

**CLARKE COUNTY PLANNING COMMISSION
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June 3, 2022 Business Meeting**

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Clarke County Planning Commission

AGENDA – Business Meeting

Friday, June 3, 2022 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

1. **Approval of Agenda**
2. **Approval of Minutes**
 - A. May 3, 2022 Work Session
 - B. May 6, 2022 Business Meeting

Boundary Line Adjustment Application

3. **BLA-22-06, Gary W. & Joanne B. Hornbaker/Douglas & Laura Gansler.** Request approval of a boundary line adjustment between an existing residential lot and an existing agricultural lot. The proposed boundary line adjustment would increase the size of the residential lot from 3.0 acres to 3.5723 acres and would decrease the size of the agricultural lot from 125.3757 acres to 124.8034 acres. The properties are identified as Tax Map #9-A-54 and 9-A-55, are located on the north side of Lord Fairfax Highway (US 340) between the railroad crossing and West Virginia state line, Russell Election District, and zoned Agricultural-Open Space-Conservation (AOC).

Schedule Public Hearing

4. **2022 Clarke County Comprehensive Plan**
5. **TA-22-03, Historic (H) District Review Criteria for Demolitions**

Board and Committee Reports

6. **Board and Committee Reports**
 - Board of Supervisors (Matthew Bass)
 - Board of Septic & Well Appeals (George Ohrstrom, II)
 - Board of Zoning Appeals (Anne Caldwell)
 - Historic Preservation Commission (Bob Glover)
 - Conservation Easement Authority (George Ohrstrom, II)
 - Broadband Implementation Committee (Brandon Stidham)

Other Business

7. **Overview of Upcoming Meeting Items**

Adjourn

UPCOMING MEETINGS:	
Comprehensive Plan Committee	Thursday, June 16 (2:00PM) – Main Meeting Room
Commission Work Session	Tuesday, June 28 (3:00PM) -- Main Meeting Room
Commission Business Meeting	Friday, July 1 (9:00AM) -- Main Meeting Room
Ordinances Committee	Meeting to be scheduled, early/mid July
Plans Review Committee	Meeting scheduling to be determined
Policy & Transportation Committee	Meeting to be scheduled, mid/late July



Clarke County Planning Commission

DRAFT MEETING MINUTES – Work Session

Tuesday, May 3, 2022 – 3:00PM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓E	Pearce Hunt (Russell)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Scott Kreider (Buckmarsh)	X
Matthew Bass (Board of Supervisors)	✓	Frank Lee (Berryville)	✓
Anne Caldwell (Millwood)	✓	Gwendolyn Malone (Berryville)	✓
Buster Dunning (White Post)	X	Doug Lawrence (BOS alternate)	X
Robert Glover (Millwood)	✓		

E – Denotes electronic participation

NOTE: George L. Ohrstrom, II participated electronically due to health issues related to the current pandemic.

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

CALL TO ORDER: By Mr. Stidham at 3:00PM.

Approval of Agenda

The Commissioners had no additions to the May 3, 2022 agenda.

Review of May 6, 2022 Business Meeting Agenda Items

Mr. Stidham stated that two public hearings are scheduled as the main topics. He then reviewed the staff reports for **TA-22-01** (Unpaid Taxes and Charges) and **TA-22-02** (Mergers and DUR Accounting). When asked by Chair Ohrstrom if anyone from the public had reached out to Staff with questions or input on either text amendment Mr. Stidham replied no. There were no questions from the Commission regarding either text amendment.

Mr. Stidham proceeded with the Comprehensive Plan Draft presentation and noted the provision of a clean and redlined version of the drafts in the packet. Members had no comments or questions on the presentation. He said the next step is to finalize the draft and set public hearing. He recommends the Commission take the month of May to review and gather their thoughts and set public hearing at the June 3, 2022 Business Meeting for July. He said holding a public hearing in the evening would be best and suggested June 29, 2022 as a potential date. He noted it is possible to set public hearing in late May as well.

Commissioner Glover asked if changes could still be made even if the public hearing was in late May. Mr. Stidham replied that if the changes were not substantial and only minor wordsmithing changes, he did not think we would need to reopen a public hearing and that it would also be possible to continue the hearing. Chair Ohrstrom believes continuing the public hearing is the best option as opposed to closing the public hearing and making changes to the final draft. Mr. Stidham commented that if a public hearing is set for late June and the goal to have a recommendation to move forward in July, that it does not allow extra time to deliberate public comments. He suggested that it may be best for the Commission

to get it done until everyone unanimously agrees on the draft before it is sent out for public comment. Chair Ohrstrom agreed with the suggestion and asked the Commissioners their thoughts and feedback with the plan. Mr. Stidham said the drawback to a late May public hearing is that Commissioners do not have as much time to get comfortable with the draft. Chair Ohrstrom said that it might be best for the Commission to hash out the draft before scheduling the public hearing. He added that it takes a lot of time to read through the material and ask cogent questions. Commissioner Bass asked if an option could be to set public hearing for the end of May, continue the discussion on Friday, have the Commissioners direct their questions to Staff, Staff would alert the Commissioners via email of any public concerns prior to the public hearing, and that the public hearing would be held and continued if needed. Chair Ohrstrom asked if the citizens should get more time to review the draft before the public hearing. Mr. Stidham responded that he does not think it will affect the timeline either way but wants to ensure Commissioners are comfortable with the language. He added that if there are specific concerns, those edits can be included in the June workshop draft in order to have a fully edited draft for the business meeting and to set public hearing. Chair Ohrstrom liked that idea. Commissioner Glover asked about the time allotment for advertising, which is two consecutive weeks according to Mr. Stidham. To reiterate the plan, Mr. Stidham said the Commission will use the upcoming Friday Business Meeting to address questions or comments, allow the month of May for a detailed review, and look to set public hearing in June.

Old Business Items

None

New Business Items

None

Other Business

None

ADJOURN: The May 3, 2022 Planning Commission Work Session adjourned by consensus at 4:06PM.

Randy Buckley (Vice-Chair)

Kristina Maddox (Clerk)



Clarke County Planning Commission

DRAFT MEETING MINUTES – Business Meeting

Friday, May 6, 2022 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓ E	Pearce Hunt (Russell)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Scott Kreider (Buckmarsh)	✓
Matthew Bass (Board of Supervisors)	✓	Frank Lee (Berryville)	✓
Anne Caldwell (Millwood)	✓	Gwendolyn Malone (Berryville)	✓
Buster Dunning (White Post)	X	Doug Lawrence (BOS alternate)	X
Robert Glover (Millwood)	✓		

E – Denotes electronic participation

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

OTHER PRESENT: None.

CALL TO ORDER: By Chair Ohrstrom at 9:03AM.

1. Approval of Agenda

The Commission voted 9-0-1 to approve the agenda for May 6, 2022 as presented by Staff.

Motion to approve the May 6, 2022 Planning Commission Business Meeting agenda as presented by Staff:			
Ohrstrom (Chair)	AYE	Glover	AYE
Buckley (Vice-Chair)	AYE	Hunt	AYE
Bass	AYE	Kreider	AYE (Seconded)
Caldwell	AYE	Lee	AYE
Dunning	ABSENT	Malone	AYE (Moved)

2. Approval of Minutes

March 29, 2022 Work Session

The Commission voted 9-0-1 to approve the March 29, 2022 Work Session meeting minutes as presented by Staff.

Motion to approve the March 29, 2022 Planning Commission Work Session meeting minutes as presented by Staff:			
Ohrstrom (Chair)	AYE	Glover	AYE
Buckley (Vice-Chair)	AYE	Hunt	AYE
Bass	AYE	Kreider	AYE
Caldwell	AYE (Moved)	Lee	AYE
Dunning	ABSENT	Malone	AYE (Seconded)

April 1, 2022 Business Meeting

The Commission voted 9-0-1 to approve the April 1, 2022 Business Meeting minutes as presented by Staff.

Chair Ohrstrom asked for clarification regarding Solar Farm Regulations discussed under “Other Business” on page 10 of 17. He questioned Mr. Stidham’s statement about new siting agreement regulations in the Code of Virginia and asked for more information on the comment, “He explained that it is written broadly so that the county can almost accept cash proffers without the limitations on negotiating cash proffers.” Mr. Stidham explained that the siting agreement process is very similar to rezoning cash proffer negotiations except there are no limitations on how you can approach the applicant. Currently, he said, there are certain approaches to the applicant that are acceptable so as not to suggest an illegal proffer and cloud the review of the application. Chair Ohrstrom pointed out another line for clarification that reads, “if a payment deal with the solar company along with a siting agreement is accepted, it essentially deems the solar project to be in accord with that county’s comprehensive plan.” Mr. Stidham explained that the siting agreement negotiation process would be done parallel to but independent of the zoning review. He further explained that the legislation says if the siting agreement is accepted, it also deems the project to be in accord with the Comprehensive Plan and that the Board of Supervisors is the ultimate body to approve and accept the siting agreement. Additionally, he said that the application could not be turned down based on the grounds that it is not in accordance to the Comprehensive Plan, however, it can be denied on technical grounds. Chair Ohrstrom, Commissioner Malone, and Commissioner Lee agreed that it was confusing.

Motion to approve the April 1, 2022 Planning Commission Business Meeting minutes as presented by Staff:			
Ohrstrom (Chair)	AYE	Glover	AYE
Buckley (Vice-Chair)	AYE	Hunt	AYE
Bass	AYE	Kreider	AYE
Caldwell	AYE (Moved)	Lee	AYE
Dunning	ABSENT	Malone	AYE (Seconded)

Public Hearings

3. TA-22-01, Unpaid Taxes and Charges

Mr. Stidham presented the Staff Report on this text amendment. Chair Ohrstrom asked if this amendment would only include county liens and not contract liens and Mr. Stidham replied yes. There were no further questions or comments from the Commissioners and no one from the public was present to speak.

The Commission voted 9-0-1 to recommend adoption of **TA-22-01**, Unpaid Taxes and Charges as presented by Staff.

Moved to recommend adoption of text amendment <u>TA-22-01</u>, Unpaid Taxes and Charges as presented by Staff:			
Ohrstrom (Chair)	AYE	Glover	AYE
Buckley (Vice-Chair)	AYE (Seconded)	Hunt	AYE
Bass	AYE	Kreider	AYE (Moved)
Caldwell	AYE	Lee	AYE
Dunning	ABSENT	Malone	AYE

4. TA-22-02, Mergers and Dwelling Unit Right (DUR) Accounting

Mr. Stidham presented the Staff Report for this text amendment. There were no questions from the Commissioners and no one from the public attended the meeting.

The Commission voted 9-0-1 to recommend adoption of TA-22-02, Mergers and Dwelling Unit Right (DUR) Accounting as presented by Staff.

Moved to recommend adoption of <u>TA-22-02</u>, Mergers and Dwelling Unit Right (DUR) Accounting as presented by Staff:			
Ohrstrom (Chair)	AYE	Glover	AYE
Buckley (Vice-Chair)	AYE	Hunt	AYE
Bass	AYE	Kreider	AYE
Caldwell	AYE (Moved)	Lee	AYE (Seconded)
Dunning	ABSENT	Malone	AYE

5. Board and Committee Reports

Board of Supervisors (Matthew Bass)

Commissioner Bass announced that the Board of Supervisors adopted the budget. He said there were no major changes but there were expected increases to transient occupancy tax, cigarettes, and meals to take advantage of revenue sources that the state has permitted. He said that the overall picture is to keep things like real estate taxes down.

It was noted by Commissioner Bass that one issue discussed was regarding county-owned land called the Kohn Property. He said the property was purchased with the idea of walking trails for public use, however, the trails are close to adjacent properties which has neighbors concerned. He said it may need a special use permit but that he was not clear what will happen as there are various alternatives. Commissioner Hunt asked if it was a large property and Mr. Stidham replied that it was 40-50 acres. Chair Ohrstrom commented that there is a conservation easement on it and said it was donated with the idea that it would be a passive recreation area for County residents. Mr. Stidham added that once features for public use are involved, a special use permit and site plan are needed. Chair Ohrstrom asked if that was a conflict with the existing easement. Mr. Stidham replied that passive use elements were contemplated when the easement was done and that it was a matter of as new ideas come up to compare these against the deed of easement.

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

Nothing to report

Board of Zoning Appeals (Anne Caldwell)

Mr. Camp notified the Commission that the Legge case had a court hearing on April 20th and that the County won the argument. He said Mr. Legge has until Friday, January 13th to come into compliance and that he is working on a proposal to alter the garage to the proper setbacks or tear down the building. Commissioner Glover asked how far off the setbacks the garage is to which Mr. Camp replied that it was 14.1 feet encroaching into the setback off the highway. Mr. Stidham and Commissioner Bass said Mr. Legge could appeal the court's decision and Commissioner Caldwell asked where that would lead. Commissioner Bass replied the case would go to the State Court of Appeals. Chair Ohrstrom added that Mr. Legge would have 30 days to appeal. Mr. Camp confirmed and said that our attorney does not believe that will happen but that Mr. Legge does have that right within that period of time. Commissioner Glover asked how big the garage was to which Mr. Camp answered he was not sure of the exact measurements but that the garage was fairly large. Commissioner Caldwell commented that it was just a corner of the building that invades the setback requirement. Mr. Stidham commented that the part that has yet to be addressed is the fact that the building is also in violation of the approved design that was originally approved by the Historic Preservation Commission (HPC). He said Mr. Legge originally provided a surveyed site sketch and also architectural renderings that the HPC approved but the final outcome did not relay either.

Historic Preservation Commission – HPC (Bob Glover)

Commissioner Glover noted the last meeting was in March and that the annual HPC Award ceremony coming up in May.

Mr. Camp said the consultants continue to work on the Battle of Berryville and that they plan to address the HPC's comments at the end of May. He added that Ms. Kalbian continues to work on her book which is due in July.

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

Chair Ohrstrom said the CEA has been discussing a pending easement where the owners want to donate but also want to add a covered riding ring. He said CEA has one of the most lenient impervious surface per square foot calculations. He added that the Land Trust of Virginia has a 1% cap, the Virginia Outdoors Foundation has a 2% cap but is on a sliding scale and dependent on how big the property is, and that he thinks Piedmont Environmental Council (PEC) has a 2% cap. He said if the riding ring was added, it would be much more than 2%. He commented that while he is not certain what will be the outcome of this but noted the CEA does want this property under easement.

Commissioner Buckley commented the property discussed at the last meeting in the northwestern part of the county was moving forward.

Broadband Implementation Committee (Brandon Stidham)

Mr. Stidham said he believes all the boards of supervisors of the partnering counties have adopted their agreements. He said there were some concerns from Rappahannock County about their underserved areas map and also that they would not have a direct contractual arrangement with the vendor. Mr. Stidham believes they have worked through these issues and agreed to the project. He said the remaining tasks are now getting the agreement signed between the Regional Commission and All Points Broadband and also working everything out with the Department of Housing Community Development which is the agency

responsibility for ensuring the project forward. He said we should be hearing in the next month or so an announcement regarding timelines.

Other Business

6. Continued Discussion, 2022 Clarke County Comprehensive Plan (Final Draft)

Mr. Stidham said this was added to the agenda so as not to miss an opportunity to discuss the draft. He said it sounds like the Commission is interested in June 29th as the date for the special meeting for public hearing. Chair Ohrstrom thanked Staff and Committee for their hard work and encouraged the Commission to read it over the next month. Commissioner Glover said he wants to ensure nothing is missing from the document such as anything that might come in the next five-to-ten years that is not currently on the radar.

Commissioner Bass mentioned “Other Relevant Plans and Studies” on page 3-19 and asked if the Commission thought it was worth including a “Cost of Community Service Study.” Chair Ohrstrom noted the study was completed by an outside contractor and was not a county-generated document. He said he thought it would be a good addition and is relevant information but is not certain how quickly the data becomes outdated due to tax formulas and tax differences. Additionally, he said, he had no problem adding it as an informative study. Commissioner Bass said he had no strong feeling about it but thought he would mention it. Mr. Stidham said after thinking on it, he thinks it would be a good idea to include it. Commissioner Caldwell agreed. Chair Ohrstrom asked if the Commission needs to make a motion for the addition. Mr. Stidham said as this is still in draft mode and will hold a public hearing draft based on comments, edits, or additions. He said he would circulate the information via email to the Commission so everyone can review it.

Commissioner Glover noted public comments regarding the rapid growth in Clarke County and Berryville and asked if there was a map of the actual annexation or some information as to when it was approved that could be added. Commissioner Bass commented that there is some backstory information within the Berryville Area Plan. Chair Ohrstrom said at some point in the near future, the Berryville Area Plan will need to be reviewed again as growth is imminent but believes Berryville is close to being out of developable area. He added that he does not think this is technically part of the County Comprehensive Plan but it could be an add-on potentially. Mr. Stidham said it is not commonly understood how residential development can occur. He said it is very common that the developer go through a phased process to include a rezoning process, a subdivision plat review process, various phases are established, and then it sits for years until they have the capital to be able to put the next sections in place.

Commissioner Bass asked how often we have references to the Berryville Area Plan within the document. Mr. Stidham responded that there is a full description within chapter 3, the summary description within the introduction, and also within the goals and objectives. Commissioner Bass suggested adding some of the development maps. Mr. Stidham said the annexation map could be added, however, it is due to be updated. Commissioner Glover suggests using a simple map or paragraph explaining that the development was approved 20 years ago. Mr. Stidham noted an annexation area map on page 3-10 that could be replaced with the current Berryville Sub-Area Map. Commissioner Glover said anything to help the citizens better understand that it is not rapid development would be helpful. Vice-Chair Buckley, Commissioner Malone, and Chair Ohrstrom agreed. Chair Ohrstrom pointed out that the Berryville Area Plan is about to change so he is not certain it should be included at this point. Mr. Stidham said the plan description could be re-envisioned at the beginning to better explain that the plan is to put all of the high-density allowable

residential, commercial, business, park, and public services within the Town. He said some maps could be added to show the different subdivisions and when they came in but he is worried that it may clutter the document. Vice Chair Buckley suggested doing a Facebook or newspaper write-up. Commissioner Bass said he thought it could be a good idea to do a public service announcement in advance of the Public Hearing as various subdivisions are coming about. He suggested adding a sentence or short paragraph at the end of the first paragraph on page 3-7 in chapter 3 when addressing the Berryville Area Plan regarding the adoption of the plan and the annexation area and even a map. Mr. Stidham suggests replacing map 11 with the current Sub-Area Map. Commissioner Caldwell agreed with Mr. Stidham and Commissioner Bass that verbally emphasizing that Clarke County has not changed, the plans have been in the works for a long time, and it is simply a reflection of the economy. Mr. Stidham wanted to make it clear by saying Clarke County is unique from surrounding counties in that we are controlling where the growth takes place versus growth throughout the County. Chair Ohrstrom said this was part of the County's philosophy and that it even states as such in the Comprehensive Plan and other documents but it could be reiterated in a small paragraph or sentence in this section as well. Mr. Stidham said he would write a draft.

Mr. Camp provided a summary of his findings on "glamping." He said he was invited by Loudoun County to attend an upcoming pre-application meeting that he can better understand how they operate and do things. Separately, he said he and Mr. Stidham met with the owner of a proposed project which is in the early planning stages. The owner explained the idea is to have a number of houses on his property for corporate retreats and the owner also mentioned geo-domes and treehouses as well. Mr. Camp said the proposed project does not currently meet the County's criteria for a campground, however, he might be able to do this project as a country inn if designed as a single-family dwelling that had other single-family dwellings. Mr. Camp told the property owner that if there is anything proposed on the Clarke County side, that he will have to meet ordinance requirements. Chair Ohrstrom asked if the property had closed yet to which Mr. Camp responded that it had not. Chair Ohrstrom commented that if the project takes place in Loudoun County, it is fully up to them whether or not this goes through. He said if the project takes place on the Clarke County side it would go through a special use process at a minimum and that Clarke cannot "block" Loudoun from approving it but we could certainly raise comments about it. He added that surrounding counties such as Fauquier would most likely have the same concerns as Clarke. Vice Chair Buckley asked about access to Loudoun from Clarke on Route 50 or Route 601 for this particular project. Mr. Camp responded that VDOT would have to approve that but that it was a rather steep on the Route 50 side. Vice Chair Buckley asked if Clarke has any control over the access to which Mr. Camp responded that it depends on where they are proposing improvements. Mr. Stidham commented that if any part of the access road is in Clarke, we would consider it part of that use which is not allowed. He added that the applicant was surprised to learn that the project had been revealed by Clarke residents as he had asked for the details to remain undisclosed since the project is in the early stages. Mr. Stidham said he and Mr. Camp also explained the traffic situation on Route 601 to the applicant as well. The applicant said he may return to Warren County for his proposed project.

Commissioner Caldwell remarked that this situation may prompt us to revisit our campground regulations. Mr. Stidham said that if the Commissioners are looking into campgrounds and other uses they may have concerns with, that an option is to remove it from the ordinance altogether. Chair Ohrstrom suggested that it may be time for the Policy Committee to rewrite a text amendment in such a way that it is considered allowable with acceptable regulations.

Adjournment:

The Commission unanimously voted to adjourn the May 6, 2022 Planning Commission Business Meeting at 10:02AM.

Randy Buckley (Vice-Chair)

Kristina Maddox (Clerk)

BOUNDARY LINE ADJUSTMENT (BLA-22-06)

June 3, 2022 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 boundary line adjustment application. It may be useful to members of the general public.

CASE SUMMARY:

Applicant(s)

Gary W. & Joanne B. Hornbaker, and Douglas & Laura Gansler

Location:

- Tax Map Parcels #9-A-54 and #9-A-55
- Lord Fairfax Highway (US Route 340)
- Russell Voting District (Commissioners Hunt and Ohrstrom)
- Agricultural Open Space-Conservation (AOC) Zoning District

Request:

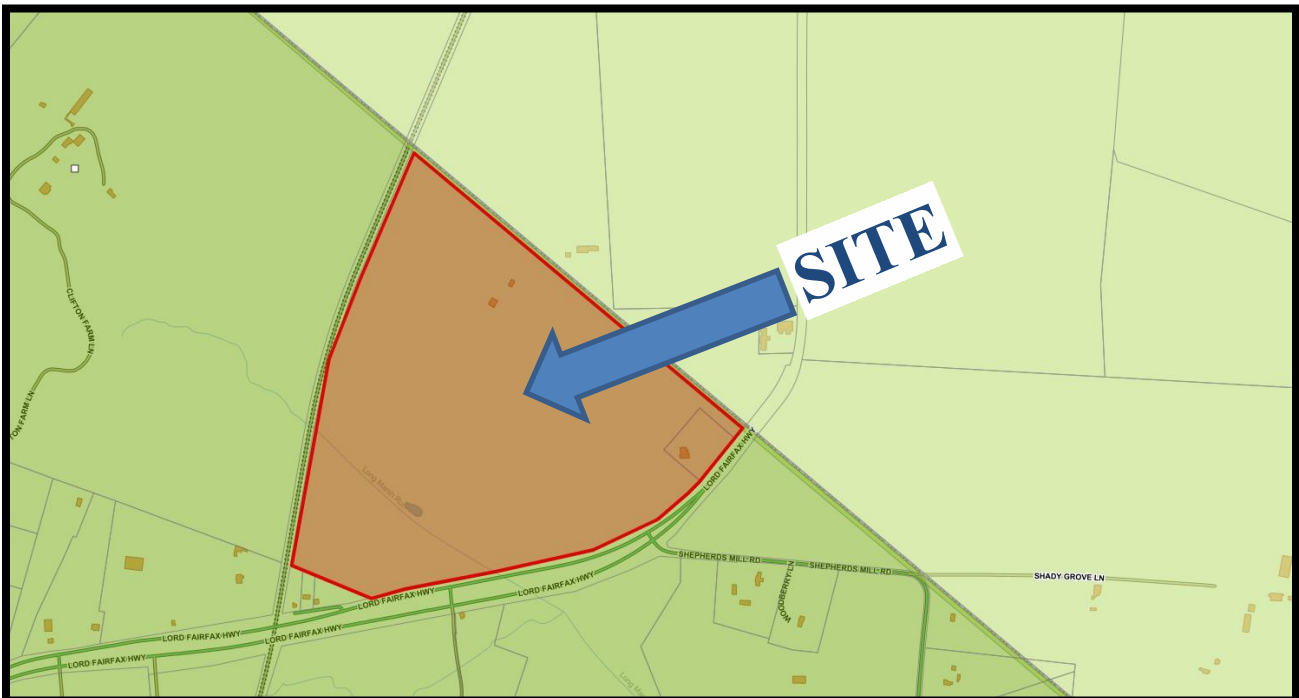
The applicant requests approval of a boundary line adjustment between an existing residential lot and an existing agricultural lot. The change increases the size of the residential lot and decreases the size of the agricultural lot.

Original Lot:

125.3757 acres (1 exist dwl, 4 DURs)
3.0 acres (1 exist dwl, 0 DURs)

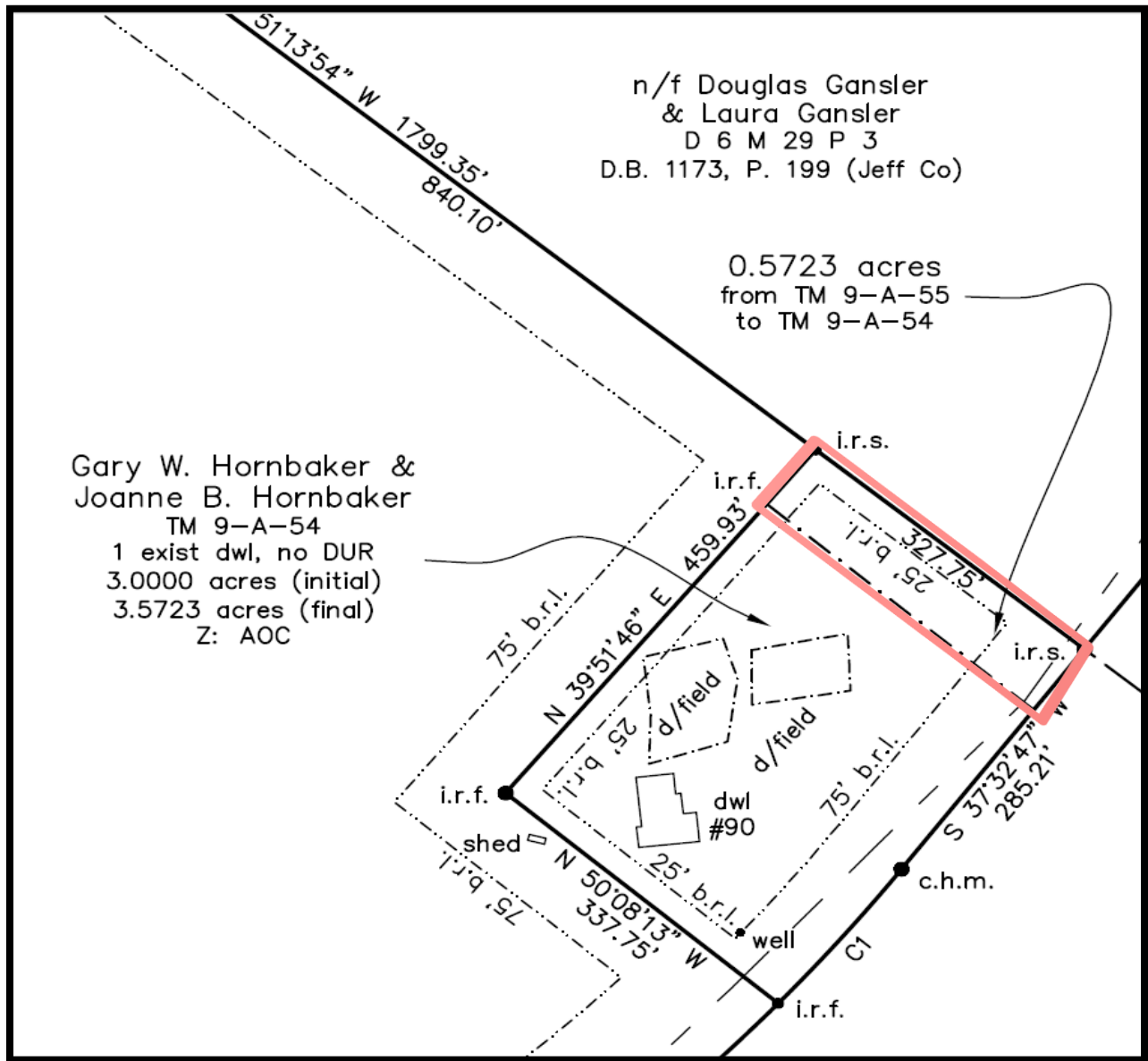
Proposed Adjustment:

124.8034 acres (1 exist dwl, 4 DURs)
3.5723 acres (1 exist dwl, 0 DURs)



Staff Discussion/Analysis:

The applicant explains that the residential lot (9-A-54) was originally 14 acres and was changed by boundary line adjustment in the past with the intent of setting the state boundary as the northern boundary of the lot. At that time, only an approximate boundary of the state boundary was available. Current GPS technology has allowed more accurate surveying, which has resulted in the discovery that the state boundary is further to the north. This leaves an unusual gap of .57 acres between the residential lot and the state boundary.



Pursuant to 4.4.1.A1 of the Clarke County Subdivision Ordinance, the Planning Commission has approval authority where a residential lot is increased in size above 3 acres and an agricultural lot is reduced. It further states that the Planning Commission may allow the residential lot to increase above 3 acres when the Planning Commission determines the land to be sufficiently low quality. Subsection c gives three reasons when the Planning Commission may determine this.

Clarke County Subdivision Ordinance, 4.4.1.A1

1. Adjustments where a residential lot is increased in size and an agricultural lot is decreased.
 - a. Boundary Line Adjustments are permitted where a residential lot is increased in size to a maximum of three acres, or so that it becomes an agricultural lot, if the residential lot qualifies for the Land Preservation Special Assessment (land use taxation) and the agricultural lot involved in the adjustment remains an agricultural lot.
 - b. Upon application, the Planning Commission may permit boundary line adjustments exceeding the maximum area of three acres. Such boundary line adjustments shall be approved when it is determined by the Commission that the lot is of sufficiently low quality to justify a boundary line adjustment exceeding the area limitations.
 - c. Low quality land characteristics. The following are considered characteristics of low quality land that would permit boundary line adjustments exceeding the maximum area of three acres:
 - (1) Physical features or small size or irregular shape of potential residual lot such that efficient use of farm machinery would not be possible or that said land would be left to no useful purpose; or
 - (2) Combination of physical features and setting such that the maximum lot size allowed in this section for a lot proposed in a minor or major subdivision is too small to accommodate a dwelling, drainfield, and well so as to meet the minimal applicable health standards and provided that no lot may be created or increased in area so as to exceed a maximum area of four acres. An application for a maximum lot size exception, submitted under this section, shall be accompanied by a written statement prepared by a Virginia Health Department environmental specialist or a professional soil scientist (as defined in County Code Chapter 143, Septic Systems) stating why the proposed lot could not accommodate a dwelling, drainfield, and well meeting Virginia and Clarke County health standards within the maximum lot size allowed in this section. Lots proposed in a major subdivision are not eligible for a Maximum Lot Size Exception under this section; or
 - (3) Land that is part of a lot where such land has been determined by the Zoning Administrator to be not important farmland.
 - d. In no case shall an agricultural lot be reduced in size below twenty acres.

Staff Recommendation:

The request appears to qualify for low quality land characteristic under subsection c (1) based on the irregular shape of the .57-acre area in relationship to the residue parcel. The area is also of such a small size, and is in such close proximity to the residential lot, that farming it with machinery would not be efficient. Staff recommends approval of this request.

History:

May 19, 2022	Application Submitted
May 31, 2022	Planning Commission Work Session
June 3, 2022	Planning Commission Business Meeting

Dunn Land Surveys, Inc.

Licensed in Virginia and West Virginia
106 North Church Street, Berryville, VA 22611
telephone: 540-955-3388
mobile: 540-303-6474
email: dunnland1@verizon.net

18 May 2022

Re: Hornbaker/Gansler boundary line adjustment\

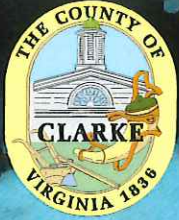
TM 9-A-54 was initially a 14 acre parcel. Through a boundary line adjustment this parcel was reduced to 3.0000 acres and then conveyed to Hornbaker.

The intent of William Leedy, owner of Balclutha at that time, was twofold. First, to maintain as much land in the farm. Secondly, to create a parcel adjacent to the State line.

Commercial GPS was not available at the time. The plat recorded in PB 6, P 2, shows an approximate location of the State line.

It has now been determined that there is a gap of 0.5723 acres between Hornbaker and the State line. The gap has a width of 70 feet +/- . Due to this fact it is not practical to practice farming there.

Hornbaker has a contract on the 13.0240 acres in Jefferson Co, WV due North of his 3.0000 acres. The Ganslers intend to sell the farm. The approval of this boundary line adjustment will allow Hornbaker to own a continuous section of land. Additionally it will “clean up” a situation that through a lack of technology came into existence.



LAND DEVELOPMENT APPLICATION

General Information

Date:	18 May 2022	Tax Map #:	9-A-54 & 9-A-55
Zoning District:	AOC	Lot Size:	3.0000 acres & 125.3757 acres
Site Address:	90 Lord Fairfax Hwy and 552 Lord Fairfax Hwy, Berryville, VA 22611		
Property Owner's Name:	Gary W & Joanne B Hornbaker; Douglas & Laura Gansler		<i>Balclutha</i>
Property Owner's Mailing Address:	90 Lord Fairfax Hwy, Berryville & 3706 Williams Ln, Chevy Chase, MD		
Applicant's Name:	same		
(if different than owner)			
Applicant's Mailing Address:	same		
(if different than owner)			
Phone:	<i>703-431-2314</i>	Email:	garyhornbaker321@gmail.com

Application Type

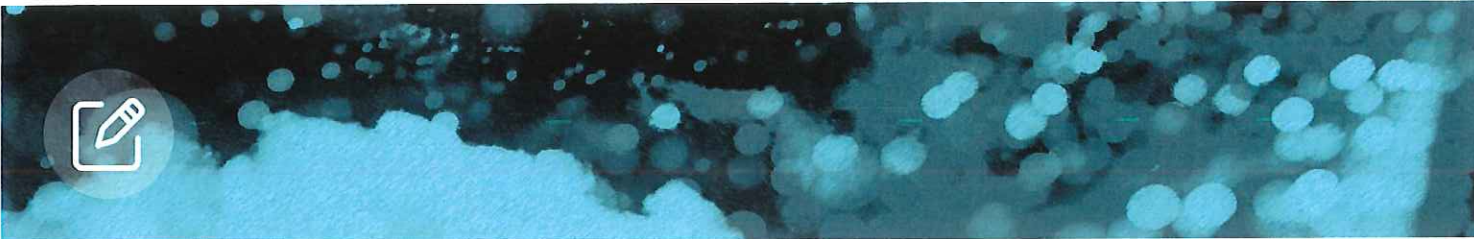
Site Plan	<input type="radio"/>	Major Subdivision	<input type="radio"/>
Administrative Site Plan	<input type="radio"/>	Minor Subdivision	<input type="radio"/>
Rezoning	<input type="radio"/>	Boundary Line Adjustment	<input checked="" type="radio"/>
Special Use Permit	<input type="radio"/>	Lot Consolidation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

Application Details

Name of Project or Subdivision: Gansler/Hornbaker boundary line adjustment

Existing Use(s): residential & agricultural

Proposed Use(s): residential & agricultural



Additional Details

Description of the proposed development or subdivision:

see attached memo

Number of Existing Lots: 2

Number of Proposed Lots (proposed and residual): 2

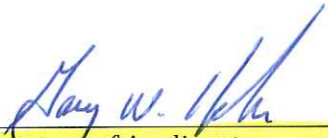
Are you requesting any exemptions, such to the maximum average lot size?

If yes, describe the justification for such request.

see attached memo

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"/>


Signature of Applicant

5/19/2022
Date

Office Use Only

ACTION TAKEN: _____

FEE: _____

COMMENTS: _____

Zoning Administrator

Date

GIS Acct #

Clarke County Government
TREASURERS OFFICE
101 Chalmers Ct
Berryville, VA 22611
(540) 955-5160
Welcome

004800-0006 Register 05/19/2022 02:48PM

PERMITS / INSPECTIONS

Boundary Line Adjustment

- FEE

2022 Item: BLA-22-06|BLA

Balance due: 0.00

Balance unpaid: 0.00 500.00

500.00

Subtotal

Total

500.00

500.00

CHECK

Check Number 1422

500.00

Change due

0.00

Paid by: DIAMOND H LLC

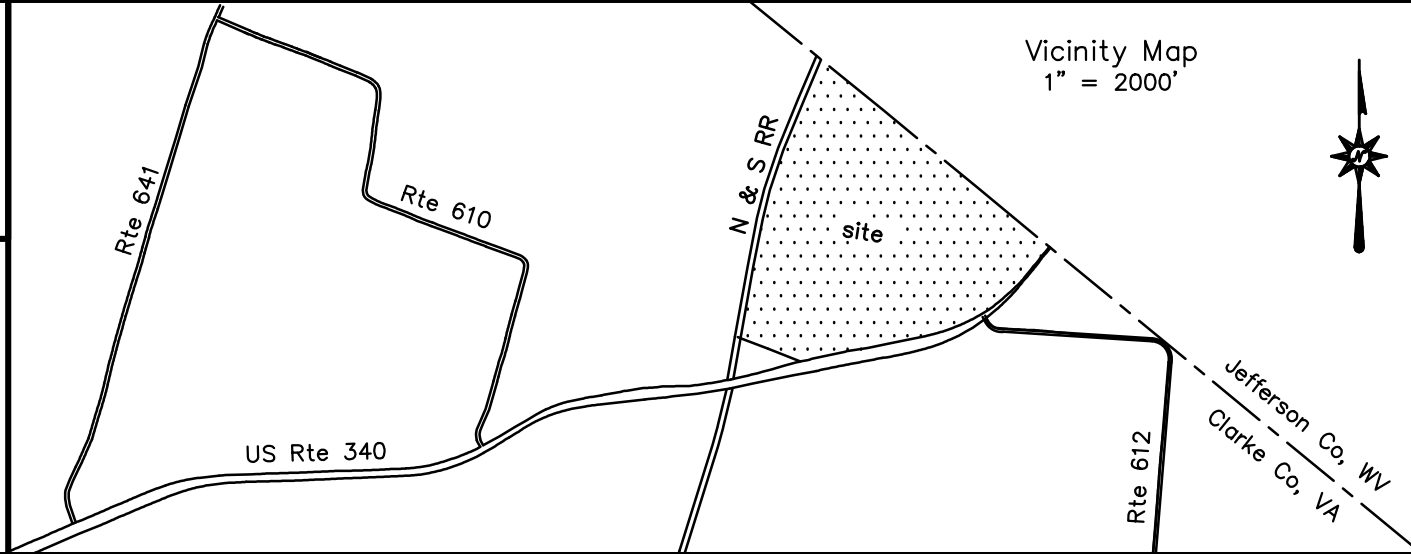
Thank you for your payment

CUSTOMER COPY

Notes:
 (1) No Title report furnished, easements of record not shown may exist.
 (2) These lands are in Flood Zone X, established from FIRM Community Panel no. 51043C0060D, effective September 28, 2007.
 (3) TM = tax map and parcel identification; o/h = overhead; D.B. , P. = Deed Book and Page; i.p.f. = iron pipe found; i.r.f. = iron rod found; i.r.s. = iron rod set; c.h.m. = concrete highway monument; esmt = easement; DUR = dwelling unit right; b.r.l. = building restriction line
 (4) Setbacks as follows:
 TM 9-A-54 : front = 75' from the right-of-way line of US Route no. 340, 25' all other property lines, 25' from any intermittent stream, 100' feet from any perennial stream, spring or sinkhole.
 TM 9-A-55 : front = 125' from the right-of-way line of US Route no. 340, 75' all other property lines, 50' from any intermittent stream, 100' feet from any perennial stream, spring or sinkhole.
 (5) These tracts 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 in accordance 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 and the application of fertilizer, soil amendments and pesticides. Owners, occupants and users of land in the AOC District should be prepared to accept such inconveniences 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) 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 4-1-1 of the Clarke County Zoning Ordinance.
 (7) 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.

Owners' Table:

A	Houston Wedlock Elizabeth Wedlock Betty Wedlock	TM 9-A-52	D.B. 141, P. 109
B	James C. Kohnen Kelly Litzenberg	TM 9-A-51	D.B. 609, P. 815
C	Laurie Lancaster	TM 9-A-50	D.B. 603, P. 423



Surveyor's Certificate: I, W. Stuart Dunn, a duly licensed Land Surveyor in the State of Virginia, do hereby certify that the lands shown hereon stand in the name of Gary W. Hornbaker and Joanne B. Hornbaker, TM 9-A-54, and Douglas Gansler and Laura Gansler, TM 9-A-55, and were acquired by them as stated in the Owners' Certificate. I further certify that these parcels are properly and accurately described and are referenced to the West Virginia State Plane Coordinate System, NAD83 (North), I further certify that the monuments designated hereon have been set in accordance with the Subdivision Ordinance of Clarke County, Virginia.

W. Stuart Dunn, CLS #2000
Berryville, Virginia

Owners' Certificate: The undersigned fee simple owners hereby certify that the foregoing Boundary Line Adjustment of 0.5723 acres, being a portion of an existing 125.3757 acre parcel, TM 9-A-55, standing in the name of Douglas Gansler and Laura Gansler in Deed Book 601, Page 536, to be adjusted into an existing 3.0000 acre parcel, TM 9-A-54, standing in the name of Gary W. Hornbaker and Joanne B. Hornbaker in Deed Book 430, Page 284, with 124.8034 acres being the adjusted area of TM 9-A-55 and 3.5723 acres the adjusted area of TM 9-A-54, is made with the free consent and in accordance with the desires of the undersigned owners, and trustees, if any, of said lands and the same is hereby confirmed and submitted for record in the Office of the Clerk of the Circuit Court of Clarke County.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	TANGENT
C1	1854.90'	181.29'	181.22'	S 40°19'36" W	5°35'59"	90.72'
C2	1854.90'	1130.81'	1113.38'	S 60°35'29" W	34°55'47"	583.60'
C3	5696.65'	1300.55'	1297.72'	S 15°30'56" W	13°04'50"	653.11'

LINE	BEARING	DISTANCE
L1	N 69°19'08" W	359.50'
L2	N 68°51'58" W	93.25'
L3	N 70°56'41" W	100.16'

Douglas Gansler
3706 Williams Lane, Chevy Chase, MD 20815

Laura Gansler

State of _____, City/County of _____, to wit:
I, _____, a Notary Public for said City/County of _____, do hereby certify that Douglas Gansler and Laura Gansler, whose names are signed in the Owner's Certificate have acknowledged the same before me.

My commission expires: _____

Notary Public:

Given under my hand this _____ day of _____ 2022

Gary W. Hornbaker
90 Lord Fairfax Highway, Berryville, VA 22611

Joanne B. Hornbaker

State of _____, City/County of _____, to wit:
I, _____, a Notary Public for said City/County of _____, do hereby certify that Gary W. Hornbaker and Joanne B. Hornbaker, whose names are signed in the Owner's Certificate have acknowledged the same before me.

My commission expires: _____

Notary Public:

Given under my hand this _____ day of _____ 2022

Approval:

Clarke County Health Department

date:

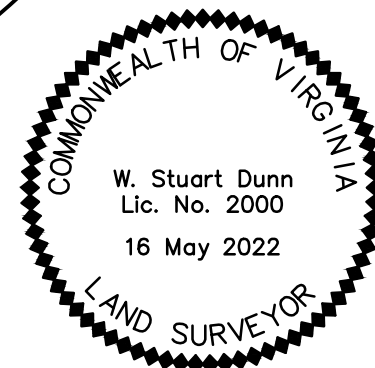
Mark K. O'Dell
D 6 M 29 P 5
D.B. 968, P. 1212 (Jeff Co)

n/f Douglas Gansler
& Laura Gansler
D 6 M 29 P 3
D.B. 1173, P. 199 (Jeff Co)

0.5723 acres
from TM 9-A-55
to TM 9-A-54

Gary W. Hornbaker &
Joanne B. Hornbaker
TM 9-A-54
1 exist dwl, no DUR
3.0000 acres (initial)
3.5723 acres (final)
Z: AOC

Douglas Gansler
& Laura Gansler
TM 9-A-55
1 exist dwl, 4 DUR
125.3757 acres (initial)
124.8034 acres (final)
Z: AOC



Plat of Boundary Line Adjustment
of the lands of
Douglas Gansler and Laura Gansler
Deed Book 601, Page 536 Tax Map 9-A-55
Gary W. Hornbaker and Joanne B. Hornbaker
Deed Book 430, Page 284 Tax Map 9-A-54
Longmarsh Magisterial District, Clarke County, Virginia

Area Table:

125.3757 acres	area of TM 9-A-55	1 exist dwl, 4 DUR
- 0.5723 acres	adjusted into TM 9-A-54	
124.8034 acres	adjusted area of TM 9-A-55	1 exist dwl, 4 DUR
+ 3.0000 acres	area of TM 9-A-54	1 exist dwl, no DUR
0.5723 acres	portion of TM 9-A-55	
3.5723 acres	adjusted area of TM 9-A-54	1 exist dwl, no DUR

Approval: This re-arrangement of property lines is approved under Clarke County Subdivision Ordinance Sections 3.3.2.B and 4.4.1A-1c1.

Clarke County Zoning Administrator

date:

Dunn Land Surveys, Inc.
106 North Church Street
Berryville, Virginia 22611
Tel: 540-955-3388
May 16, 2022

survey no. 1204