the Comprehensive Plan, although the wording of Goal 4 included a minor wording change, modifying "...to the greatest extent possible" to "whenever possible" when describing the utilization of renewable energy.*

- **Goal 3** – *"Encourage and maintain a diverse and viable local economy compatible with the County's size and character." (page II-1)*
- **Goal 4** – *"Exercise stewardship over resources so as to reduce the consumption of nonrenewable resources, utilizing renewable energy whenever possible; and foster within the private sector of the County a culture of resource conservation." (page II-1)*

*The Board's original resolution also stated that "with appropriate zoning regulation, Large Photovoltaic Solar Power Plants can be allowed in a manner that protects the agricultural character of the County and that protects the health, safety, and welfare of the general citizenry of the County as well as the residents adjacent to the site of such a power plant."*

- **Objective 7** – *Resource Conservation and Sustainability*  
*Encourage sustainable development by promoting renewable energy and resources, energy conservation, and preservation of natural resources within the context of the County's land use philosophy. Ensure that the needs of the present generation are met without compromising the ability of future generations to meet their own needs. (page II-13)*

**Policy 2** - *Encourage the use of active and passive renewable energy systems. Develop policies that address potential impact of such systems on scenic viewsheds, agricultural and natural resources, and historic resources (e.g., windmills and solar panels). (page II-13)*

*The County's Agricultural Land Plan is also relevant in context with the subject application. Additional information has been requested from the Applicant to evaluate how the proposed Solar Power Plant will impact the soils on the property. The information requested includes more details*

*on the type and maintenance of the proposed solar panels to provide assurance that they will not present a risk of heavy metal contamination into the soils or groundwater. More information on the construction process is also forthcoming to evaluate potential risks of erosion.*

- b. Will not have an undue adverse impact on the short-term and long-term fiscal resources of the County for education, water, sewage, fire, police, rescue, solid waste disposal or other services, and will be compatible with the capital improvement goals and objectives of the Comprehensive Plan, to the end that growth of the community will be consonant with the efficient and economic use of public funds.**

*The proposed facility will not require public water or public sewer and will have no onsite private water or sewer facilities. There will be no impact to the school system and minimal if any impact on solid waste disposal after construction is complete. As such, there will be no impact to the County's capital improvement goals and objectives.*

*Similar to the other Solar Power Plant in Clarke County a condition may be recommended to ensure that the applicant is committed to providing an emergency planning manual to be developed in coordination with County fire and emergency services staff along with incident training.*

- c. Will not cause an undue adverse impact that would reduce the conservation value of adjacent or nearby agricultural or forestal land or would impede the operations of an active agricultural or forestal operation.**

*Subject to satisfactory review of the additional information that will be submitted by the Applicant, including, but not limited to a revised decommission plan, Staff does not identify an issue associated with this request that would impact conservation values of adjacent or nearby agricultural or forestal land.*

- d. Compliance with Virginia Department of Transportation (VDOT) regulations and recommendations of VDOT deemed necessary for safe and efficient movement of traffic.**

*VDOT reviewed this application and reported no issues or additional requirements.*

- e. No destruction of or encroachment upon historic or archeological sites, particularly properties under historic easement.**

*A Phase I ESA and Cultural Resource Reconnaissance Survey were submitted with the application. It concludes that there is no evidence of recognized environmental conditions in connection with the property.*

*The Applicant states in their narrative that the project will not encroach on any historic or archaeological sites. A Cultural Resource Assessment of the property was provided by the Applicant. It identifies that the eastern portion of the property towards Westwood Road is within the study area of the Battle of Berryville area, a potential candidate for a historic district. The report does assess the potential of finding archeological findings if a physical search was conducted and includes a map of the property showing areas of interest. It concludes that the majority of the site has a low chance to discover archeological findings. It does identify small areas where the chance is higher. This includes areas immediately around old farmsteads and a low landform area on the far western end of*

*the property.*

**f. Will not cause an undue adverse impact on the following important resources located on the subject property or surrounding properties:**

- **Surface or groundwater resources including but not limited to mitigation of pollution of such resources.**
- **Natural areas such as unique geological features, rare plant habitats, or wildlife nesting areas.**
- **Areas designated for conservation, recreation, or natural preservation including but not limited to properties under permanent conservation easement, State-designated scenic byways, scenic rivers, Blandy Experimental Farm, and the Appalachian National Scenic Trail corridor.**

*The Applicant's Karst plan has been reviewed and approved by the County's consultant and demonstrates no hazards to adjacent groundwater supplies. Ongoing monitoring of the site is recommended by Staff and will be factored into the recommended SUP conditions.*

*DEQ has provided a preliminary approval of the design layout. This will need to be reconsidered with the modifications to the layout that the applicant intends to submit in the near future.*

**g. Will not cause undue noise, light or glare, dust, odor, fumes, or vibration.**

*The applicant notes in their narrative that the project would result in a reduction of noise, dust, odor, fumes and vibrations and that lighting will be minimal and shielded. A condition that limits the time of construction activities will be recommended by Staff to reduce impacts such as noise during the construction process. Blasting has been strongly discouraged by Staff. The applicant's future submission should address whether or not they will require blasting. Based on a conversation with the applicant's agent on Sept. 27<sup>th</sup> it was explained that a major part of the reason for relocating the electrical yard is to avoid areas with more rock outcroppings that may require blasting.*

**h. Availability of sufficient water for foreseeable needs.**

*Regular usage of water is not proposed or required for the facility.*

**i. No unreasonable depletion of or other undue adverse effect on the water source(s) serving existing development(s) in adjacent areas.**

*Regular usage of water is not proposed or required for the facility.*

**j. Effective screening and buffering is provided, or the proposed development will be situated away from adjacent properties, in a manner to avoid causing detrimental visual impacts.**

*Screening is proposed by the Applicant and provided around the perimeter of the property. It consists of the preservation of existing trees and planting of new trees where existing trees are inadequate. The previous comments provided have not been addressed by the Applicant concerning recommended improvements to the landscaping plan.*

## **Preliminary Comments:**

Unresolved review comments from Planning Department Staff are documented in the review letter dated July 12, 2023, as well as an email dated January 23, 2023, and most recently after the site visit in West Virginia, in an email dated August 16, 2023. Below is a summary of the issues. The applicant and his agent has stated to Staff that they intend to provide a resubmission in the near future that addresses these issues along with the relocation of the electrical yard.

- 1) **Erosion from Construction Process.** Information to demonstrate that the site construction in Clarke County will not be similar to the vast acreage of bare soil excavated at the site in West Virginia. This was expressed as a concern after the site visit to West Virginia, of which a couple pictures are provided above. The concern is in regards to erosion; not only management, but concern that the bare earth will remove existing topsoil that would reduce the viability of using it for farming in the future after the site is decommissioned.
- 2) **Blasting.** The applicant has indicating that they are in the process of evaluating if blasting will be proposed. Staff has recommended that this be avoided and potentially restricted in the SUP conditions. Blasting could potentially impact adjacent properties and structures.
- 3) **Noise.** Noise created during the construction process is a significant concern that will need to be evaluated further during the review process with the applicant. Limitations can be added to the special use permit conditions to mitigate these potential impacts.
- 4) **Decommissioning Plan.** A large number of comments/concerns are noted in Staff's July 12<sup>th</sup> review letter regarding the decommissioning plan. It is expected that these issues need to be resolved before approval is granted.
- 5) **Landscaping Plan.** The landscaping plan in the northeastern portion of the property needs improvement after a stormwater basin was added to meet DEQ requirements. Staff has concern that the area of trees to be removed is not realistic given the grading shown. There also appears to be more opportunity to add trees to buffer this area after the construction is completed of the stormwater basin.
- 6) **Emergency Action Plan.** Staff commented that the applicant should provide a plan that ensures procedures will be taken to repair damaged panels if an event occurs that causes damage to them, such as but not limited to a hurricane. Research suggests that if panels are damaged and not repaired they may present a risk of heavy metals leaching in to the ground and groundwater. The applicant submitted an emergency action plan but it does not address the stated concern. Instead, it is related to employee safety practices.
- 7) **Siting Agreement.** Virginia Code § 15.2-2316.7 requires that applicants of solar projects negotiate a siting agreement with the locality. This agreement may include terms that mitigate impacts of the solar project, provide financial compensation to the host locality to address capital needs, or offer assistance in the development of broadband. The Clarke County solar power regulations also require that the applicant submit an economic analysis that includes the evaluation of tax revenue, among other factors as described under Section 5.2C of the Clarke County Zoning Ordinance. Staff awaits to see what the applicant will submit to meet these requirements.
- 8) **Erosion and Sediment Control Plan.** Hurt & Proffitt is currently reviewing the revised erosion and sediment control plan that they previously recommended approval of. The re-review was necessary due to the entrance off of Triple J Road that was recently added.



- 9) **Lot merger.** Tax Map 13-A-56 is required to be merged or adjusted out of the solar power plant due to its size of less than 20 acres. This is a requirement of Section 5.2C of the Clarke County Zoning Ordinance that prohibits lots of less than 20 acres of being part of a solar power plant. The applicant has been notified of this on multiple occasions and review letters.
- 10) **Electrical Yard.** Information has been requested to demonstrate that the proposed electrical yard will not be used as a substation. A substation requires a separate special use permit that has not been applied for.
- 11) **Details of the Panels – Heavy Metals.** Technical details of the panels have been requested along with information that supports that they present a minimal risk of heavy metal contamination. Research indicates that certain types of solar panel should be avoided to prevent heavy metal leaching into the soil. The site development plan should clearly indicate that the proposed panels are the safest type available and provide the specifications.
- 12) **Sinkhole buffer - Certification.** Engineering certification is required where the smaller buffer area of 25 feet is proposed from sinkholes (versus 100 feet).
- 13) **Errors.** Some editorial errors and incorrect or missing information has been commented on. These are minor in scope but should be corrected on the future revised site development plan.
- 14) **Triple J Road Access.** Staff supports the Sheriff Office’s comments regarding the appropriateness to limit access off of Triple J Road. Initially no access was proposed off of Triple J. Road. However, the applicant has recently revised the plans to include an entrance there. The stated purpose of this entrance is to allow larger trucks to enter the site to stock the staging area during construction activities. Improvements are also proposed at the entrance of Westwood Road that will accommodate large trucks entering the site from that location.

Staff will include recommended conditions after the review of the applicant’s intended resubmission. These conditions may be similar to those approved in association with the other Solar Power Plant project in Clarke County, Hecate. A copy of the approved Hecate SUP conditions was previously provided for information purposes. It includes a restriction on blasting, maintenance requirements, karst monitoring requirements, limitations on construction times and review of equipment specifications to ensure noise is minimized, a development surety for required landscaping, compliance with the Economic Benefits Agreement with the Board of Supervisors, stormwater drainage monitoring, removal of any debris on the site, decommissioning specifications and surety (letter of credit or bond), and other administrative provisions, such as but not limited to the right to inspect the property to ensure compliance of the conditions.

## **Staff Recommendation:**

A public hearing is scheduled for December 1, 2023.

The Applicant has requested that the application be considered at the January 5, 2024 Planning Commission Business Meeting. After the public hearing is completed to obtain any input from the public, Staff recommends that the Planning Commission defer the application, as requested by the applicant. The reason for deferral, as stated by the applicant's agent, is because they are still working on pulling together the following documentation:

- SWM Maintenance Agreements with Owner Signature/Notarized (DEQ Comment)
- Decommissioning Plan (Attached comment 1a – 1j)
- Emergency Action Plan (Attached comment 3a)
- Economics Benefit Agreement/Site Agreement (Attached comment 5)

The Applicant has not submitted any new information since the initial public hearing in October.

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### **History:**

<b>May 5, 2022</b>	<b>Pre-application meeting.</b>
<b>May 25, 2022</b>	<b>Special Use Permit and Site Development Plan applications submitted.</b>
<b>July 11, 2022</b>	<b>Hurt &amp; Proffitt Review Letter (ESC).</b>
<b>August 1, 2022</b>	<b>CTL Review Letter (Karst).</b>
<b>August 8, 2022</b>	<b>Initial Staff Review Letter.</b>
<b>August 17, 2022</b>	<b>Response Letter 1 from Integrity Federal Services.</b>
<b>September 2022</b>	<b>Revised Narrative &amp; Site Development Plan (SP).</b>
<b>January 19, 2023</b>	<b>Hurt &amp; Proffitt Review Letter 2.</b>
<b>January 23, 2023</b>	<b>Staff review email.</b>
<b>February 28, 2023</b>	<b>VDOT review comment letter.</b>
<b>April 4, 2023</b>	<b>Response Letter 2 from Integrity Federal Services.</b>
<b>April 18, 2023</b>	<b>Submission of Decommissioning Plan &amp; Emergency Action Plan.</b>
<b>May 19, 2023</b>	<b>Hurt &amp; Proffitt Approval Letter.</b>
<b>June 22, 2023</b>	<b>DEQ review status letter.</b>
<b>June 27, 2023</b>	<b>Resubmission of Site Development Plan (w/ new entrance off of Triple J Road).</b>
<b>July 12, 2023</b>	<b>Staff Review Letter.</b>
<b>August 1, 2023</b>	<b>Plans Review Committee.</b>
<b>August 2, 2023</b>	<b>VDOT Approval Letter.</b>
<b>August 11, 2023</b>	<b>Plans Review Committee Site Visit and example WV Site tour.</b>
<b>August 16, 2023</b>	<b>Staff comments - site visit tour follow up.</b>
<b>August 29, 2023</b>	<b>Planning Commission Work Session Meeting.</b>
<b>September 1, 2023</b>	<b>Planning Commission Business Meeting – Set Public Hearing.</b>
<b>TBD</b>	<b>Hurt &amp; Proffitt Review Letter 4.</b>
<b>September 25, 2023</b>	<b>Deferral request provided by the Applicant's agent. Applicant explained intent to modify the location of the equipment yard area.</b>
<b>November 16, 2023</b>	<b>Deferral request provided by the Applicant's agent.</b>
<b>November 28, 2023</b>	<b>Scheduled Planning Commission Work Session Meeting.</b>
<b>December 1, 2023</b>	<b>Scheduled Planning Commission Business Meeting / Public Hearing.</b>

**RE: HORUS VA - SOLAR PROJECT**

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**From :** Ben Svedlow <[bsvedlow@ifs-ae.com](mailto:bsvedlow@ifs-ae.com)>  
**Subject :** RE: HORUS VA - SOLAR PROJECT  
**To :** Jeremy Camp <[jcamp@clarkecounty.gov](mailto:jcamp@clarkecounty.gov)>

Thu, Nov 16, 2023 07:18 AM

 1 attachment

Jeremy,

At this point, yes please defer the meeting to January. The reason for the deferral is we are still working on pulling together the following documentation per the attached County comments:

- SWM Maintenance Agreements with Owner Signature/Notarized (DEQ Comment)
- Decommissioning Plan (Attached comment 1a – 1j)
- Emergency Action Plan (Attached comment 3a)
- Economics Benefit Agreement/Site Agreement (Attached comment 5)

Thanks,  
Ben Svedlow

---

**From:** Jeremy Camp <jcamp@clarkecounty.gov>  
**Sent:** Wednesday, November 15, 2023 9:42 AM  
**To:** Ben Svedlow <bsvedlow@ifs-ae.com>  
**Subject:** Re: HORUS VA - SOLAR PROJECT

Hello Ben,

Will Horus Virginia be requesting a deferral for the December 1st Planning Commission Meeting? We are already in the process of preparing the agenda which will be finalized next week on Tuesday. I would recommend an email/letter explaining the reason for the delay and request for deferral.

Thanks,  
Jeremy F. Camp, Senior Planner / Zoning Administrator  
Department of Planning  
Clarke County, VA

101 Chalmers Court, Suite B  
Berryville, VA 22611  
540-955-5131

---

**From:** "Ben Svedlow" <[bsvedlow@ifs-ae.com](mailto:bsvedlow@ifs-ae.com)>  
**To:** "Jeremy Camp" <[jcamp@clarkecounty.gov](mailto:jcamp@clarkecounty.gov)>  
**Sent:** Monday, November 6, 2023 10:11:01 AM  
**Subject:** RE: HORUS VA - SOLAR PROJECT

Jeremy,

**MINOR SUBDIVISION (MS-23-10)**  
December 1, 2023 Planning Commission Meeting  
STAFF REPORT -- Department of Planning

The purpose of this staff report is to provide information to the Planning Commission to assist them in reviewing this proposed minor subdivision. It may also be useful to members of the general public.

**CASE SUMMARY:**

**Applicant:**

Lindsay Paice

**Owner(s):**

Corey A. Cather

**Location:**

- Tax Map Parcel #7-A-7
- The property has frontage on both Russell Road (Route 660) and Cather Road (Route 674)
- Russell Election District (George L. Ohrstrom, II & Pearce Hunt)
- AOC (Agricultural-Open Space-Conservation) Zoning District

**Request:**

The application proposes a minor subdivision that would result in two new 3-acre lots and a residue lot of approximately 111.9 acres.

**Original Lot:**

117.9372 acres (7-A-7) – 1 dwelling, 4 DUR

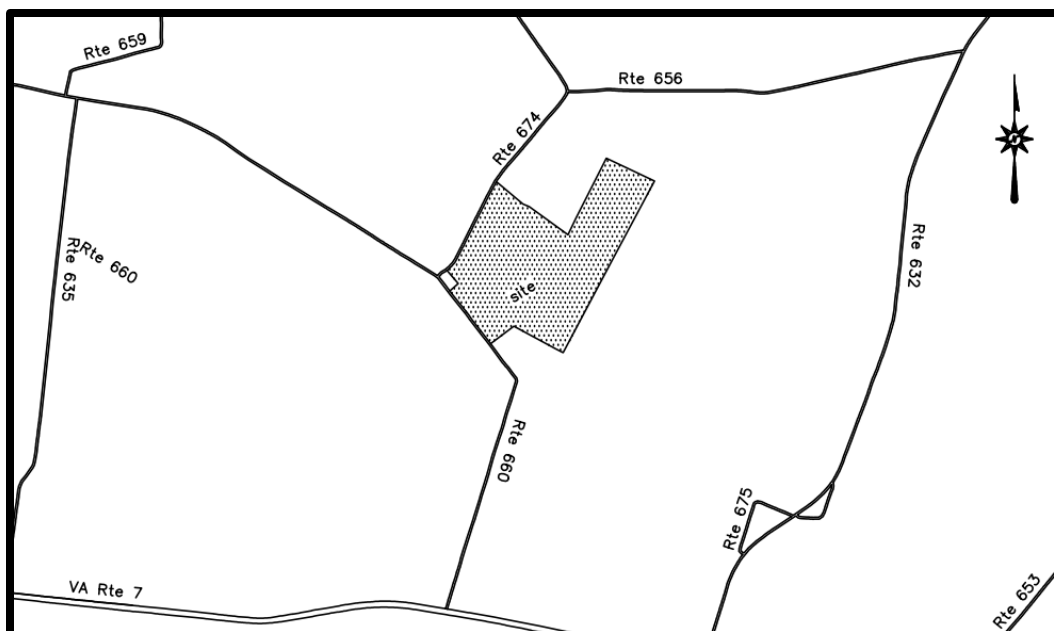
**Proposed Lots:**

111.9372 (7-A-7) – 1 dwelling, 2 DUR  
3.00 acres (New Lot 1) – 0 dwellings, 1 DUR  
3.00 acres (New Lot 2) – 0 dwellings, 1 DUR

-----  
*117.9372 acres*

-----  
*117.9372 acres*

**Vicinity Map:**

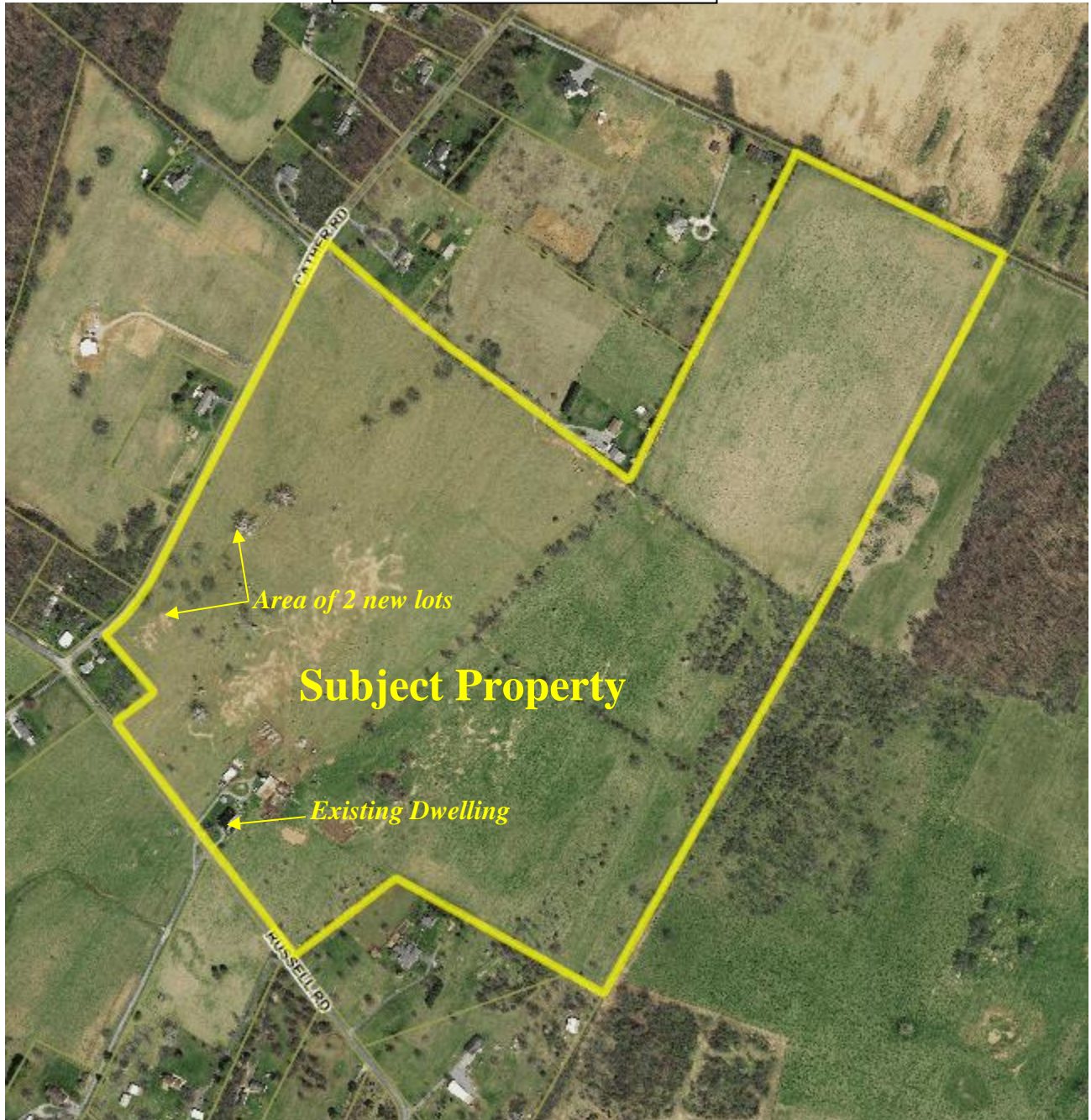


**Staff Discussion/Analysis:**

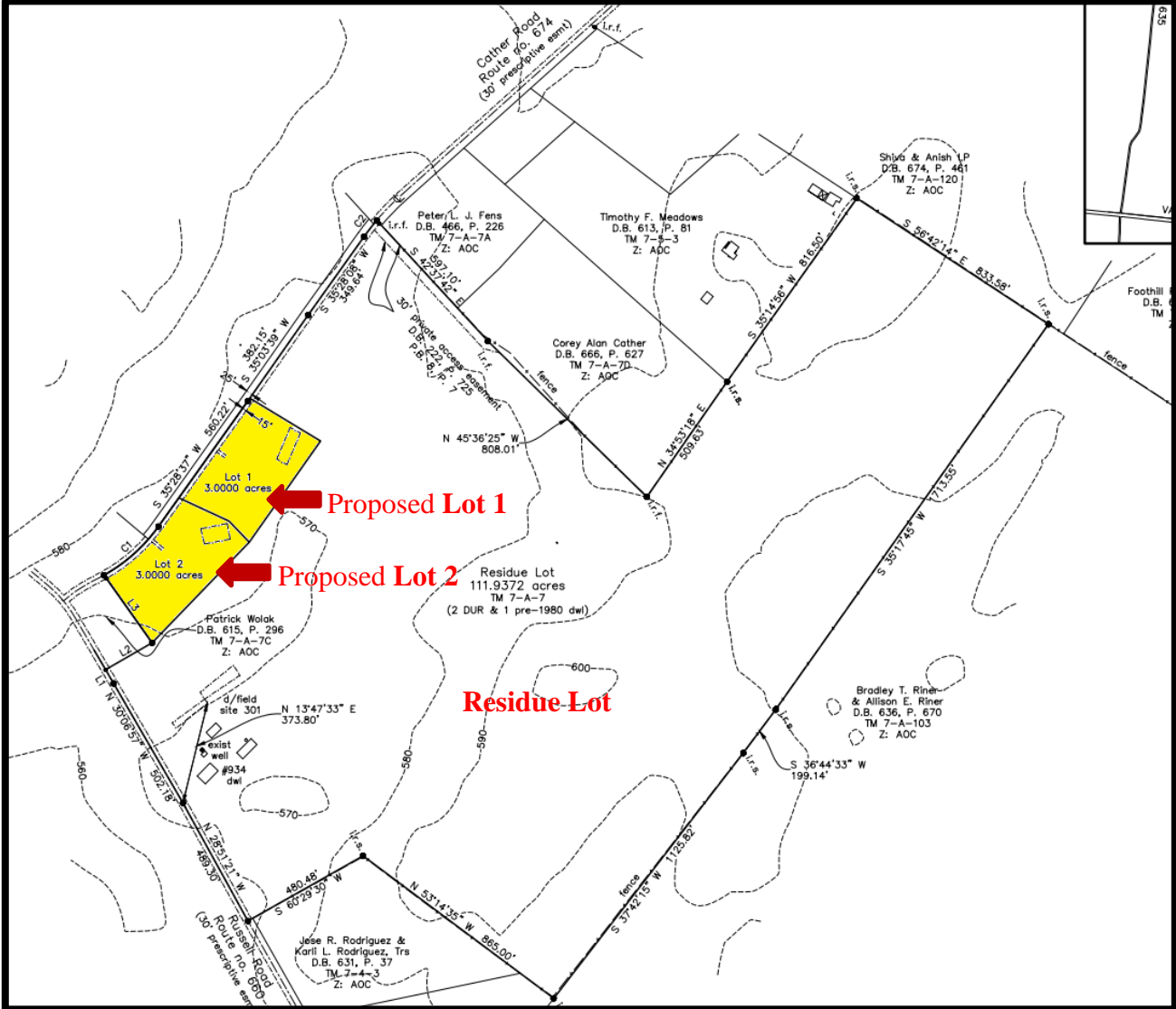
Access:

The proposed 2 new lots will have direct access to Cather Road (Route 674). Each will have individual entrances. The Residue lot has an existing dwelling (934 Russell Road) and will continue to use the existing entrance. The Virginia Department of Transportation (VDOT) provided review comments on August 10, 2023. They had no objections but recommended that the applicant should dedicate land for the existing prescriptive easements used for the state highways. The applicant did not choose to dedicate this land. VDOT also noted that the applicant is required to obtain a Land Use Permit from them prior to construction of any work within the state's right-of-way.

**AERIAL OF PROPERTY**



**PLAT ILLUSTRATION**



Water and Sewage Disposal:

The project OSE has designed three systems for the proposed subdivision. These systems are summarized below:

- Lot 1: Drainfield site 201 is an alternative system primary and reserve designed for 3 bedrooms with a maximum occupancy of 6 people and 450 gallons per day (alternative system, gravel trench, drip).
- Lot 2: Drainfield site 101 is an alternative system primary and reserve designed for 3 bedrooms with a maximum occupancy of 6 people and 450 gallons per day (alternative system, gravel trench, drip).
- Residue Lot: Drainfield site 301 is a conventional primary field with alternative reserve field (alternative system, gravel trench, drip) designed for 3 bedrooms and 450 gallons per day.

The Virginia Department of Health (VDH) provided review comments on August 2, 2023. They noted the field review of the sites for the new lots, completed on June 28, 2023. VDH required a new system to be designed for the residue lot because the existing system for the house is an unapproved system. The applicant later submitted a design which underwent preliminary review by the VDH. VDH also required proof from the Applicant that the existing system has been maintained (pumped) which the applicant provided via a receipt from DTS Professional Services issued October 30, 2023.

Karst Plan / Resistivity Test:

All of the proposed systems received resistivity approval after submission of the required application and scanning results. Lot 1 and Lot 2 received such approval on August 31, 2023. The on-site septic disposal system design added for the Residue Lot received resistivity approval on November 16, 2023.

Staff Review Comments:

The applicant's surveyor revised the original plat to show the drainfield for the Residue Lot that was originally not submitted with the application.

The proposed subdivision meets the requirements for a minor subdivision because the residue lot is 100+ acres in size. When the residue lot is of that size the code regulations allow 3 lots for a minor subdivision instead of only 2.

This minor subdivision meets the AOC district requirements of Section 4.1.1 of the Zoning Ordinance, and the minor subdivision/plat requirements of Sections 3.2 and 4.1 of the Subdivision Ordinance.

**Recommendation:**

Staff recommends approval of this minor subdivision application (MS-23-10) for the division of Tax Map #7-A-7 into three lots, including two new 3-acre lots and 1 residue lot of approximately 111.9 acres.

-----  
**History:**

July 14, 2023	Application submitted for minor subdivision.
July 21, 2023	Application submitted for resistivity testing of Lots 1 & 2.
July 28, 2023	Submitted to VDOT and VDH. Application fee paid for resistivity testing of Lots 1 & 2.
August 2, 2023	VDH Review Comments.
August 10, 2023	VDOT Review Comments.
August 31, 2023	Resistivity Approval for Lots 1 & 2.
October 10, 2023	Application submitted for resistivity testing of Residue Lot.
October 27, 2023	Application fee paid for resistivity testing of Residue Lot.
November 2, 2023	Plat resubmitted with changes.
November 14, 2023	Proof of septic pump out provided of existing system on Residue Lot.
November 16, 2023	Resistivity Approval for Residue Lot.
November 28, 2023	Scheduled PC Work Session.
December 1, 2023	Scheduled PC Business Meeting.





# LAND DEVELOPMENT APPLICATION

## General Information

Date: 14 July 2023 Tax Map #: 7-A-7  
 Zoning District: AOC Lot Size: 117.9372 acres  
 Site Address: 934 Russell Road, Berryville, VA 22611  
 Property Owner's Name: Corey A. Cather  
 Property Owner's Mailing Address: 340 Cather Road, Berryville, VA 22611  
 Applicant's Name: Lindsay Paice  
 (if different than owner)  
 Applicant's Mailing Address: 898 Westwood Rd, Berryville, VA 22611  
 (if different than owner)  
 Phone: 703-474-6392 Email: lvpaice@gmail.com

## Application Type

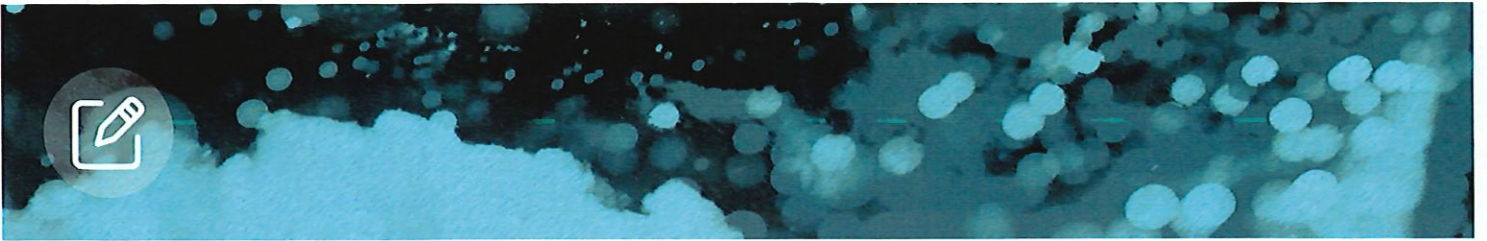
Site Plan	<input type="radio"/>	Major Subdivision	<input type="radio"/>
Administrative Site Plan	<input type="radio"/>	Minor Subdivision	<input checked="" type="radio"/>
Rezoning	<input type="radio"/>	Boundary Line Adjustment	<input type="radio"/>
Special Use Permit	<input type="radio"/>	Lot Consolidation / Merger	<input type="radio"/>
Karst Plan	<input type="radio"/>	Administrative Subdivision (>100 acre parcels)	<input type="radio"/>
Zoning Ordinance Text Amendment	<input type="radio"/>		
Other:	<input type="radio"/>		

## Application Details

Name of Project or Subdivision: Minor Subdivision of the land of Corey A Cather

Existing Use(s): agricultural

Proposed Use(s): agricultural/residential



### Additional Details

Description of the proposed development or subdivision:

Creating two lots of 3.0000 acres each, leaving a residue of 111.9372 acres

Number of Existing Lots: 1

Number of Proposed Lots (proposed and residual): 3

Are you requesting any exemptions, such to the maximum average lot size?

If yes, describe the justification for such request.

Check all that apply:

Conservation Easement	<input type="radio"/>	Floodplain	<input type="radio"/>
Historic Overlay District	<input type="radio"/>	Public Water	<input type="radio"/>
Historic Accessory Corridor	<input type="radio"/>	Public Sewer	<input type="radio"/>
Spring Conservation Overlay District	<input type="radio"/>	Karst Soils	<input type="radio"/>

*CR per Corey Cather*

Signature of Property Owner

*7/17/2023*

Date

Office Use Only

**ACTION TAKEN:** \_\_\_\_\_

**FEE:** *\$4,000.00*

**COMMENTS:** \_\_\_\_\_

\_\_\_\_\_  
Zoning Administrator

\_\_\_\_\_  
Date

*374*  
\_\_\_\_\_  
GIS Acct #



# Lord Fairfax Health District

Clarke County Health Department  
100 North Buckmarsh Street  
Berryville, Virginia 22611  
Tel. (540) 955-1033 ~ Fax (540) 955-4094  
[www.vdh.virginia.gov](http://www.vdh.virginia.gov)



August 2, 2023

Jeremy Camp  
Senior Planner/Zoning Administrator  
101 Chalmers Ct  
Berryville, Virginia 22611

RE: MINOR SUBDIVISION PRELIMINARY REVIEW COMMENTS

Health Department I.D. #: 043-23-129  
Subdivision Name: Corey A. Cather  
Tax Map #: 7-A-7  
Proposed Lots: 2 New Lots

Dear Mr. Camp,

Pursuant to your request, we have evaluated the aforementioned minor subdivision proposal, and offer the following comments at this point in the review process.

OWNER/APPLICANT ITEMS:

1. The proposed residue lot (111.9372 acres) has an existing dwelling (934 Russel Road). We have no records on the existing well or sewage disposal system that serves 934 Russel Road. The location of an existing approved standard septic system and 100% reserve area, or the location of a new primary and 100% reserve area are required for any lots with existing dwellings per section 4.5.6 of the Clarke County Subdivision Ordinance.
2. Proof that the existing septic tank at 934 Russel Road has been installed or pumped within the last 5 years is required prior to subdivision approval.
3. The project OSE located a drainfield site (d/field site 201), with a 100% reserve on Proposed Lot 1 (3.0000 acres). Proposed d/field site 201 has a design capacity to serve a three bedroom dwelling, 450 gallons per day, 6 maximum full time occupants. The proposed design utilizes advanced secondary treatment to a shallow trench dispersal system with a drip reserve. The site and soils were field reviewed by this office on June 28, 2023 and appeared to be suitable for the proposed design.
4. The project OSE located a drainfield site (d/field site 101), with a 100% reserve on Proposed Lot 2 (3.0000 acres). Proposed d/field site 101 has a design capacity to serve a three bedroom dwelling, 450 gallons per day, 6 maximum full time occupants. The proposed design utilizes advanced secondary treatment to a shallow trench dispersal system with a drip reserve.

The site and soils were field reviewed by this office on June 28, 2023 and appeared to be suitable for the proposed design.

5. To my knowledge, resistivity testing has not been conducted yet over the proposed drainfield areas for proposed Lots 1 & 2.
6. The applicant has not yet applied for certification letters for proposed lots 1 & 2 as required.

This letter does not serve as an approval of the proposed subdivision, or its parts. If you have any questions, please contact me at 540.955.1033

Sincerely,

  
Carter Neiswander, EHS

---

**Clarke - Rte 674 - Minor Subd, TM 7-A-7, Cather**

**From :** Boyce, Arthur (VDOT) <Bobby.Boyce@VDOT.Virginia.gov>

**Subject :** Clarke - Rte 674 - Minor Subd, TM 7-A-7, Cather

**To :** Jeremy Camp (jcamp@clarkecounty.gov) <jcamp@clarkecounty.gov>

**Cc :** Funkhouser, Rhonda (VDOT) <Rhonda.Funkhouser@VDOT.Virginia.gov>, Johnson, Joseph (VDOT) <JosephW.Johnson@vdot.virginia.gov>

Thu, Aug 10, 2023 02:01 PM

 2 attachments

# COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
Staunton/Edinburg Land Development  
14031 Old Valley Pike  
Edinburg, VA 22824

Dear Mr. Camp:

We have reviewed the above subject subdivision plat dated July 13, 2023 for impacts to the adjacent roads. Cather Road is a rural local roadway with poor geometry and is currently carrying 200 trips per day. This application is creating two additional lots each with direct access to Route 674, which will increase the trips by twenty (20) trips per day. Our comments are as follows:

1. The existing 30' prescriptive easement for Routes 660 and 674 does not allow adequate area for VDOT to maintain or improve the existing roadway and/or drainage when needed. Development along the roadway as such may degrade the safety on the roadway and drive the need for improvements in the future. A 25' right-of-way dedication from centerline of Route 660 and 674 (10' additional feet) should be dedicated to public use for roadway maintenance. This dedication would be labeled as "HEREBY DEDICATED TO PUBLIC USE" and be officially dedicated in the deed with reference to this plat.
2. These lots will require installation of a VDOT standard entrance. A Land Use Permit shall be obtained before any work is performed on the State's right-of-way. The permit is issued by this office and will require application fees and surety coverage. Once satisfactory application has been made, a permit will normally take 7-14 days to process and issue.

We appreciate Clarke County's efforts to include VDOT in the early planning stages for development and the opportunity to provide comments on this subdivision. We ask that you include a copy of this transmittal for official public record. If you have any questions or need further information, please do not hesitate to give me a call.

Sincerely,

*Bobby Boyce*

VDOT- Land Development Engineer  
Shenandoah, Frederick, Clarke, & Warren Counties  
14031 Old Valley Pike  
Edinburg, VA 22824  
(540) 534-3211

August 28, 2023

10228 Governor Lane Blvd.  
Suite 3007  
Williamsport, MD 21795  
Phone (301) 582-4662  
Fax (301) 582-4614  
www.hcea.com

Mr. Brandon Stidham  
Director of Planning Clarke County  
101 Chalmers Court, Suite B  
Berryville, VA 22611

Re: Geophysical Report Review  
**Cather Road**  
Tax Map No.: 7-A-7  
Berryville, Virginia  
HCEA Project Number: H23085

Mr. Stidham:

Hillis-Carnes Engineering Associates, Inc. (HCEA) is pleased to submit this technical review services for the above referenced project. This review has been performed utilizing Clarke County's Septic Ordinance dated December 21, 2021, to assess if the provided report meets the general intent of the requirements. The document provided by your office for our review was prepared by Forrest Environmental Services, Inc. (FES) dated August 2023, FES project number: 23202.

The project site is located to the northeastern quadrant of the intersection of Cather Road and Russell Road in Berryville, Virginia. (Figure 1)

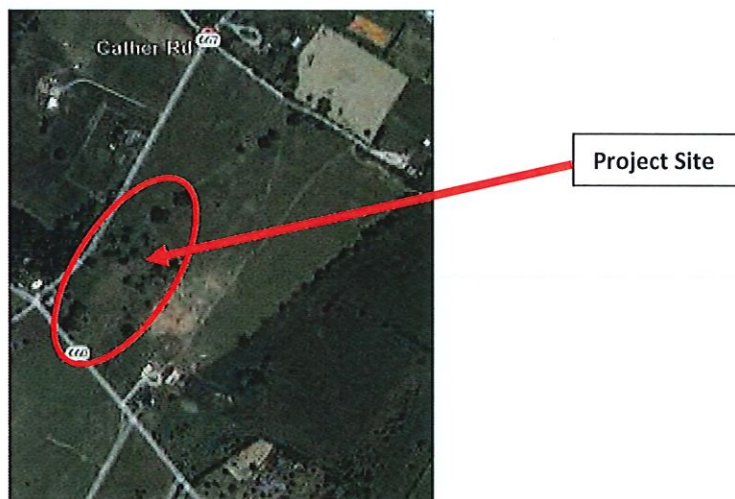


Figure 1

Within the provided report, four east-west electrical resistivity (ER) lines were performed across the proposed septic fields (Figure 2). Depths to bedrock appears to be 10 to 25 feet under the approved drainage field areas and trends deeper from east to west orientation. The geophysical survey indicated no major Karst features within 50 feet of the proposed septic fields as required by the County Ordinance. Rock outcrops were observed approximately 40-feet to the east and west of the proposed septic drainage fields.

Corporate Headquarters - Annapolis Junction, MD

Maryland ♦ Washington, DC ♦ Delaware ♦ Pennsylvania ♦ Virginia ♦ Caribbean

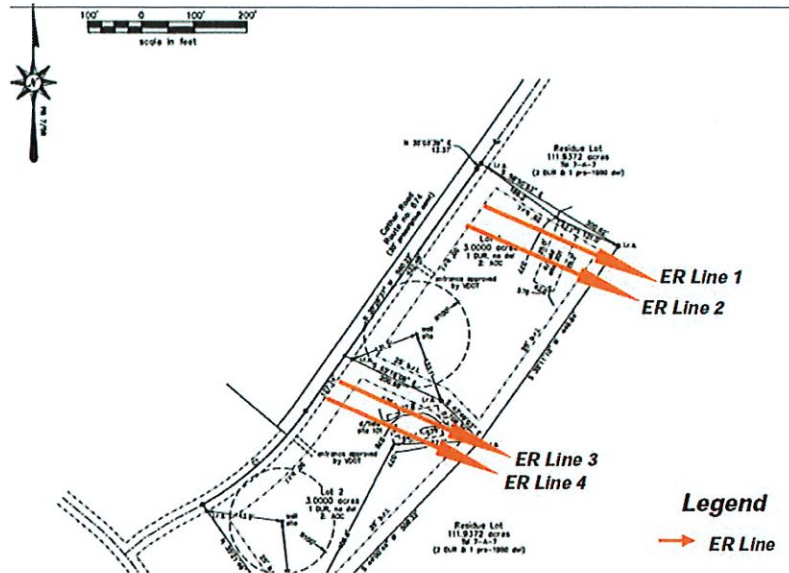


Figure 2 (Excerpt from FES Report)

The report was evaluated for the following parameters as required by the ordinance:

Dipole-Dipole Electrical Survey Minimum Parameters	Review Compliance Findings
Two lines performed	Yes
Lines orientated perpendicular to regional geologic strike	Yes
20-feet of survey results at the end of lines	Yes
200 soundings per line	Yes
40-foot depth in the area to be evaluated	Yes
Report Minimum Parameters	
Directional orientation, site map, color profiles, identifying hazards, consistent color scale, treatment area identified	Yes
Amount of overburden	Yes
Elevations	Yes
Geologic structure	Yes
Low, moderate, high-risk evaluation	Yes
Other	N/A

Based on our review of the report, it meets the minimum parameters as defined within the County Ordinance for septic fields. In addition, no geologic features were noted within the geophysical study as such FES deemed a low risk for potential collapse with subsequent impact to the groundwater.

Our review has been prepared for the exclusive use of the project site. Our services were performed in accordance with contemporary geophysical engineering practices. No warranty, either expressed or implied, is made. Our review is based on design information furnished to us.



It is important to note that our review was done in an effort to assist planning and design personnel in the preparation of generalized drawings and specifications for the project. As a result of this, potential contractors should be encouraged to conduct their own individually tailored studies to assess surface conditions, soil types, and conditions, rock levels and conditions, excavation slope gradients, and ground water/perched water levels and conditions.

We appreciate the opportunity to provide our professional review of this project. Should you have any questions regarding our findings, please do not hesitate to contact our office.

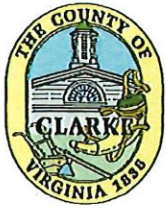
Sincerely,  
**HILLIS-CARNES ENGINEERING ASSOCIATES, INC.**



Cindy S. Shepeck  
Senior Geologist  
[cshepeck@hcea.com](mailto:cshepeck@hcea.com)



Rajesh Goel, P.E  
Regional Manager  
[rgoel@hcea.com](mailto:rgoel@hcea.com)



**Clarke County Planning Department**  
101 Chalmers Court, Suite B  
Berryville, Virginia 22611  
(540) 955-5132  
www.clarkecounty.gov

August 31, 2023

Lindsay Paice  
898 Westwood Road  
Berryville, VA 22611

RE: Resistivity Test  
Tax Map# 7-A-7; Cather Road

A resistivity test was conducted on the property described above, and a report generated by Forrest Environmental Services, Inc. in August 2023 defined as Project Number 23202. The test results were sent to CTL Engineering, Inc. for review.

Based on the engineer's report and the Hillis-Carnes Engineering Associate, Inc. review (Project H23085) dated August 28, 2023, this site passes the resistivity test, and if all other requirements are met, may be issued a permit by the Health Department.

If you have any questions or concerns regarding this information, please call the Planning Department at (540) 955-5132.

Sincerely,

A handwritten signature in blue ink that reads "Kristina Maddox".

Kristina Maddox  
Clarke County Office Manager / Zoning Officer

c. Clarke County Health Department



Help us better serve our community by recommending us to your friends and family!

[Refer a friend](#)

Invoice #1232

Paid

For Services Rendered

**Lindsay Pace**  
934 Russell Road Berryville, Virginia 22611  
7034746392

Issued  
Oct 30, 2023

Due  
Oct 30, 2023

Paid  
Oct 30, 2023

**Pump out of cess pool**

Pump out and inspection of existing cess pool.

QTY.	UNIT PRICE	TOTAL
1	\$450.00	\$450.00

Subtotal

\$450.00

Total

\$450.00

Paid

-\$450.00

**Invoice balance**

**\$0.00**

Thank you for your business.

November 15, 2023

Mr. Brandon Stidham  
Director of Planning Clarke County  
101 Chalmers Court, Suite B  
Berryville, VA 22611

10228 Governor Lane Blvd.  
Suite 3007  
Williamsport, MD 21795  
Phone (301) 582-4662  
Fax (301) 582-4614  
www.hcea.com

Re: Geophysical Report Review  
**934 Russell Road**  
Tax Map No.: 7-A-7  
Berryville, Virginia  
HCEA Project Number: H23085

Mr. Stidham:

Hillis-Carnes Engineering Associates, Inc. (HCEA) is pleased to submit this technical review services for the above referenced project. This review has been performed utilizing Clarke County's Septic Ordinance dated December 21, 2021, to assess if the provided report meets the general intent of the requirements. The document provided by your office for our review was prepared by Forrest Environmental Services, Inc. (FES) dated October 2023, FES Project Number: 23227.

The project site is located along the northern portion of Russell Road; to the east of the intersection of Cather Road and Russell Road in Berryville, Virginia. (Figure 1).

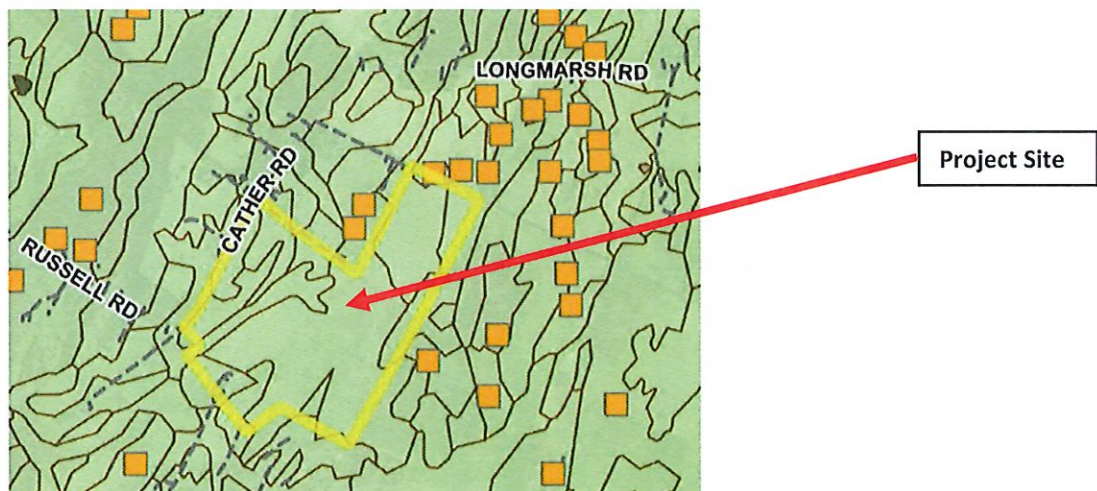


Figure 1

Within the provided report, two roughly southeast-northwest electrical resistivity (ER) lines were performed across the proposed septic fields (Figure 2). Depths to bedrock appears to be between 15 to 20 feet under the approved drainage field areas. The geophysical report indicated six minor to moderate Karst floats were noted on the ER Lines, with three floats located within the proposed septic areas. The remaining three floats were located outside to the east and west of the septic areas.

Corporate Headquarters - Annapolis Junction, MD

Maryland ♦ Washington, DC ♦ Delaware ♦ Pennsylvania ♦ Virginia ♦ Caribbean

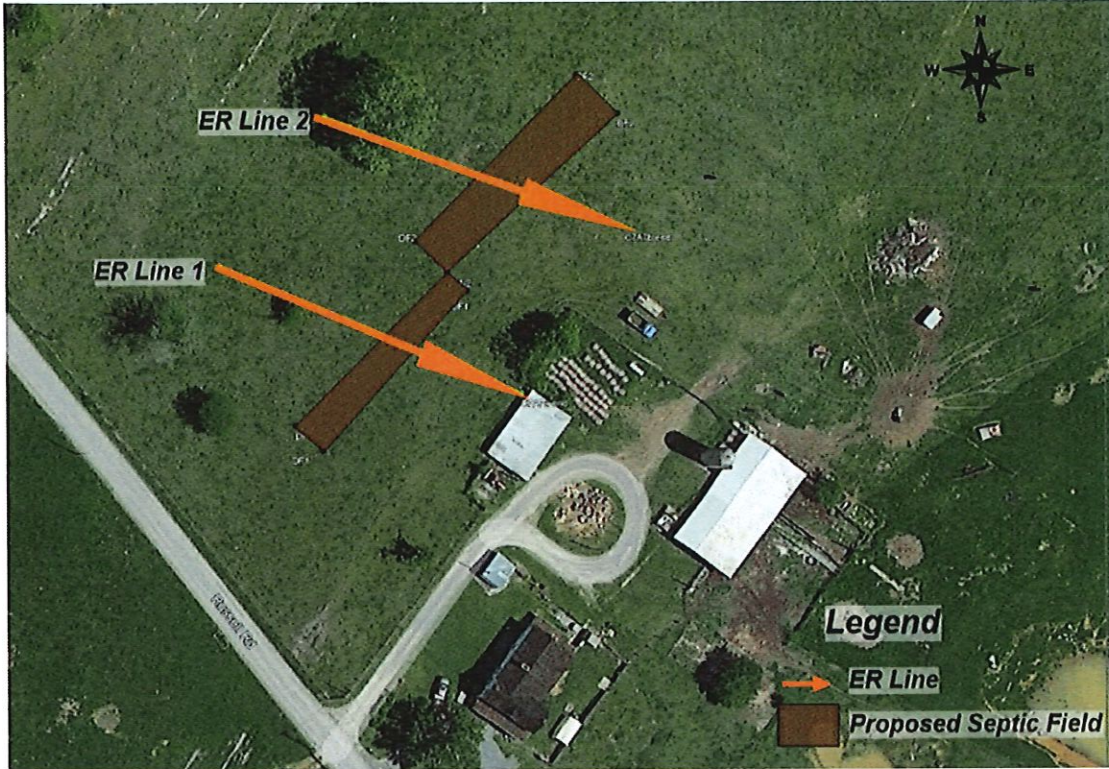


Figure 2 (Excerpt from FES Report)

According to the report, six (6) minor Karst features were located within 50 feet of the proposed septic fields as required by the County Ordinance. Two rock outcrops were observed within 40 feet of the septic fields. In addition, it appears that shallow rock is present within ER line 1 image which may impact infiltration parameters of a septic field.

The report was evaluated for the following parameters as required by the ordinance:

Dipole-Dipole Electrical Survey Minimum Parameters	Review Compliance Findings
Two lines performed	Yes
Lines orientated perpendicular to regional geologic strike	Yes
20-feet of survey results at the end of lines	Yes
200 soundings per line	Yes
40-feet depth in the area to be evaluated	Yes
Report Minimum Parameters	
Directional orientation, site map, color profiles, identifying hazards, consistent color scale, treatment area identified	Yes
Amount of overburden	Yes
Elevations	Yes
Geologic structure	Yes
Low, moderate, high-risk evaluation	Yes
Other	Site location incorrect in the introduction section, references Cather Road

Based on our review of the report, it does meet the minimum parameters as defined within the County Ordinance for septic fields.

Our review has been prepared for the exclusive use of the project site. Our services were performed in accordance with contemporary geophysical engineering practices. No warranty, either expressed or implied, is made. Our review is based on design information furnished to us.

It is important to note that our review was done in an effort to assist planning and design personnel in the preparation of generalized drawings and specifications for the project. As a result of this, potential contractors should be encouraged to conduct their own individually tailored studies to assess surface conditions, soil types, and conditions, rock levels and conditions, excavation slope gradients, and ground water/perched water levels and conditions.

We appreciate the opportunity to provide our professional review of this project. Should you have any questions regarding our findings, please do not hesitate to contact our office.

Sincerely,

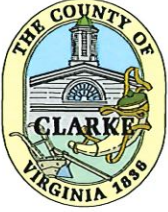
**HILLIS-CARNES ENGINEERING ASSOCIATES, INC.**



Cindy S. Shepeck  
Senior Geologist  
[cshepeck@hcea.com](mailto:cshepeck@hcea.com)



Rajesh Goel, P.E  
Regional Manager  
[rgoel@hcea.com](mailto:rgoel@hcea.com)



## Clarke County Planning Department

101 Chalmers Court, Suite B

Berryville, Virginia 22611

(540) 955-5132

[www.clarkecounty.gov](http://www.clarkecounty.gov)

November 16, 2023

Lindsay Paice  
898 Westwood Road  
Berryville, VA 22611

RE: Resistivity Test  
Tax Map# 7-A-7; 934 Russel Road

A resistivity test was conducted on the property described above, and a report generated by Forrest Environmental Services, Inc. in October 2023 defined as Project Number 23227. The test results were sent to Hillis-Carnes for review.

Based on the engineer's report and the Hillis-Carnes Engineering Associate, Inc. review (Project H23085) dated November 15, 2023, this site passes the resistivity test, and if all other requirements are met, may be issued a permit by the Health Department.

If you have any questions or concerns regarding this information, please call the Planning Department at (540) 955-5132.

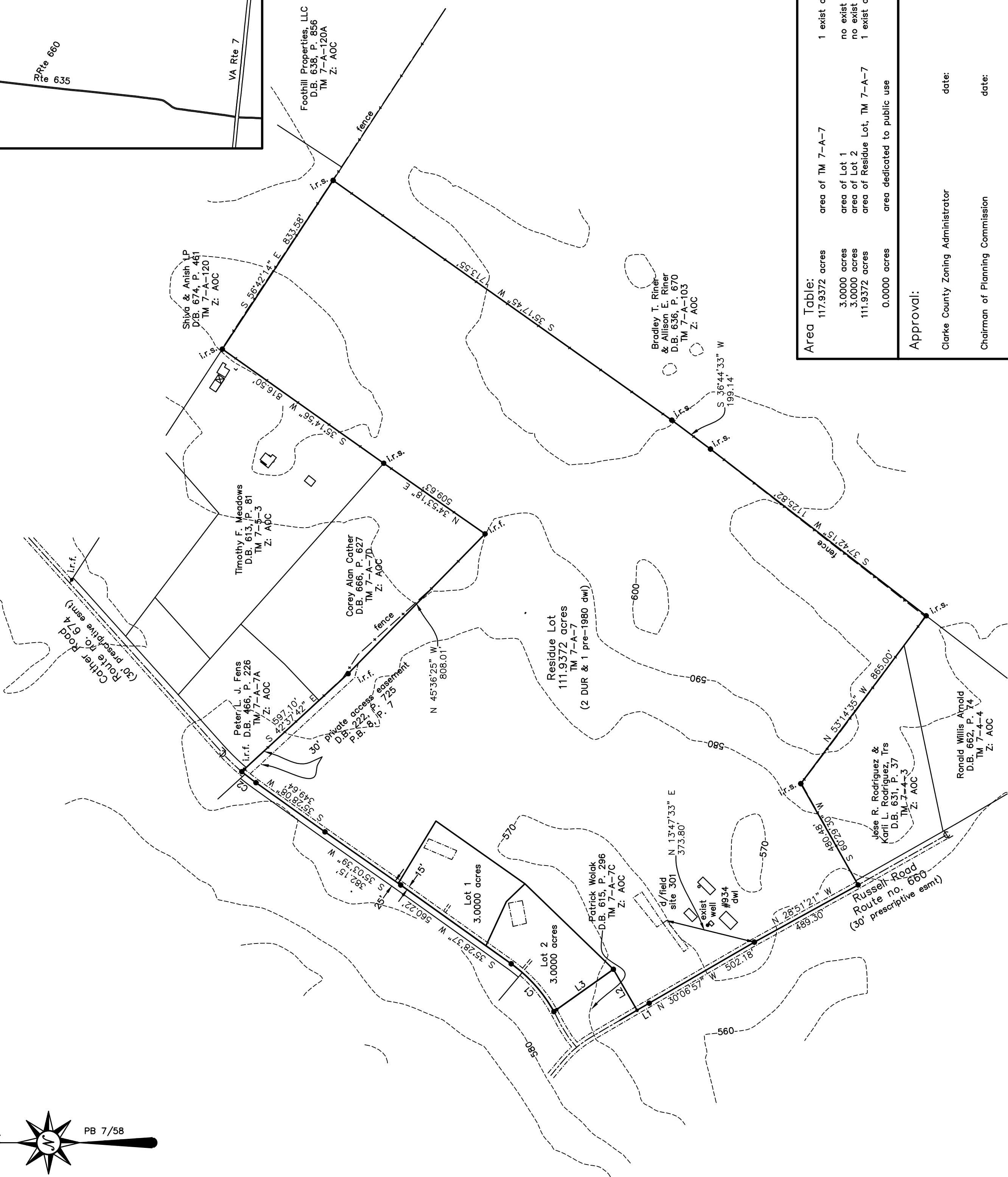
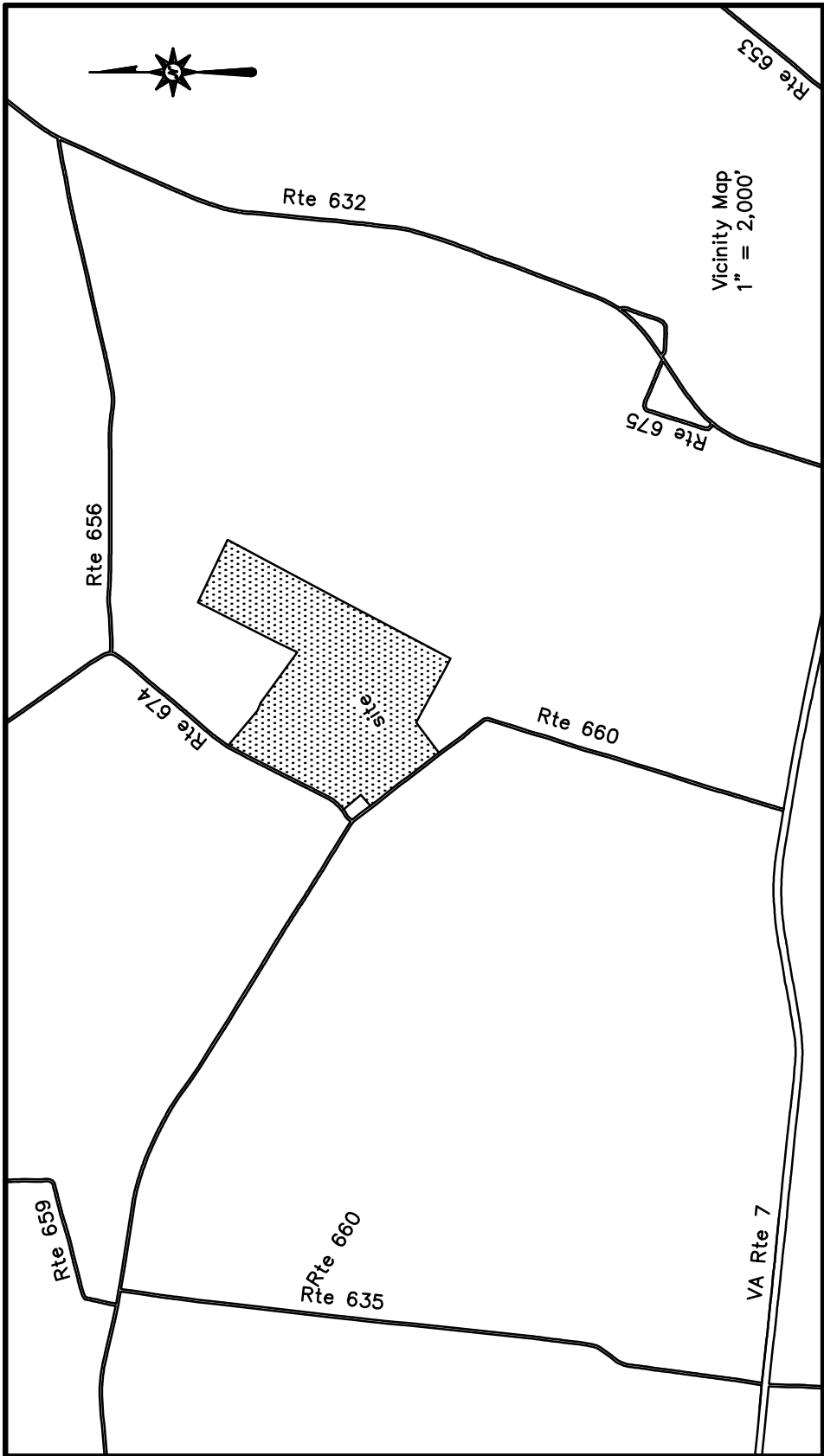
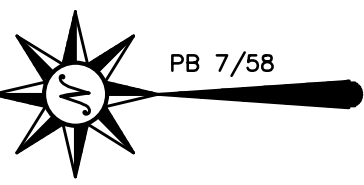
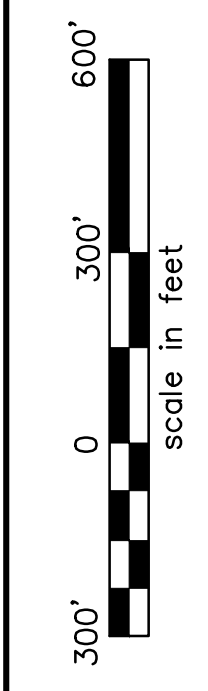
Sincerely,

A handwritten signature in black ink that reads "Kristina Maddox".

Kristina Maddox  
Clarke County Office Manager / Zoning Officer

c. Clarke County Health Department

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	TANGENT
C1	600.00'	266.99'	264.79'	N 48°13'29" E	25°29'44"	135.74'
C2	900.00'	74.40'	74.38'	S 37°50'14" W	4°44'11"	37.22'
LINE	BEARING	DISTANCE				
L1	N 30°19'20" W	57.79'				
L2	N 60°00'23" E	195.06'				
L3	N 35°21'49" W	301.65'				

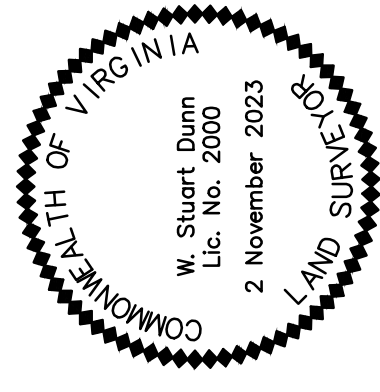


Minor Subdivision of the Land of  
**Corey A. Cather**  
 Deed Book 712, Page 298 Tax Map 7-A-7  
 Longmarsh Magisterial District, Clarke County, Virginia

Area Table:	area of TM 7-A-7	1 exist dwl, 4 DUR
117.9372 acres	area of Lot 1	no exist dwl, 1 DUR
3.0000 acres	area of Lot 2	no exist dwl, 1 DUR
111.9372 acres	area of Residue Lot, TM 7-A-7	1 exist dwl, 2 DUR
0.0000 acres	area dedicated to public use	

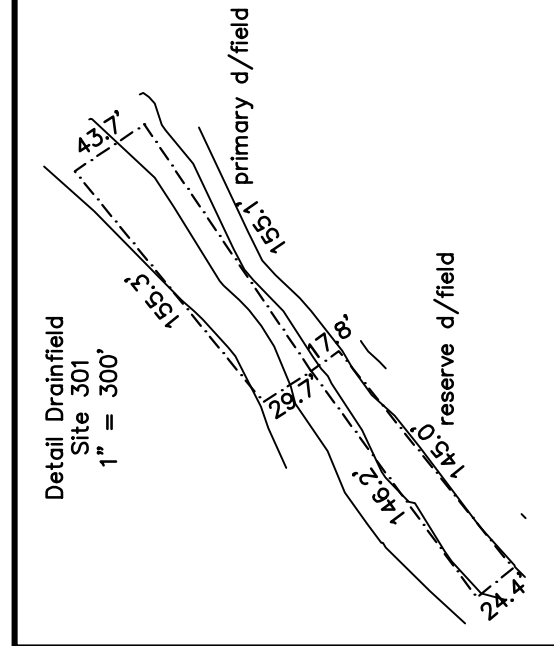
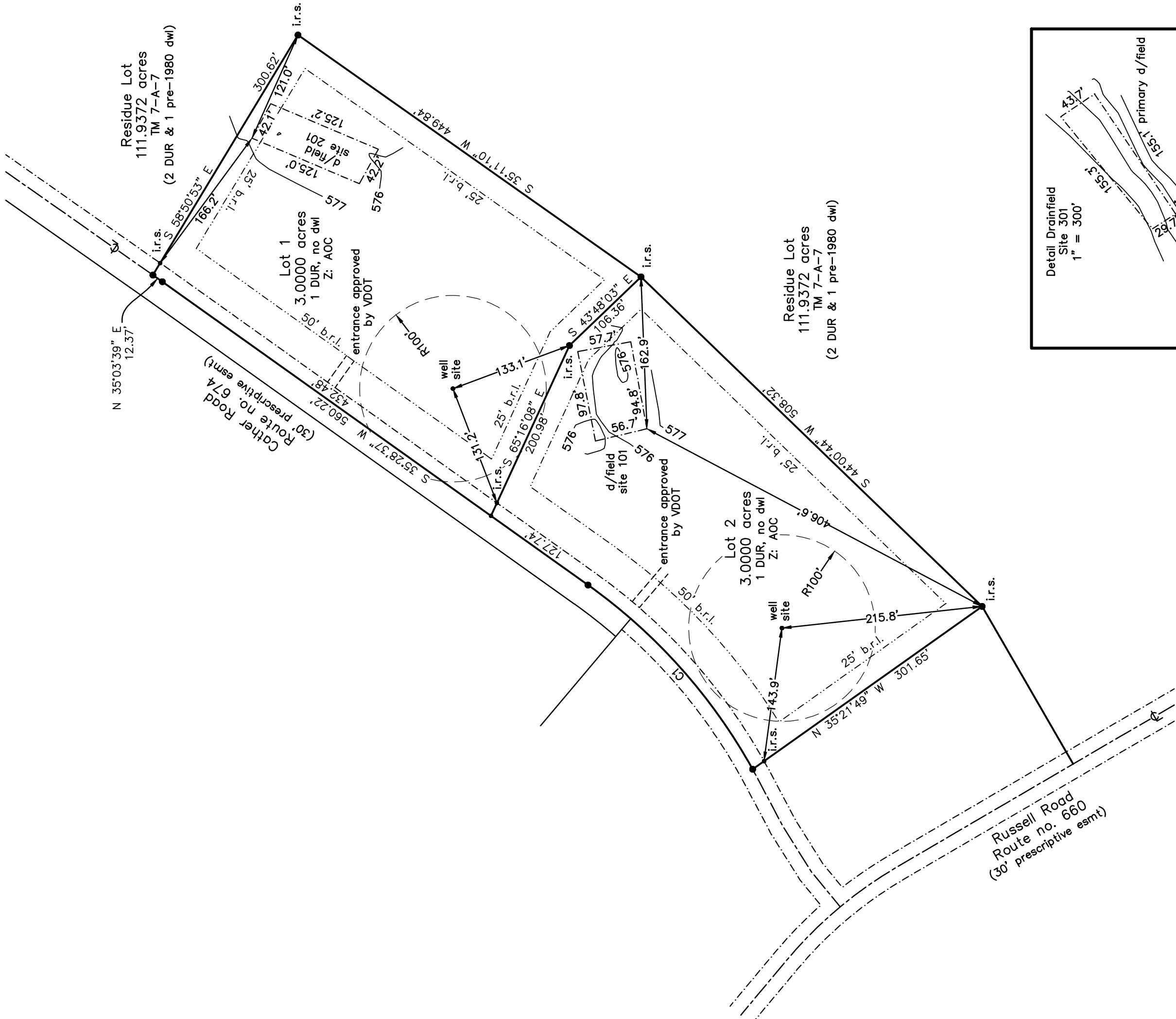
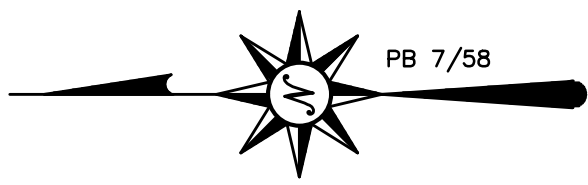
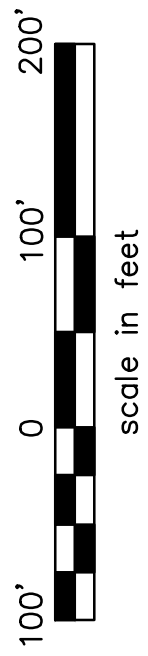
  

Approval:	Clarke County Zoning Administrator	date:
	Chairman of Planning Commission	date:
	Clarke County Health Department	date:



Dunn Land Surveys, Inc.  
 106 North Church Street  
 Berryville, Virginia 22611  
 Tel: 540-955-3388  
 13 July 2023  
 rev 2 November 2023





**Surveyor's Certificate:** I, W. Stuart Dunn, a duly Licensed Land Surveyor in the Commonwealth of Virginia, do hereby certify that the land herein subdivided stands in the names of Corey A. Cather, and was acquired by him stated in the Owner's Certificate. I certify that the tracts of land are property and accurately described and are within the boundaries of the original tracts and are referenced to the meridian established in Plat Book 7, Page 58. I further certify that the property corners shown hereon have been set in accordance with the Subdivision Ordinance of Clarke County, Virginia.

W. Stuart Dunn, QLS #2000  
Berryville, Virginia

**Owner's Certificate:** The undersigned fee simple owner hereby certifies that the foregoing Minor Subdivision 117.9372 acres, being Tax Map 7-A-7, recorded in the name of Corey A. Cather in deed recorded in Deed Book 712, Page 298, is made with the free consent and in accordance with the desires of the undersigned owner of said land, and trustees if any, and the same is hereby confirmed and submitted for record in the Office of the Clerk of the Circuit Court of Clarke County, Virginia.

Corey A. Cather  
340 Cather Road, Berryville, VA 22611

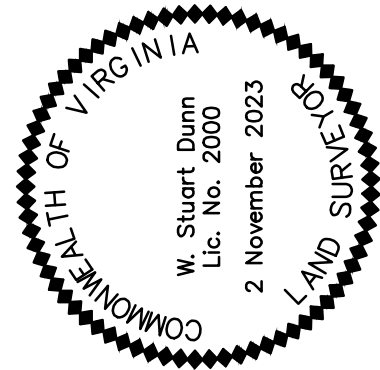
State of Virginia, County of Clarke, to wit: I, *Corey A. Cather*, a Notary Public for the County of Clarke, in the State of Virginia, do hereby certify that Corey A. Cather, whose name is signed in the Owner's Certificate, has acknowledged the same before me this *13* day of *July*, 2023.

My commission as Notary expires: \_\_\_\_\_ Notary Public

**Notes:**

- (1) These lands are in Flood Zone X, established from FIRM Community Panel no. 5104300035D, effective September 28, 2007.
- (2) Lots 1 and 2, each have 3.0000 acres, no existing dwelling and 1 DUR. The Residue Lot, 111.9372 acres, has one pre-1980 dwelling and 2 remaining DUR.
- (3) Zoned: AOC (agricultural - open space - conservation); use: residential/agricultural.
- (4) Building setbacks for both lots as follows:  
Lots 1 and 2: 50' from the centerline of Route no. 674, Cather Road, 25' from all property lines, 50' from any intermittent stream, 100' from any perennial stream, spring or sinkhole.  
Residue Lot: 100' from the centerline of Route no. 674, Cather Road, and Route no. 660, Russell Road, 75' from all property lines, 50' from any intermittent stream, 100' from any perennial stream, spring or sinkhole.
- (5) These parcels are in the AOC (agricultural - open space - conservation) Zoning District. Agriculture is the primary economic activity of this zoning district. Owners, residents, other users of property in the AOC District may be subjected to inconvenience, discomfort and the possibility of injury to property and health arising from agricultural operations even though conducted with best management practices and/or in accordance with existing laws and regulations of the Commonwealth and County. Such agricultural operations may generate noise, odors and dust, may involve the operation of machinery, including aircraft, the storage and disposal of manure, the application of fertilizer, soil amendments and pesticides. Owners, occupants and users of land in the AOC District should be prepared to accept such inconvenience or discomfort as a normal and necessary aspect of living in a zoning district in a county with a strong rural character and an active agricultural sector.
- (6) i.r.s. = iron rod set; i.r.f. = iron rod found; dwl = dwelling; DUR = dwelling unit right; d/field = drainfield; b.r.l. = building restriction line
- (7) Vegetated property buffer except for those land uses listed as exempt, existing woody vegetation within 25' of all property lines shall be retained on parcels of less than 20 acres, as per Section 3-A-1-f of the Clarke County Zoning Ordinance.
- (8) Before fertilizers and pesticides are used for lawn or landscaping purposes, a soil test should be conducted. The application of such chemicals shall be limited due to the potential for groundwater contamination and should not exceed that determined necessary by the soil test.
- (9) Drainfield Site 201, Lot 1, is an alternative system primary and reserve, approved for 3 bedrooms with a maximum occupancy of 6 people and 450 gallons per day. (alternative system, gravel trench, drip)  
Drainfield Site 101, Lot 2, is an alternative system primary and reserve, approved for 3 bedrooms with a maximum occupancy of 6 people and 450 gallons per day. (alternative system, gravel trench, drip)  
Drainfield Site 301, Residue Lot, is a conventional primary field with alternative reserve field (alternative system, gravel trench, drip), approved for 3 bedrooms with a maximum occupancy of 6 people and 450 gallons per day.
- (10) This plot of Minor Subdivision is to be recorded within six months of the date of approval. Else it shall become null and void.

Minor Subdivision of the Land of  
*Corey A. Cather*  
Deed Book 712, Page 298 Tax Map 7-A-7  
Longmarsh Magisterial District, Clarke County, Virginia



Dunn Land Surveys, Inc.  
106 North Church Street  
Berryville, Virginia 22611  
Tel: 540-955-3388  
13 July 2023  
rev 2 November 2023

**PROJECTED UPCOMING AGENDA ITEMS, DECEMBER 2023 – MARCH 2024  
(12/1/2023 Business Meeting)**

**DECEMBER**

**COMMITTEE MEETINGS**

**Comprehensive Plan Committee (Thursday, December 14 at 2:30PM):**

- Rural Lands Plan (continued discussion) – White Post village

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**JANUARY 2024**

**COMMITTEE MEETINGS**

**Comprehensive Plan Committee (to be scheduled):**

- Rural Lands Plan (continued discussion)

**JANUARY 2, 2024 WORK SESSION/ORGANIZATIONAL MEETING**

- Election of Officers: Chair and Vice Chair
- 2024 Committees and Member Assignments
- Review and Adoption of 2024 Meeting Schedule
- Review and Adoption of 2024 By-Laws
- Review and Adoption of 2024 Project Priorities
- Transportation Plan Update -- status of VDOT review

**JANUARY 5, 2024 BUSINESS MEETING**

**Schedule Public Hearings:**

- SUP-23-01/SP-23-01, Blake & Tamara Bullard (TBD)
- SUP-23-02/SP-23-02, John Miller (Watermelon Park)

**Continued Public Hearing:**

- SUP-22-01/SP-22-02, Horus Virginia I, LLC/Bellringer Farm, LLC

**Minor Subdivisions:**

- MS-23-08, Regan Partnership, LP
- MS-23-09/MLSE-23-04, Adam R. Foster/Rockwood Riverside, LLC
- MS-23-11, Nathan Markee

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**FEBRUARY 2024**

**COMMITTEE MEETINGS**

**Comprehensive Plan Committee (to be scheduled):**

- Rural Lands Plan (continued discussion)

**JANUARY 30, 2024 WORK SESSION (anticipated date):**

- Transportation Plan Update – review Final Draft for Public Hearing

**FEBRUARY 2, 2024 BUSINESS MEETING (anticipated date):**

**Schedule Public Hearing:**

- Transportation Plan Update

**Public Hearings:**

- SUP-23-01/SP-23-01, Blake & Tamara Bullard (TBD)
- SUP-23-02/SP-23-02, John Miller (Watermelon Park)

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**MARCH 2024**

**COMMITTEE MEETINGS**

**Comprehensive Plan Committee (to be scheduled):**

- Rural Lands Plan (continued discussion)

**FEBRUARY 27, 2024 WORK SESSION (anticipated date):**

- No items currently identified

**MARCH 1, 2024 BUSINESS MEETING (anticipated date):**

**Public Hearing:**

- Transportation Plan Update