



**Blue Ridge Land
& Auction Co., Inc**

TERMS OF AUCTION

AUCTION FOR – Gary D. and Violet R. Darby Living Trust by and through Violet R. Darby, Trustee (+/- 165.99 Acres & improvements at 411 Winery Road, Floyd VA)

AUCTION LOCATION – Online Only at VaAuctionpro.com

AUCTION DATE – Ending Thursday December 3, 2020 at 4 pm

AUCTIONEER – Matt Gallimore (Broker/Auctioneer) of Blue Ridge Land & Auction Company located at 102 South Locust Street, Floyd VA 24091 (540-745-2005) has contracted with “Seller” to offer to sell at public auction certain real property.

Offering – 411 Winery Road; Floyd VA 24091

Total of 165.99 Acres in the Burks Fork Magisterial District of Floyd County, VA.

1. +/- 164.75 Acres and improvements; Tax Map # 78-3; PC1-53B
2. +/- 1.24 Acres; Tax Map 72-97B; Plat # 970001720

General Terms and Conditions

10% Buyer’s Premium applied to final and accepted bid to arrive at Final Contract Price. Purchaser will be expected to sign a Real Estate Purchase Contract, Place an Earnest Money Deposit, and close within 45 days. Sold “Subject to Seller Confirmation”. Earnest Money Deposit is \$10,000.

BIDDER REGISTRATION – **Register Now**, or online prior to auction at VaAuctionPro.com

By registering, Bidder acknowledges receipt of the Terms of Auction and access to the Sale Contract and unconditionally and irrevocably agrees to be bound by both.

AGENCY DISCLOSURE – Auctioneer / Broker is acting exclusively as an agent for Seller and not as an agent for any bidder or buyer. No third-party broker / agent is acting as a subagent of Auctioneer.

COPYRIGHT FOR AUCTION – The Auction is the exclusive intellectual property of Auctioneer, covered by copyright protection, and may not be recorded, reproduced, or used in any form by anyone other than Auctioneer.

DUE DILIGENCE – Seller and Auctioneer, Realtor(s), and/or Broker(s) do not attempt to provide Bidder with all of the information Bidder may need to make an informed decision about the Auction and Property. Bidder should obtain professional advice, inspect, and conduct due diligence on the Property, any occupancy of it, title, zoning, surrounding area, all information provided by Seller or Auctioneer, public records, Terms of Auction, Sale Contract, transaction contemplated, and all circumstances, defects, facts, issues, problems, and other relevant matter (collectively “Property Issues”). All information provided by Auctioneer came from Seller and Public Record and is believed to be accurate, but neither Seller nor Auctioneer guarantees, represents, or warrants its accuracy or completeness and Bidder should not rely upon it without independent inspection and verification from sources Bidder knows to be reliable. Bidder has either performed all inspections and other due diligence that it deems necessary in advance of bidding in the Auction, Bidder understands and fully accepts the risk of not having done so. No Property will be open for inspection following the Auction and through the time of closing the sale. Seller and Auctioneer, Realtor(s), and / or Broker(s) are not required to update any information provided or published and will have no liability whatsoever for failing to do so.

DISCLAIMERS – Participation in the Auction is at Bidder’s sole risk and Seller and Auctioneer, plus their agents, contractors, directors, employees, members, officers, and representatives will have no liability whatsoever. The Property will be offered **“AS IS, WHERE IS, WITH ALL FAULTS.”** To the fullest extent allowed by law, Seller and Auctioneer unconditionally disclaim any guarantee, representation, or warranty of every kind, whether expressed, implied, or statutory, whether oral or written, whether past, present, or future, with respect to all Property Issues, except as expressly provided in the terms of the Auction and the Sale Contract.

DISCLOSURES - Unless otherwise disclosed, the Property will be offered for sale and conveyed by deed free and clear of all liens, mortgages, deeds of trust, delinquent taxes, assessments and warrants, but subject to all non-monetary encumbrances such as conditions, covenants, deeds, easements, reservations, restrictions, right-of-ways, title exceptions, zoning regulations and matters of record. Maps, depictions, and sketches in any materials related to the Property are for illustration purposes only and Seller, Realtor, and Auctioneer do not guarantee, represent, or warrant their accuracy or completeness.

SALE CONTRACT – Bidder should carefully read and understand the Sale Contract before bidding in the Auction. The Property will be offered subject to the terms of the Sale Contract. Buyer will immediately execute the Sale Contract and all related documents presented by Auctioneer to bind Bidder and Seller to a sale of the Property and no addition, deletion, or

revision will be permitted. The Sale Contract will exclusively govern the Parties' rights, responsibilities, and remedies with respect to any sale of the Property and all related matters.

EARNEST MONEY DEPOSIT – Purchaser will be required to make a **\$10,000 Earnest Money** on **December 3rd, 2020**. The Earnest Money Deposit shall be made with certified funds or funds authorized by Seller. If Purchaser defaults under the terms of the Sale Contract, Earnest Money will be forfeited to Seller and Auction Company. If Seller defaults under the terms of the Sale Contract, Earnest Money will be returned to Purchaser.

TITLE - At Settlement, Seller shall convey to Purchaser good and marketable fee simple title to the Property by **Deed of General Warranty**, free of all liens, tenancies, defects and encumbrances, except as otherwise indicated herein, and subject only to such restrictions and easements as shall then be of record which do not affect the use of the Property for residential purposes or render the title unmarketable. If a defect is found which can be remedied by legal action within a reasonable time, Seller shall, at Seller's expense, promptly take such action as is necessary to cure the defect. If Seller, acting in good faith, is unable to have such defect corrected within 60 days after notice of such defect is given to Seller, then this Contract may be terminated by either Seller or Purchaser. Purchaser may extend the date for Settlement to the extent necessary for Seller to comply with this Paragraph but not longer than 60 days.

DISPUTE RESOLUTION – There shall be an attempt for any dispute resulting from Auction to be resolved by non-binding mediation. Any action must be commenced within two (2) years from the date when the cause of action accrues, or it will be forever barred. The right of action will accrue, and the two (2) year limitation period will begin to run, on the date the breach, damage, or injury is sustained and not when the resulting damage or harm is discovered.

To the fullest extent allowed by law, neither Seller, Realtor, nor Auctioneer will be liable for any consequential, exemplary, incidental, indirect, punitive, or special loss or damage, including, but not limited to, damage to property or loss of income, revenues, time, or use that might arise out of the Auction, offering or sale of the Property, or any related matter, whether such action be in contract, tort, strict liability, or other legal or equitable theory.

Choice of Law, Jurisdiction, and Venue – Any Auction matter will be exclusively construed and governed in accordance with the laws of the State of Virginia, without regard to its conflict of laws principles. The exclusive jurisdiction and venue for any controversy or claim between the Parties will be the County of Floyd in the State of Virginia.

MISCELLANEOUS – The Terms of Auction will bind Bidders and their agents, assigns, attorneys, beneficiaries, brokers, directors, distributes, employees, executors, heirs, legatees, officers, representatives, shareholders, and successors in interest. No deletion, modification, supplement, or waiver of any provision of the Terms of Auction will be made, except by Auctioneer's written revision or announcement at the Auction.

Bidder Acknowledgement – By signing below you hereby agree to the Terms of Auction

Name _____

Signature _____

Address _____

Phone _____

Email _____

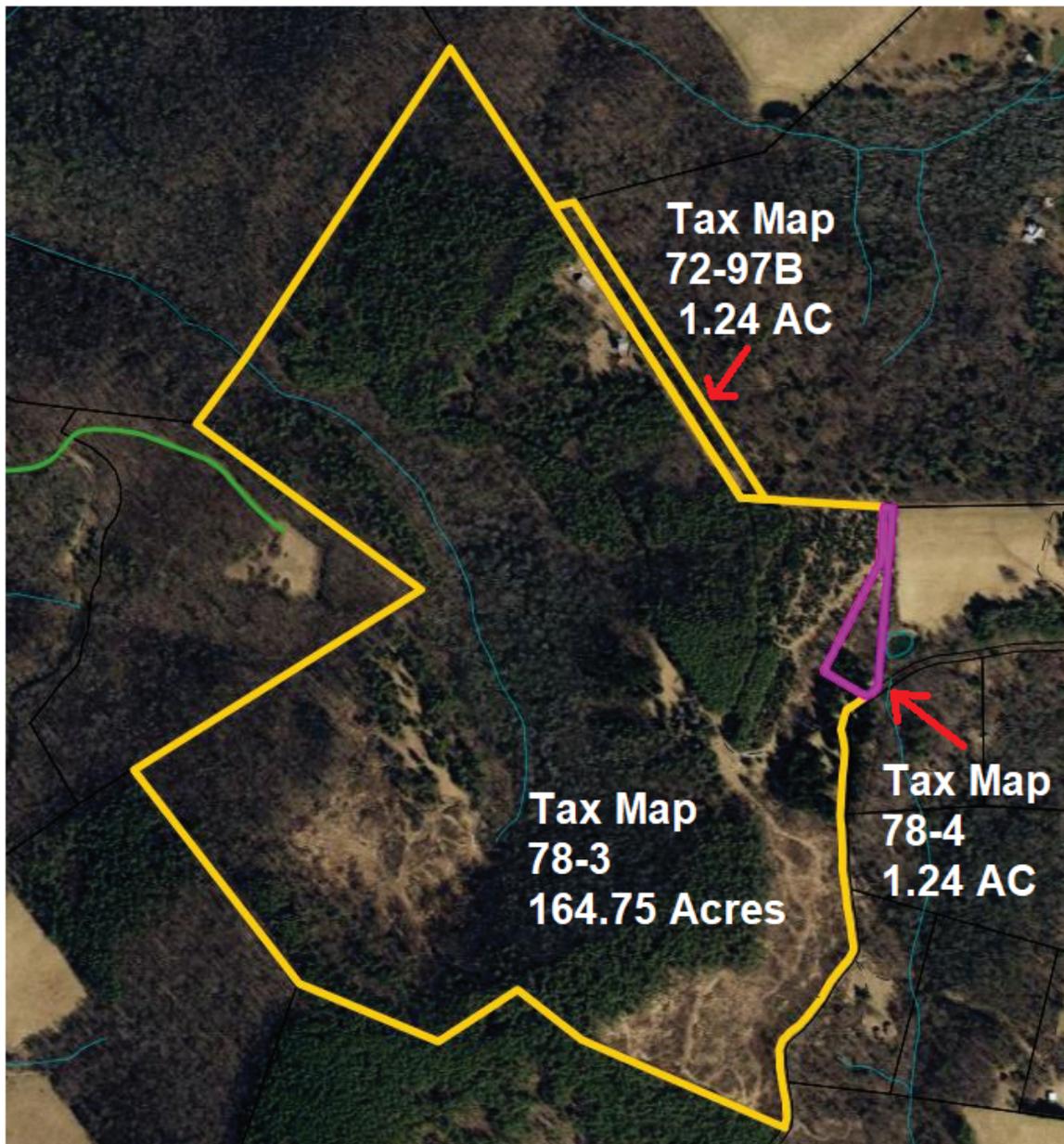
Aerial Map



Land Exchange Explanation

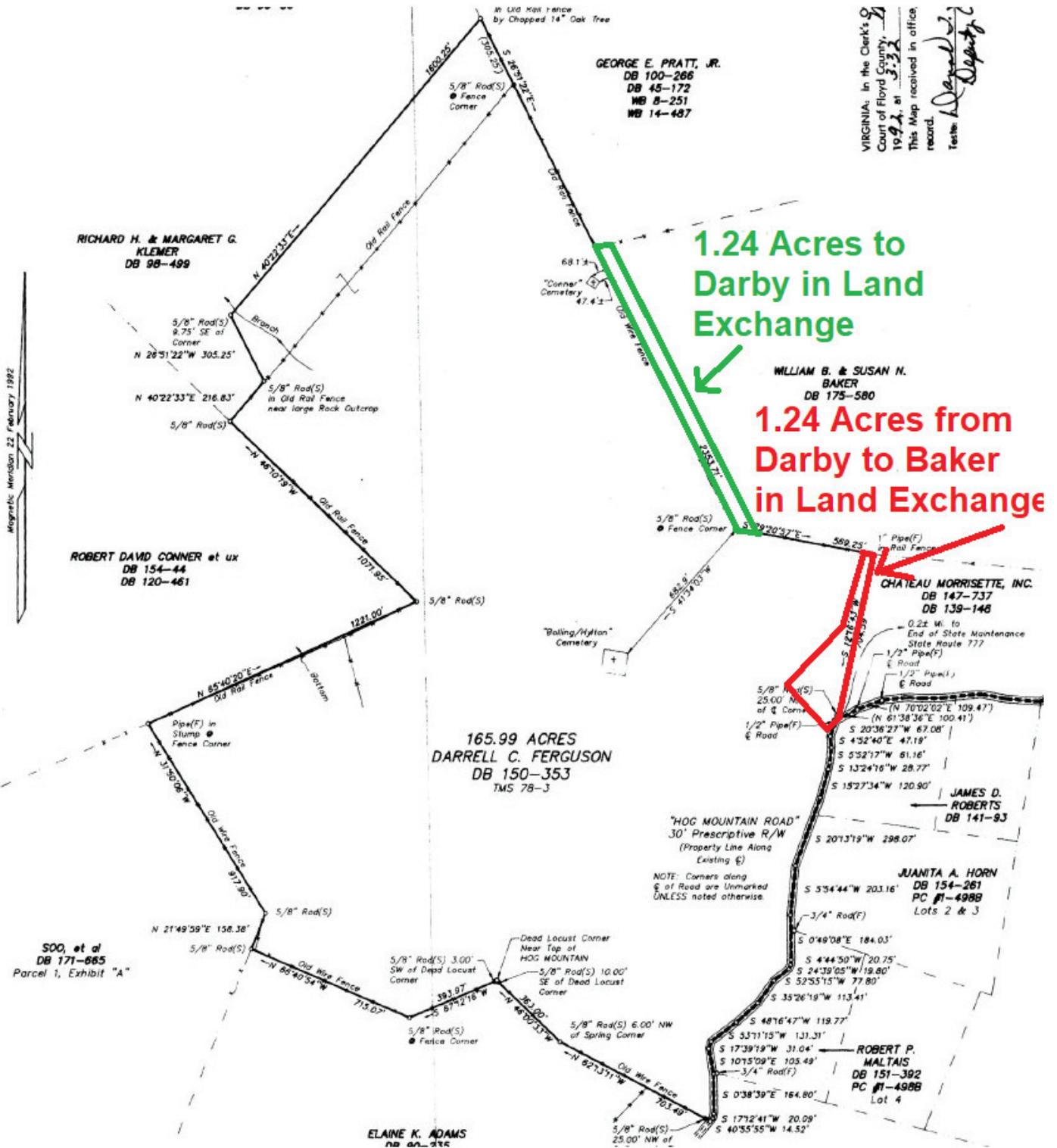
Instrument # 970001720 is a Deed of Exchange recorded in Floyd County Courthouse and part of this bidder Pack. Original Tract owned by Darby's was 165.99 Acres. Tax Map # 78-3

They traded what is now Tax Map 78-4 of 1.24 Acres to the Bakers in exchange for Tax Map # 72-97B of 1.24 Acres. The Bakers Later sold 78-4 and rest of their land to Chateau Morrisette. It appears That the Floyd County GIS is giving an accurate account of current boundary. 165.99 Acres for sale are Tax Map #'s 78-3 and 72-97B.



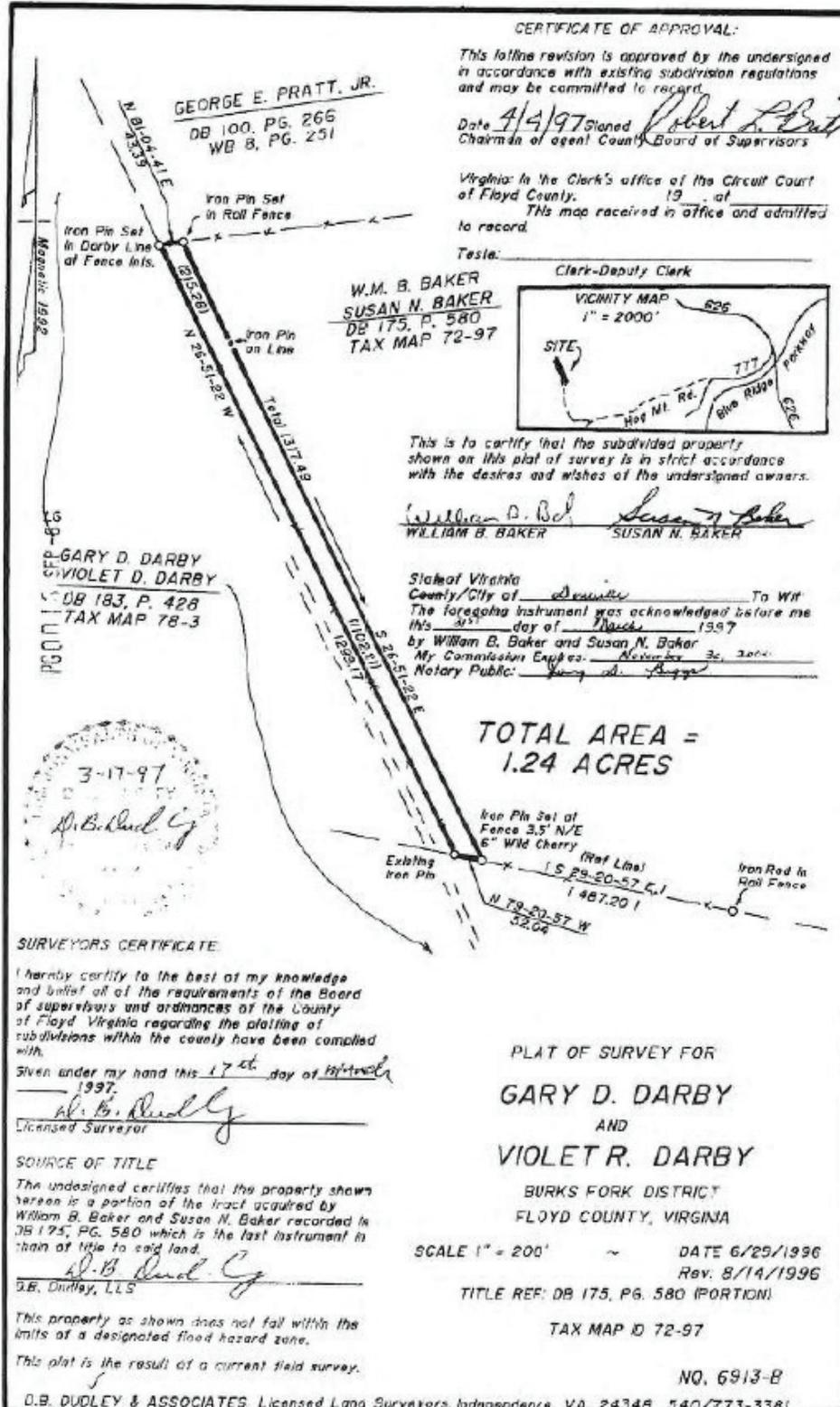
Survey Illustrating 1997 Land Exchange IN # 970001720

*****NOT TO SCALE, FOR ILLUSTRATION ONLY**



Survey - 1.24 AC

Land Exchange conveyed to Darby
(IN # 970001720)
Now Tax Map # 72-97B

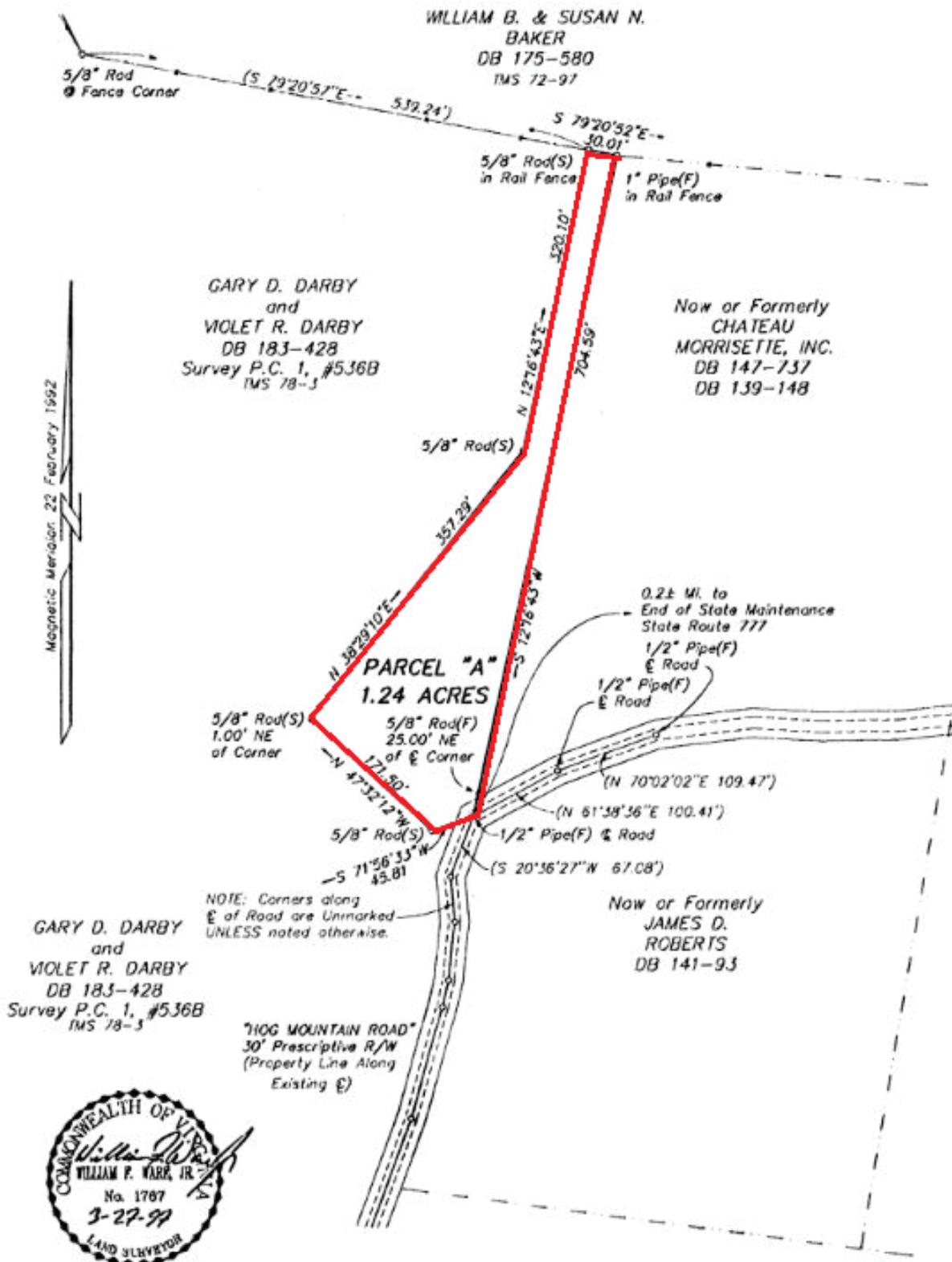




Auction Services

Survey - 1.24 AC

Land Exchange conveyed to Bakers (IN # 970001720) then sold to Chateau Morrisette (IN #980002796)



OWNER'S STATEMENT:

This is to certify that the subdivided property shown on this plat of survey is in strict accordance with the desires and wishes of the undersigned owners.

Gary D. Darby
GARY D. DARBY

Violet R. Darby
VIOLET R. DARBY

COMMONWEALTH OF VIRGINIA } TO WIT:

County of Floyd
I, Paula J. Willis, a Notary Public in and for the County of Floyd, Commonwealth of Virginia, do hereby certify that GARY D. DARBY and VIOLET R. DARBY whose names are signed to the certificate above, have acknowledged the same before me in my County and Commonwealth aforesaid.

Given under my hand and seal this 2 day of April, 1997.
Paula J. Willis
Notary Public
2-28-2001
My Commission Expires

NOTES:

- 1) This survey represents a "LOT LINE REVISION" and to the best of my knowledge and belief complies with Section 8 of the Subdivision Ordinance of Floyd County, Virginia. This parcel of land is to be added to and become a part of Tax Parcel No. 72-97, currently owned by WILLIAM B. and SUSAN N. BAKER.
- 2) This property has not had a septic system layout, nor has there been soil studies performed, nor has there been any percolation tests performed to locate any septic system upon this property.
- 3) This plat is the result of a current field survey.
- 4) This plat was prepared without the benefit of a current title report.
- 5) This property is to have a front building setback of 35 feet.
- 6) This property falls within an area of Floyd County where there is no flood study. Flood zone determination is therefore impossible.

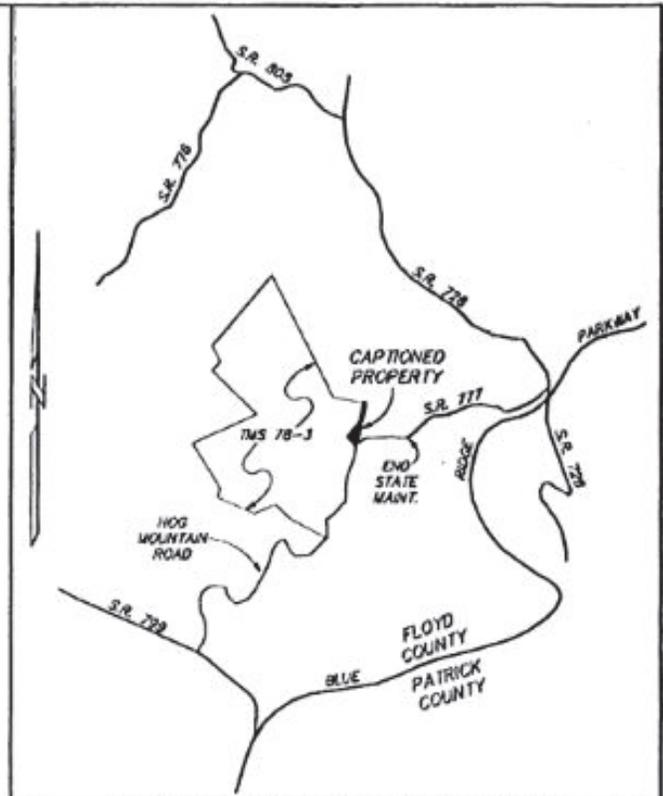
CERTIFICATE OF APPROVAL:

This lotline revision is approved by the undersigned in accordance with the existing subdivision regulations and may be committed to record.

(Date) 4/24/97 (Signed) Robert L. Britt
Chairman or Agent,
County Board of Supervisors

VIRGINIA: In the Clerk's Office of the Circuit Court of Floyd County, VA # 1767, 1997 at 12:15 PM. This map received in office and admitted to record.

Teste: Donald L. Pittard
Clerk - Deputy Clerk



Vicinity Map * Scale: 1"=2000'

SOURCE OF TITLE:

This is to certify that the property embraced within the limits shown hereon is a portion of the land acquired by GARY D. DARBY and VIOLET R. DARBY recorded in Deed Book 183, Page 428 in the Clerk's Office of the Circuit Court of Floyd County, Virginia in which the above referred to deed is the last instrument in the chain of title to the said land.

William F. Ware, Jr.
WILLIAM F. WARE, JR., L.S.

SURVEYOR'S CERTIFICATE:

I hereby certify, to the best of my knowledge and belief, that all of the requirements of the Board of Supervisors and the Ordinances of the County of Floyd, Virginia regarding the platting of subdivisions within the County have been complied with.

Given under my hand this 27th day of MARCH, 1997.

William F. Ware, Jr. VA #1767
WILLIAM F. WARE, JR., LICENSED SURVEYOR VA #1767

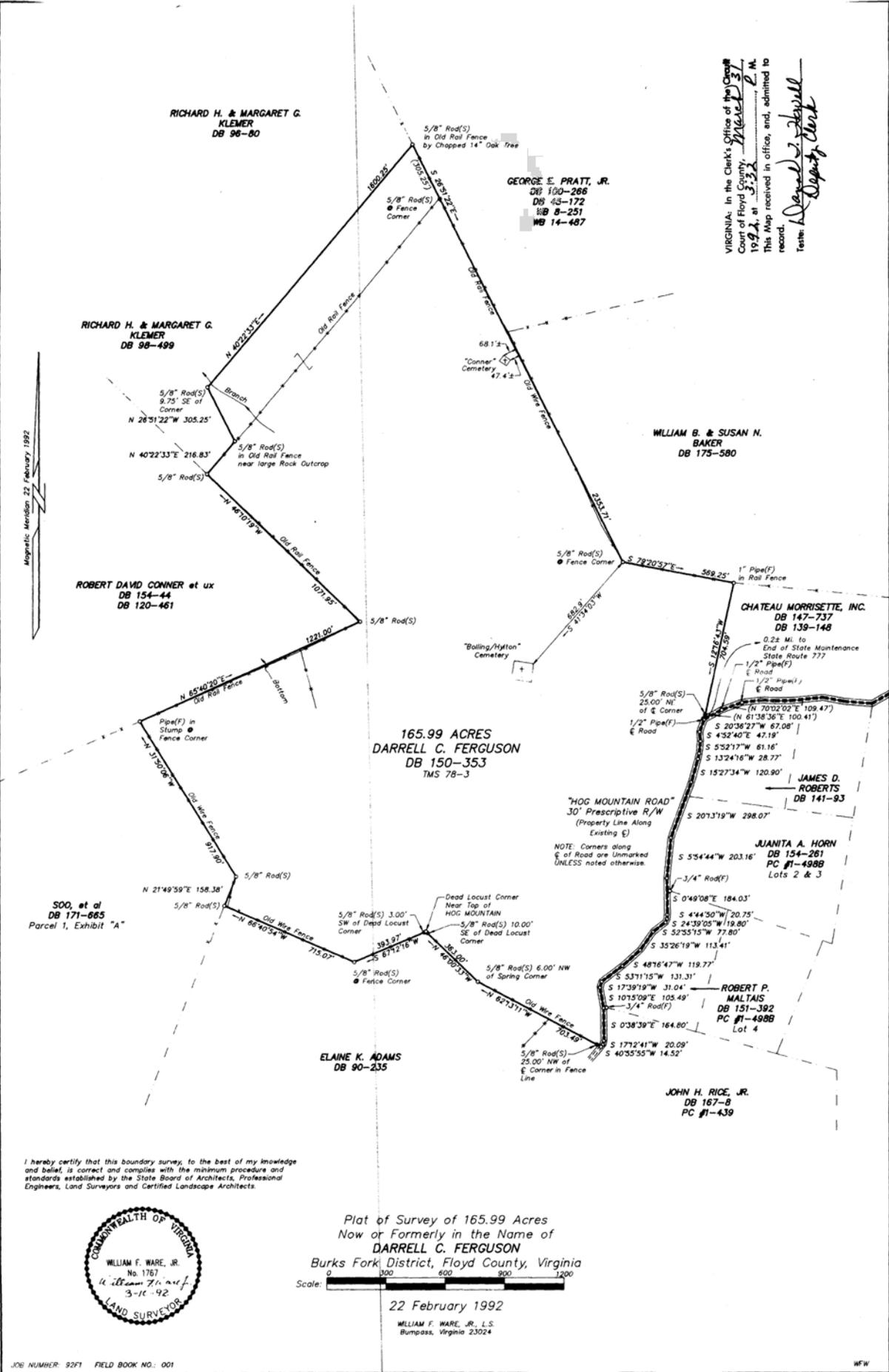
Plat of Survey of 1.24 Acres
Now or Formerly in the Name of
GARY D. and VIOLET R. DARBY
Burks Fork District, Floyd County, Virginia



27 MARCH 1997
WILLIAM F. WARE, JR., L.S.
Dumfries, Virginia 23024

PC 2-59A

PC 2-59A



VIRGINIA: In the Clerk's Office of the Circuit Court of Floyd County, *FILED* 3/1 1992, at 3:32 P.M. This Map received in office, and, admitted to record. Teste: *David J. Haysell* Deputy Clerk

Magnetic Meridian 22 February 1992

RICHARD H. & MARGARET G. KLEMER
DB 96-80

GEORGE E. PRATT, JR.
DB 100-266
DB 46-172
DB B-251
WB 14-487

RICHARD H. & MARGARET G. KLEMER
DB 98-499

WILLIAM B. & SUSAN N. BAKER
DB 175-580

ROBERT DAVID CONNER et ux
DB 154-44
DB 120-461

165.99 ACRES
DARRELL C. FERGUSON
DB 150-353
TMS 78-3

CHATEAU MORRISETTE, INC.
DB 147-737
DB 139-148

JAMES D. ROBERTS
DB 141-93

JUANITA A. HORN
DB 154-261
PC #1-498B
Lots 2 & 3

ROBERT P. MALTAIS
DB 151-392
PC #1-498B
Lot 4

JOHN H. RICE, JR.
DB 167-8
PC #1-439

ELAINE K. ADAMS
DB 90-235

SOO, et al
DB 171-665
Parcel 1, Exhibit "A"

I hereby certify that this boundary survey, to the best of my knowledge and belief, is correct and complies with the minimum procedure and standards established by the State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects.



Plat of Survey of 165.99 Acres
Now or Formerly in the Name of
DARRELL C. FERGUSON
Burks Fork District, Floyd County, Virginia

Scale: 0 300 600 900 1200

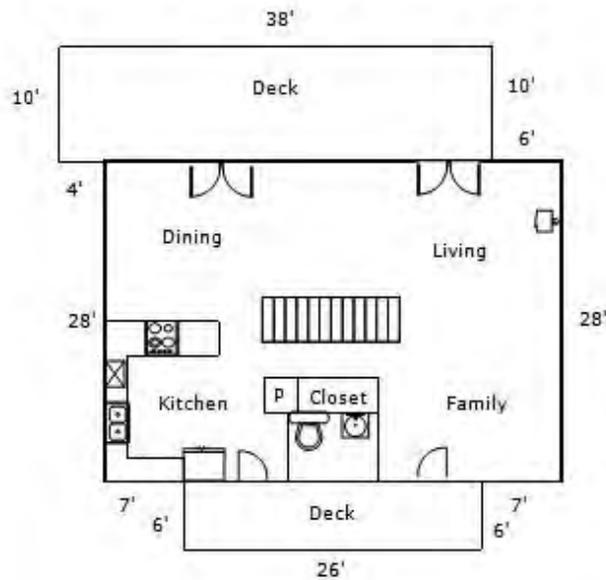
22 February 1992
WILLIAM F. WARE, JR., L.S.
Bumpass, Virginia 23024

530B

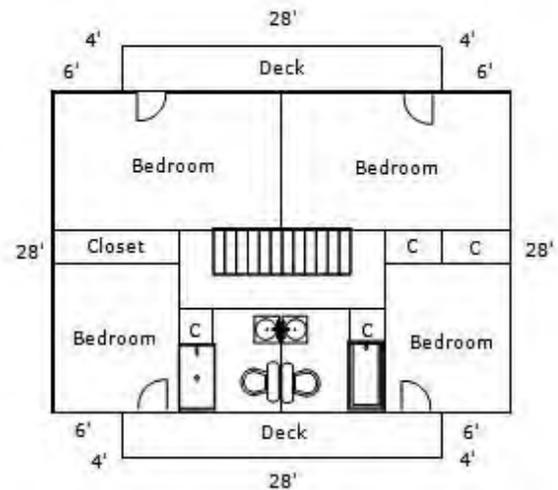
Floorplan

Auction Services

Ground Level - 1,120 Square Feet



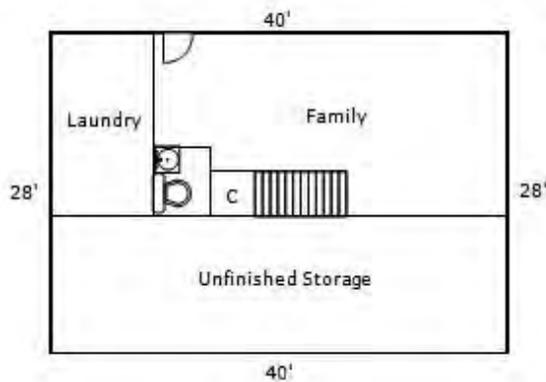
Second Level - 1,120 Square Feet



Basement - 1,120 Square Feet

Finished - 640 Square Feet

Unfinished - 480 Square Feet



Square Footage

| | |
|----------------------|-----------------|
| Total - | 3,360 SF |
| Above Grade - | 2,240 SF |
| Finished - | 2,880 SF |



Auction Services

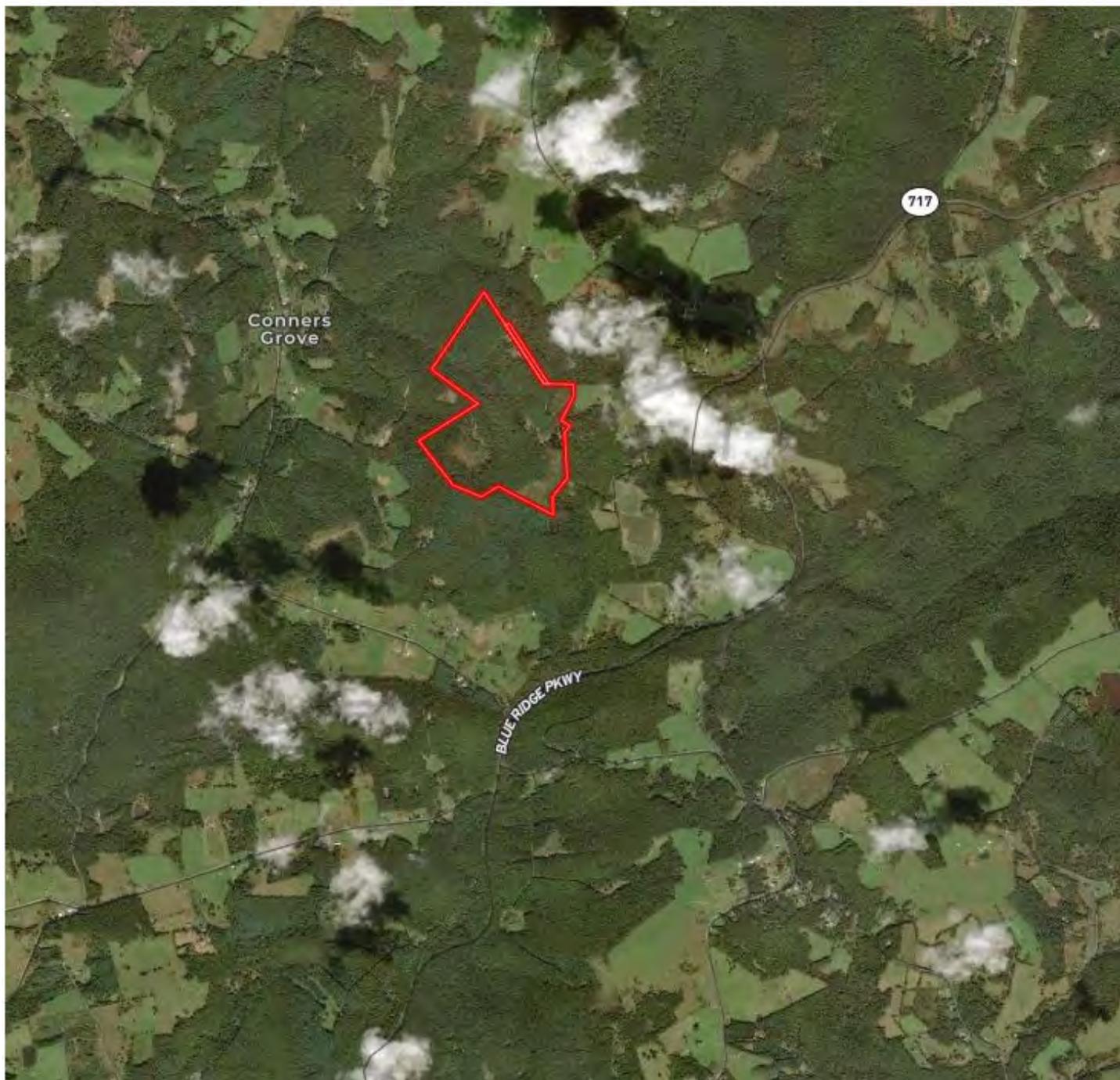
3D Map





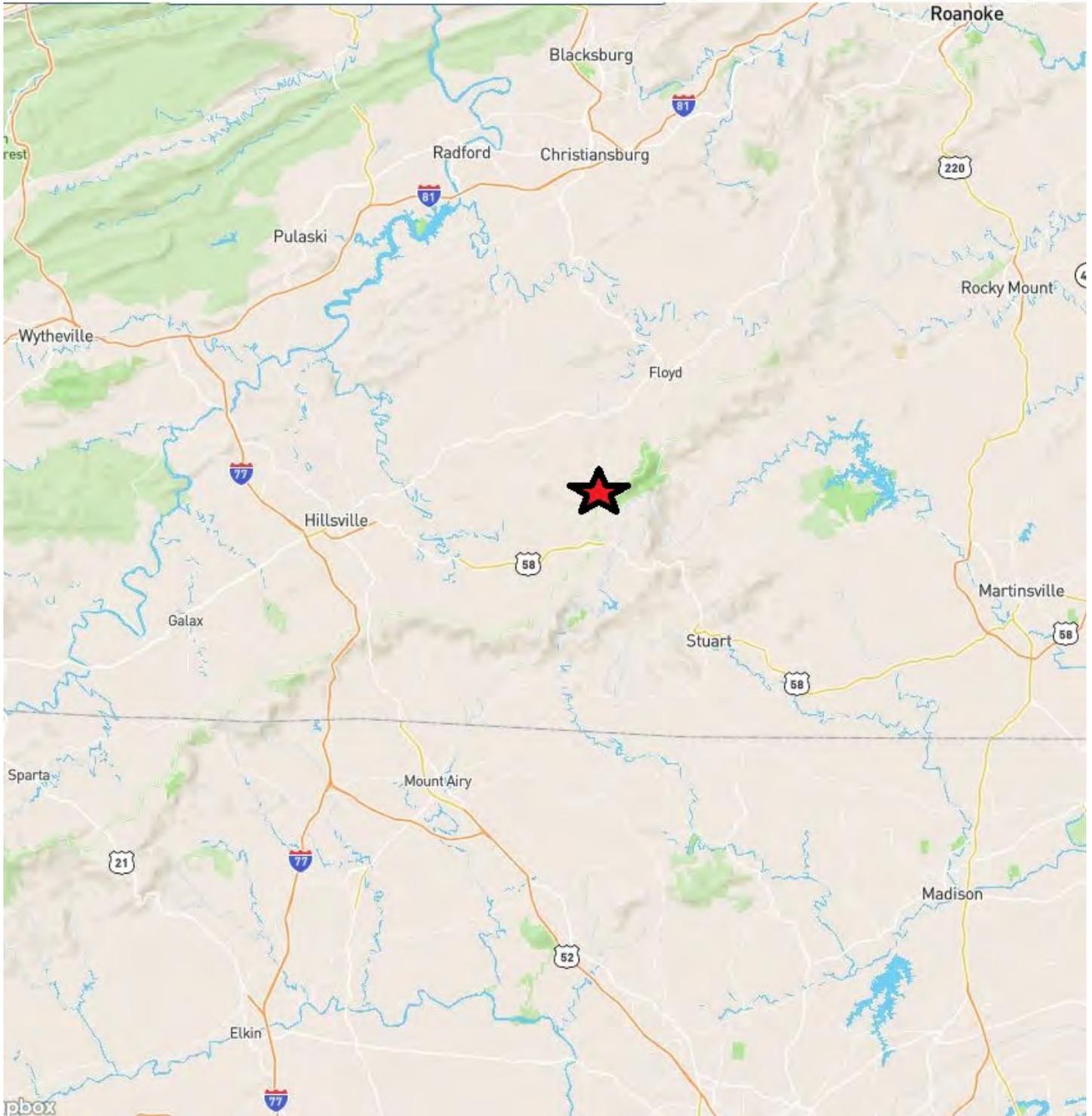
Neighborhood

Auction Services



Location Map

Auction Services



Topo Map

Auction Services



Sewage Disposal System Construction Permit

Commonwealth of Virginia
Department of Health

FLOYD CO. Health Department



Health Department

Identification Number 92-131-4050

Map Reference G 72-97-10A

General Information

New Repair Expanded Conditional FHA VA Case No. _____

Based on the application for a sewage disposal system construction permit filed in accordance with Section 3.13.01, a construction permit is hereby issued to:

Owner GARY DARBY Telephone _____

Address Rt. 1 Box 684 Morrisville, NC 27560

For a Type I Sewage disposal system which is to be constructed on/at FROM FLOYD, 221 S. TO LEFT ON 726, RIGHT ON 777 to .2 MILE PAST "END STATE MAINTENANCE"

Subdivision _____ Section/Block _____ Lot _____

Actual or estimated water use 450 GAL/DAY

| DESIGN | NOTE: INSPECTION RESULTS |
|--|--|
| Water supply, existing: (describe) _____ To be installed: class <u>III C</u> cased <u>20' MIN.</u> grouted <u>20' MIN.</u> | Water supply location: Satisfactory yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ G. W. 2 Received: yes <input type="checkbox"/> no <input checked="" type="checkbox"/> not applicable <input type="checkbox"/> |
| Building sewer: <u>3-4"</u> I.D. PVC 40, or equivalent. Slope <u>1.25"</u> per 10' (minimum). <input checked="" type="checkbox"/> Other <u>3-4" FOR MOBILE HOME</u> | Building sewer: yes <input type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory _____ <i>to be completed when house is finished (started!)</i> |
| Septic tank: Capacity <u>1000</u> gals. (minimum). <input type="checkbox"/> Other _____ | Pretreatment unit: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory _____ <u>1500 GALLONS</u> |
| <input checked="" type="checkbox"/> Inlet-outlet structure: PVC 40, 4" tees or equivalent. <input checked="" type="checkbox"/> Other <u>1-INLET TEE FOR MOBILE HOME</u> | Inlet-outlet structure: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory _____ |
| Pump and pump station: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> describe and show design. if yes: _____ | Pump & pump station: yes <input type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory _____ <u>N/A</u> |
| Gravity mains: 3" or larger I.D., minimum 6" fall per 100', 1500 lb. crush strength or equivalent. <input type="checkbox"/> Other _____ | Conveyance method: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory _____ |
| Distribution box: Precast concrete with <u>6-8</u> ports. <input type="checkbox"/> Other _____ | Distribution box: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory _____ <u>cement</u> |
| Header lines: Material: 4" I.D. 1500 lb. crush strength plastic or equivalent from distribution box to 2' into absorption trench. Slope 2" minimum. <input type="checkbox"/> Other _____ | Header lines: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory _____ |
| Percolation lines: Gravity 4" plastic 1000 lb. per foot bearing load or equivalent, slope 2" 4" (min. max.) per 100'. <input type="checkbox"/> Other _____ | Percolation lines: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory _____ |
| Absorption trenches: Square ft. required <u>720</u> ; depth from ground surface to bottom of trench <u>30"</u> ; aggregate size <u>#57</u> ; Trench bottom slope <u>2-4" / 100'</u> ; center to center spacing <u>9'</u> ; trench width <u>36"</u> ; Depth of aggregate <u>13"</u> ; Trench length <u>60'</u> ; Number of trenches <u>4</u> | Absorption trenches: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory _____ <u>6-60's</u> |
| | Date <u>7/2/92</u> Inspected and approved by: _____ Sanitarian |

Sewage Disposal System Construction Permit

Commonwealth of Virginia
Department of Health

FLOYD CO. Health Department



Health Department
Identification Number 92-131-4056
Map Reference G 72-97-10A

General Information

New Repair Expanded Conditional FHA VA Case No. _____
Based on the application for a sewage disposal system construction permit filed in accordance with Section 3.13.01, a construction permit is hereby issued to:
Owner GARY DARRY Telephone _____
Address RT 1 BIN 63 M MORRISVILLE, NC 27560
For a Type I Sewage disposal system which is to be constructed on/at FRONT FLOOD, 231 S. TO LEFT ON 726 RIGHT ON 777 1/2 MILE PAST LIND STATE MAINTENANCE
Subdivision _____ Section/Block _____ Lot _____
Actual or estimated water use 450 GAL/DAY

| DESIGN | NOTE: INSPECTION RESULTS |
|--|--|
| Water supply, existing: (describe) _____ To be installed: class <u>ID C</u> cased <u>20' MIN.</u> grouted <u>20' MIN.</u> | Water supply location: Satisfactory yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ G. W. 2 Received: yes <input type="checkbox"/> no <input checked="" type="checkbox"/> not applicable <input type="checkbox"/> |
| Building sewer: <u>3-4"</u> I.D. PVC 40, or equivalent. Slope 1.25" per 10' (minimum). <input checked="" type="checkbox"/> Other <u>3-4" FOR MOBILE HOME</u> | Building sewer: yes <input type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory <u>to be completed when house is finished (started)</u> |
| Septic tank: Capacity <u>1000</u> gals. (minimum). <input type="checkbox"/> Other _____ | Pretreatment unit: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory <u>1500 GALLONS</u> |
| <input checked="" type="checkbox"/> Inlet-outlet structure: PVC 40, 4" tees or equivalent. <input checked="" type="checkbox"/> Other <u>1-INLET TEE FOR MOBILE HOME</u> | Inlet-outlet structure: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory |
| Pump and pump station: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> describe and show design. if yes: _____ | Pump & pump station: yes <input type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory <u>N/A</u> |
| Gravity mains: 3" or larger I.D., minimum 6" fall per 100', 1500 lb. crush strength or equivalent. <input type="checkbox"/> Other _____ | Conveyance method: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory |
| Distribution box: Precast concrete with <u>6-8</u> ports. <input type="checkbox"/> Other _____ | Distribution box: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory <u>cement</u> |
| Header lines: Material: 4" I.D. 1500 lb. crush strength plastic or equivalent from distribution box to 2' into absorption trench. Slope 2" minimum. <input type="checkbox"/> Other _____ | Header lines: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory |
| Percolation lines: Gravity 4" plastic 1000 lb. per foot bearing load or equivalent, slope 2" 4" (min. max.) per 100'. <input type="checkbox"/> Other _____ | Percolation lines: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory |
| Absorption trenches: Square ft. required <u>720</u> ; depth from ground surface to bottom of trench <u>30"</u> ; aggregate size <u>#57</u> ; Trench bottom slope <u>2-4" / 100'</u> ; center to center spacing <u>9'</u> ; trench width <u>36"</u> ; Depth of aggregate <u>13"</u> ; Trench length <u>60'</u> ; Number of trenches <u>4</u> | Absorption trenches: yes <input checked="" type="checkbox"/> no <input type="checkbox"/> comments _____ Satisfactory <u>6-60'S</u> |
| Date <u>7/2/92</u> Inspected and approved by: _____ Sanitarian <u>[Signature]</u> | |

Schematic drawing of sewage disposal system and topographic features.

Show the lot lines of the building lot and building site, sketch of property showing any topographic features which may impact on the design of the system, all existing and/or proposed structures including sewage disposal systems and wells within 100 feet of sewage disposal system and reserve area. The schematic drawing of the sewage disposal system shall show sewer lines, pretreatment unit, pump station, conveyance system, and subsurface soil absorption system, reserve area, etc. When a nonpublic drinking water supply is to be located on the same lot show all sources of pollution within 100 feet.

The information required above has been drawn on the attached copy of the sketch submitted with the application. Attach additional sheets as necessary to illustrate the design.

- ▲ THIS PERMIT IS FOR INSTALLATION OF AN ONSITE SEWAGE DISPOSAL SYSTEM DESIGNED FOR A 3 BEDROOM HOME / 6 OCCUPANTS
- ▲ INSTALL: 4-60' LINES
→ 30" DEEP ←
9' CENTERS
ON CONTOUR OF SLOPE
- ▲ REMOVE ALL TREES + SHRUBS TO WITHIN 10' OF DRAINFIELD
- ▲ DIVERT ROOF DRAINS AWAY FROM SEPTIC FIELD
- ▲ MOBILE HOME TO BE HOOKED TO SYSTEM UNTIL HOUSE IS BUILT, THEN REMOVED FROM PROPERTY

- ▲ INSTALL CLASS III C WELL
-20' MINIMUM CASING AND GROUT
-KEEP WELL 100' MINIMUM UPSLOPE OF
 - ← TERMITE TREATED HOUSE
 - ← SEPTIC SYSTEM
- CALL FOR AN INSPECTION ONCE DRILLING BEGINS

The sewage disposal system is to be constructed as specified by the permit or attached plans and specifications .

This sewage disposal system construction permit is null and void if (a) conditions are changed from those shown on the application (b) conditions are changed from those shown on the construction permit.

No part of any installation shall be covered or used until inspected, corrections made if necessary, and approved, by the local health department or unless expressly authorized by the local health dept. Any part of any installation which has been covered prior to approval shall be uncovered, if necessary, upon the direction of the Department.

Date: 3/10/92 Issued by: *Lora L. Thompson*
Sanitarian

Date: 9 Reviewed by: *[Signature]*
Supervisory Sanitarian

This Construction Permit Valid until 9-10-96

If FHA or VA financing

Reviewed by Date _____ Date _____

Supervisory Sanitarian

Regional Sanitarian

Schematic drawing of sewage disposal system and topographic features.

Show the lot lines of the building lot and building site, sketch of property showing any topographic features which may impact on the design of the system, all existing and/or proposed structures including sewage disposal systems and wells within 100 feet of sewage disposal system and reserve area. The schematic drawing of the sewage disposal system shall show sewer lines, pretreatment unit, pump station, conveyance system, and subsurface soil absorption system, reserve area, etc. When a nonpublic drinking water supply is to be located on the same lot show all sources of pollution within 100 feet.

The information required above has been drawn on the attached copy of the sketch submitted with the application. Attach additional sheets as necessary to illustrate the design.

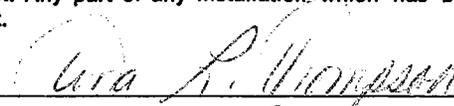
- ▲ THIS PERMIT IS FOR INSTALLATION OF AN ONSITE SEWAGE DISPOSAL SYSTEM DESIGNED FOR A 3 BEDROOM HOME / 6 OCCUPANTS
- ▲ INSTALL: 4-60' LINES
→ 30" DEEP ←
9' CENTERS
ON CONTOUR OF SLOPE
- ▲ REMOVE ALL TREES & SHRUBS 10' WITHIN 10' OF DESIGN FIELD
- ▲ DIVERT ROOF DRAINS AWAY FROM SEPTIC FIELD
- ▲ NOISE SIGN TO BE ADDED TO SYSTEM UNTIL HOUSE IS BUILT, THEN REMOVE FROM PROPERTY

- ▲ INSTALL CLASS III C WELL
-20' MINIMUM CASING AND GROUT
-KEEP WELL 100' MINIMUM UPSLOPE OF  TERNITE TREATED HOUSE SEPTIC SYSTEM
- CALL FOR AN INSPECTION ONCE DRILLING BEGINS

The sewage disposal system is to be constructed as specified by the permit or attached plans and specifications .

This sewage disposal system construction permit is null and void if (a) conditions are changed from those shown on the application (b) conditions are changed from those shown on the construction permit.

No part of any installation shall be covered or used until inspected, corrections made if necessary, and approved, by the local health department or unless expressly authorized by the local health dept. Any part of any installation which has been covered prior to approval shall be uncovered, if necessary, upon the direction of the Department.

Date: 3/10/92 Issued by: 

Sanitarian

Date: " Reviewed by: 

Supervisory Sanitarian

This Construction Permit Valid until 9-10-96

If FHA or VA financing

Reviewed by Date _____ Date _____

Supervisory Sanitarian

Regional Sanitarian

*Aug 21 1992
hole
triangulation*

*A
DIP
TO
SECURE*

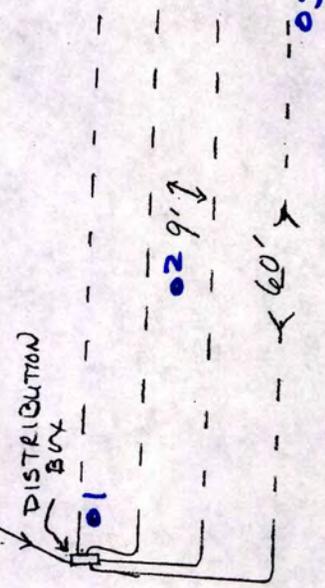
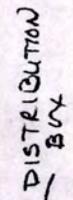
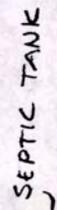
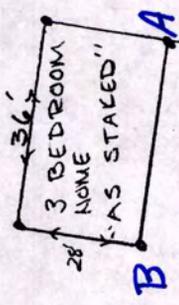
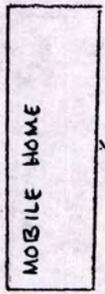
| | A | B |
|---|------|------|
| 1 | 70' | 77' |
| 2 | 99' | 102' |
| 3 | 121' | 128' |

WELL
AREA

(WELL)
100'
MINIMUM
TO TERMINATE
TREATED HOUSE

100'
MINIMUM
UPSLOPE OF
SEPTIC SYSTEM

NOTE!
MOBILE HOME
TO BE REMOVED
FROM PROPERTY
ONCE HOUSE IS
BUILT



PG. 3 OF 5
GARY PARRY
92-131-4050
G72-97-10A

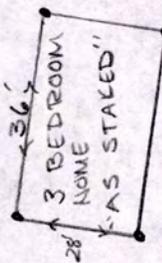
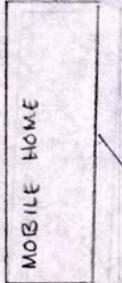
03

DEVELOPING
TO
SCAPE

WELL
AREA

(WELL)
100'
MINIMUM
TO TERMINATE
TREATED HOUSE

NOTE!
MOBILE HOME
TO BE REMOVED
FROM PROPERTY
ONCE HOUSE IS
BUILT



well installed

100'
MINIMUM
UPSLOPE OF
SEPTIC SYSTEM

176'

SEPTIC TANK
1500 GAL. TANK

DISTRIBUTION
BOX

3/4"

21'

9' ↓

60'

6 lines
installed

PG. 3 OF 5
GARY DARBY
92-131-4050
G.72-97-10A

BACTERIOLOGICAL ANALYSIS INPUT FORM

LAB USE ONLY

| PWS ID | | | | | | | TRANS CODE | | CONTAMINANT | | | | | LAB ANALYSIS-RESULT | | | | | DATE COMPLETED | | | |
|--------|--|--|--|--|--|--|------------|--|-------------|--|--|----------|--|---------------------|---|--|-----|---|----------------|----|-----|----|
| | | | | | | | 05 | | 3000 | | | Coliform | | | | | 305 | | | MO | DAY | YR |
| | | | | | | | | | | | | METHOD | | | A* P* | | | | | | | |
| | | | | | | | | | | | | | | | TOTAL COLIFORM <input checked="" type="checkbox"/> <input type="checkbox"/> | | 1 | 1 | 2 | | | |
| | | | | | | | | | | | | | | | FECAL COLIFORM <input type="checkbox"/> <input type="checkbox"/> | | | | 9 | | | |

IS SUPPLY CHLORINATED? NO YES RES CL _____ PPM

*A - Absent
*P - Present

| SAMPLE LOCATION | | | | SAMPLE DATE | | | SAMPLE | | | SAMPLE COLLECTED BY | | SAMPLE ANALYZED BY | |
|-----------------|--------------------------------------|--|--|-------------|-----|----|------------|------|--|---------------------|--|--------------------|--|
| CODE | LOCATION NAME/ADDRESS | | | MO | DAY | YR | TYPE | TIME | | | | | |
| | FLOYD CO. VA. BLACK RIDGE AREA | | | 11 | 10 | 92 | [REDACTED] | 0940 | | SELF | | Susan Mirzahi | |

PUBLIC WATER SYSTEM NAME AND ADDRESS, OR ADDRESS FOR SUBMISSION OF RESULTS

GARY D. DARBY
RT. 1, BOX 660
FLOYD, VA. 24091

| LAB ID | | | | | LABORATORY NAME | | | | |
|--------|--|--|--|--|--|--|--|--|--|
| 00245 | | | | | OLVER INC. 1116 S. MAIN ST. BLACKSBURG, VA 24060 | | | | |

UNSATISFACTORY: PLEASE RESAMPLE

- INSUFFICIENT DATA
- LEAKED
- CONFLUENT GROWTH
- INSUFFICIENT QUANTITY
- TNTC
- TURBID CULTURE
- RECEIVED OUT OF DATE
- INCORRECT CONTAINER
- OTHER _____

SEE REVERSE SIDE FOR COLLECTION INFORMATION.

60323

THIS BOTTLE CONTAINS THIOSULPHATE

The sample volume must be a minimum of 100 ml. Fill to the shoulder of the bottle to provide ample space in bottle for mixing.

Samples received in the laboratory more than 48 hours after collection will be rejected for testing.

SAMPLE KEY TYPE

- C - Check Sample
- D - Regular Distribution Sample
- P - Plant Tap Sample
- R - Raw Water
- S - Special Sample

SAMPLE TIME

Use 24 hour clock in recording the time the sample was taken. FOR EXAMPLE: If the sample was taken at 2:30 in the afternoon it would be entered as "1430" on this form or 2:30 plus 12 hours = 1430 hours.

Soil Evaluation Form

PAGE 4 OF 5

Commonwealth of Virginia
Department of Health

Health Department
Identification Number 92-131-4050
Tax Map Number G72-97-10A

General Information

Date 3-9-92 FLOYD CO. Health Department
Applicant Gary Darby Telephone No. _____
Address pg. 1
Owner _____ Address _____
Location Rt. 777
Subdivision _____ Block/Section _____ Lot _____

Soil Information Summary

1. Position in landscape satisfactory Yes No Describe Convex Slope
2. Slope 18 %
3. Depth to rock/impervious strata Max. 58" Min. 46" None _____
4. Depth to seasonal water table (gray mottling or gray color) No Yes _____ inches
5. Free water present No Yes _____ range in inches
6. Soil percolation rate estimated Yes No Texture group I II III IV
Estimated rate 35 min/inch
7. Percolation test performed Yes No Number of percolation test holes _____
Depth of percolation test holes _____
Average percolation rate _____
Name and title of evaluator: Linda S. Thompson / SAN
Signature: Linda S. Thompson

Department Use

Site Approved: Drainfield to be placed at 30" depth at site designated on permit.
 Site Disapproved:
Reasons for rejection:
1. Position in landscape subject to flooding or periodic saturation.
2. Insufficient depth of suitable soil over hard rock.
3. Insufficient depth of suitable soil to seasonal water table.
4. Rates of absorption too slow.
5. Insufficient area of acceptable soil for required drainfield, and/or Reserve Area.
6. Proposed system too close to well.
7. Other Specify _____

Date of Evaluation 3-9-92

Profile Description
SOIL EVALUATION REPORT

Health Department
Identification No. 92-131-4050

Page 5 of 5

Where the local health department conducts the soil evaluation the location of profile holes may be shown on the schematic drawing on the construction permit or the sketch submitted with the application. If soil evaluations are conducted by a private soil scientist, location of profile holes and sketch of the area investigated including all structural features i.e., sewage disposal systems, wells, etc., within 100 feet of site (See section 4) and reserve site shall be shown on the reverse side of this page or prepared on a separate page and attached to this form.

- See application sketch See construction permit See sketch on reverse side or page attached to this form.

| Hole # | Horizon | Depth (Inches) | Description of, color, texture, etc. | Texture Group |
|--------|---------|----------------|---|---------------|
| 1 | | 0-5 | Dark Br. Loam | # |
| | | 5-23 | Yellow brown sandy loam 8-9" Quartz stones | # |
| | | 23-46 | Many colors micaceous, sandy saprolite | # |
| 2 | | 0-11 | Dark Brown Loam | II |
| | | 11-25 | Yellow Br. sandy loam | II |
| | | 25-30 | Yellow brown sandy clay loam | II |
| | | 30-48 | Yellow brown sandy loam Coarse sandy texture 1-2% coarse rock fragments | II |
| 3 | | 0-11 | Dark Brown Loam | II |
| | | 11-38 | Medium & Dark brown sandy saprolite | II |
| | | 38-58 | Dark brown & many colors sandy saprolite 10% coarse schist fragments | II |

Remarks

Completion Statement

Commonwealth of Virginia
State Department of Health

Health Department
Identification Number 92-131-4050

Floyd Co. Health Department

Name of Company/Corporation/Individual: Wood & Boyd

Address: RT. 1 Box 124 Meadows of Telephone: _____

Owner's Name: DARBY Dan

Owner's Address _____

Location of Installation: Lot _____ Block _____

Section: _____ Subdivision: _____

Other: RT. 777

I hereby certify that the onsite sewage disposal system has been installed and completed in accordance with the construction permit issued (date) 3/10/92 and is in compliance with Part D of the Sewage Handling and Disposal Regulations and when appropriate the plans and specifications for the project.

7/2/92
Date

X Geo E. Boyd
Signature and Title

Completion Statement

Commonwealth of Virginia
State Department of Health

Health Department
Identification Number 92 136-4670

F. W. Co. Health Department

Name of Company/Corporation/Individual: Woods & Boys

Address: RT 1 Box 124 Manassas VA Telephone: _____

Owner's Name: Dorsey Dan

Owner's Address: _____

Location of Installation: Lot _____ Block _____

Section: _____ Subdivision: _____

Other: RT 777

I hereby certify that the onsite sewage disposal system has been installed and completed in accordance with the construction permit issued (date) 3/10/92 and is in compliance with Part D of the Sewage Handling and Disposal Regulations and when appropriate the plans and specifications for the project.

7/2/92
_____ Date

Lee E. Beal
_____ Signature and Title

72P

FLOYD COUNTY HEALTH DEPARTMENT

P. O. BOX 157
FLOYD, VIRGINIA 24091

IN COOPERATION WITH THE
STATE DEPARTMENT OF HEALTH

TELEPHONE 703-745-2141

July 6, 1992

Mr. Gary Darby
Rt. 1, Box 68M
Morrisville, NC 27560

Re: Permit #92-131-4050

Dear Mr. Darby:

According to our records all of the work has been done at your work site with the exception(s) checked below:

Well Water (GW2) Statement submitted

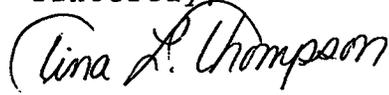
Water sample taken ()

Other:

In order for us to issue an Operation Permit for your sewage disposal system, you must send us the above checked information.

Please call me at 745-2141 if you have any questions.

Sincerely,



Tina L. Thompson
Environmental Health Specialist

lsf

Application for a Sewage Disposal System Construction Permit

Commonwealth of Virginia
Department of Health

For Department Use Only

Health Department
Identification Number 92-131-4050
Map Reference _____

Floyd County

\$ 75 N149948
\$ 50 000535
Health Department

Date Received 2/21/92

To Be Completed By The Applicant

Type sewage system: New Repair Expanded Conditional (919)
FHA/VA yes no

Owner GARY DARBY Address Rt 1 Box 68M Phone 380-8976
MORRISVILLE NC 27560

Agent same Address _____ Phone _____

Directions to Property On SR 977 near Parkway, .5 mi past Winery. Please call a day or so ahead to arrange access.

Subdivision _____ Section _____ Block _____ Lot _____

Other Property Identification _____

Dimensions/size of Lot/Property 165 acres

Other Application Information

I. Building/facility Intermittent Use New Existing Yes No If yes, describe: _____

II. Residential Use Yes No
Termite Treatment Yes No
 Single Family Multifamily Number of Units _____ Number of Bedrooms 3
Basement Yes No
Fixtures in Basement Yes No

III. Commercial Use Yes No Describe: _____
Commercial/Wastewater Yes No Number of Patrons _____ Number of Employees _____
If yes, give volumes and describe _____

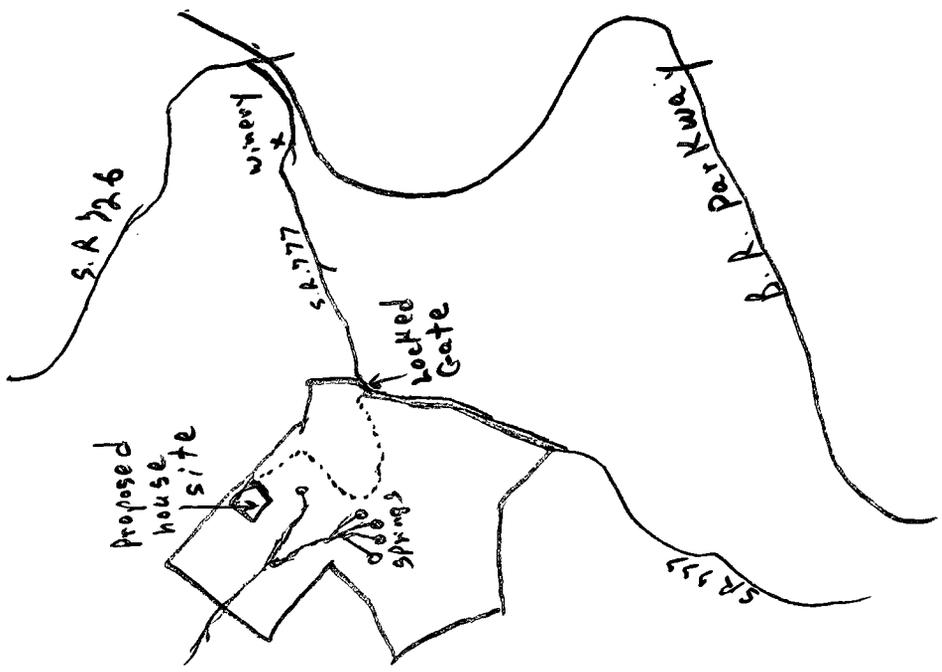
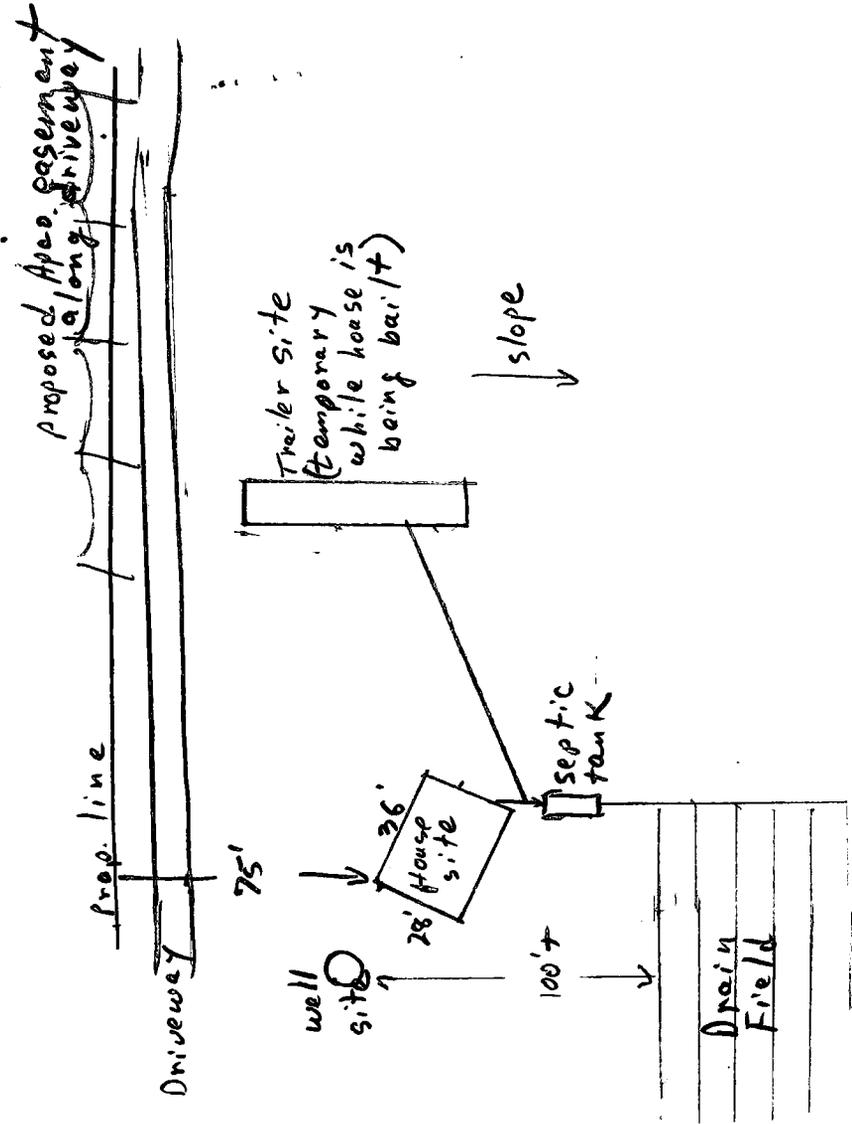
IV. Water Supply: Public Private New Describe: drill well Existing

V. Proposed Installation: Septic tank and drainfield Other
If other, describe _____

SITE PLAN Attach a site plan (rough sketch) showing dimensions of property, proposed and/or existing structures and driveways, underground utilities, adjacent soil absorption systems, bodies of water, drainage ways, and wells and springs within 200 feet radius of the center of the proposed building or drainfield. Distances may be paced or estimated.

The property lines and building location are clearly marked and the property is sufficiently visible to see the topography. I give permission to the Department to enter onto the property described for the purpose of processing this application.

Gary D Darby Signature of owner/agent 2/21/92 Date



CONTRACT OF PURCHASE

THIS CONTRACT OF PURCHASE (hereinafter "Contract") is made as of **December 3rd, 2020**, between, **Gary D. and Violet R. Darby Living Trust by and through Violet R. Darby, Trustee** owners of record of the Property sold herein (hereinafter referred to as the "Seller"), and

(hereinafter referred to as the "Purchaser", whether one or more). The Purchaser was the successful bidder at a public auction of the Property held on this date and this Contract restates the terms of sale announced prior to the auction sale.

1. **Real Property.** Purchaser agrees to buy, and Seller agrees to sell the land and all improvements thereon and appurtenances thereto which fronts upon a public street or has a recorded access easement to a public street (hereinafter referred to as the "Property"), located in the County of Floyd, Virginia, and described as:
2. **Legal Description** – Total of 165.99 Acres in the Burks Fork Magisterial District of Floyd County Virginia.
 - 1.) +- 164.75 Acres and improvements; Tax Map # 78-3; PC1-53B
 - 2.) +- 1.24 Acres; Tax Map 72-97B; Plat # 970001720

Commonly known as – 411 Winery Road; Floyd VA 24091

3. **Purchase Price:** The purchase price of the Property is equal to the auction bid price plus 10% Buyer's Premium, which is as follows:

(hereinafter referred to as the "Purchase Price"), which shall be paid to the Settlement Agent (designated below) at settlement ("Settlement") by certified or cashier's check, or wired funds, subject to the prorations described herein.

4. **Deposit.** Purchaser has made a deposit with Auction Company, of **\$10,000**

(hereinafter referred to as the "Deposit"). The Deposit shall be held by the Auction Company, pursuant to the terms of this Contract, until Settlement and then applied to the Purchase Price.

5. **Settlement Agent and Possession.** Settlement shall be made at **Attorney of Purchaser's Choice** on or before **January 18, 2021** ("Settlement Date"). Time is of the essence. Possession shall be given at Settlement.

Seller's Initials _____

Purchaser's Initials _____

6. Required Disclosures.

(a) **Property Owners' Association Disclosure.** Seller represents that the Property is not located within a development that is subject to the Virginia Property Owners' Association Act ("Act") (Virginia Code § 55-508 through § 55-516). If the Property is within such a development, the Act requires Seller to obtain an association disclosure packet from the property owners' association and provide it to Purchaser.

The information contained in the association disclosure packet shall be current as of a specified date which shall be within 30 days of the date of acceptance of the Contract by the Seller. Purchaser may cancel this Contract: (i) within 3 days after the date of the Contract, if on or before the date that Purchaser signs the Contract, Purchaser receives the association disclosure packet or is notified that the association disclosure packet will not be available; (ii) within 3 days after hand-delivered receipt of the association disclosure packet or notice that the association disclosure packet will not be available; or (iii) within 6 days after the post-marked date, if the association disclosure packet or notice that the association disclosure packet will not be available is sent to Purchaser via the United States mail. Purchaser may also cancel the Contract, without penalty, at any time prior to Settlement if Purchaser has not been notified that the association disclosure packet will not be available and the association disclosure packet is not delivered to Purchaser. Purchaser's notice of cancellation shall be either hand-delivered or sent via United States mail, return receipt requested, to Seller. Purchaser's cancellation pursuant to this subsection shall be without penalty. This Contract shall become void upon cancellation and the Deposit shall be refunded in full to Purchaser upon Purchaser's notice of cancellation.

If more than 6 months have elapsed between the date of ratification of this Contract and the Settlement Date, Purchaser may submit a copy of the Contract to the property owners' association along with a request for assurance that the information required by Virginia Code § 55-512 previously furnished to Purchaser in the association disclosure packet remains materially unchanged; or, if there have been material changes, a statement specifying such changes. Purchaser shall be provided with such assurances or such statement within 10 days of the receipt of such request by the property owner's association. Purchaser may be required to pay a fee for the preparation and issuance of the requested assurances. Said fee shall reflect the actual costs incurred by the property owners' association in providing such assurances but shall not exceed \$100.00 or such higher amount as may now or hereafter be permitted pursuant to applicable statutes.

Any rights of Purchaser to cancel the Contract provided by the Act are waived conclusively if not exercised prior to Settlement.

(b) **Virginia Residential Property Disclosure Act.** The Virginia Residential Property Disclosure Act (§55-517 et seq. of the Code of Virginia) requires the owner of certain residential real property, whenever the property is to be sold or leased with an option to buy, to furnish to the purchaser a RESIDENTIAL PROPERTY DISCLOSURE STATEMENT stating the owner makes certain representations as to the real property. Said form is attached.

Seller's Initials _____

Purchaser's Initials _____

(c) **Virginia Condominium Act.** Pursuant to Virginia Code § 55-79.97, Seller represents that the Property is not a condominium unit. If the Property is a condominium unit, this Contract is subject to the Virginia Condominium Act that requires Seller to furnish Purchaser with certain financial and other disclosures prior to entering into a binding contract. If the required disclosures are unavailable on the date of ratification, Seller shall promptly request them from the unit condominium owners' association and provide them to Purchaser who shall acknowledge receipt in writing upon delivery. If Purchaser fails to receive the disclosures within 15 days after the date of ratification of this Contract or the disclosures are found unacceptable to Purchaser, Purchaser may void this Contract by delivering notice to the Broker within 3 days after the disclosures are received or due (if not received) and Purchaser's Deposit shall be returned promptly.

If more than 60 days have lapsed between the date of ratification of this Contract and the Settlement Date, Purchaser may submit a copy of the Contract to the unit owners' condominium association with a request for assurance from the unit owners' condominium association that there have been no material changes from the previously furnished information from the unit owners' condominium association.

Purchaser may declare this Contract void within 3 days after either receipt of the required disclosures or of notice that there are material changes, or the failure of the condominium unit owners' association to provide assurances (within 10 days after receipt of Purchaser's request) that there have been no material changes.

(d) **Mechanics' and Materialmen's Liens.**

NOTICE

Virginia law (Virginia Code § 43-1 *et seq.*) permits persons who have performed labor or furnished materials for the construction, removal, repair or improvement of any building or structure to file a lien against the Property. This lien may be filed at any time after the work is commenced or the material is furnished, but not later than the earlier of (i) 90 days from the last day of the month in which the lienor last performed work or furnished materials or (ii) 90 days from the time the construction, removal, repair or improvement is terminated. (See Standard Provision J on Exhibit A.)

AN EFFECTIVE LIEN FOR WORK PERFORMED PRIOR TO THE SETTLEMENT DATE MAY BE FILED AFTER SETTLEMENT. LEGAL COUNSEL SHOULD BE CONSULTED.

(e) **Notice of Principal Residence.** Purchaser does ___ or does not ___ intend to occupy the Property as Purchaser's principal residence.

Seller's Initials _____

Purchaser's Initials _____

(f) **Title Insurance Notification.** Purchaser may wish at Purchaser's expense to purchase owner's title insurance. Depending on the particular circumstances of the transaction, such insurance could include affirmative coverage against possible mechanics' and materialmen's liens for labor and materials performed prior to Settlement and which, though not recorded at the time of recordation of Purchaser's deed, could be subsequently recorded and would adversely affect Purchaser's title to the Property. The coverage afforded by such title insurance would be governed by the terms and conditions thereof, and the premium for obtaining such title insurance coverage will be determined by its coverage.

(g) **Lead-Based Paint Disclosure.** The certification, required pursuant to the Lead-Based Paint Hazard Reduction Act of 1992, signed by Seller on any residence built prior to 1978. Home was built in 1992 and lead base paint disclosure is not required.

(h) **Choice of Settlement Agent.** Virginia's Consumer Real Estate Settlement Protection Act provides that the purchaser or borrower has the right to select the settlement agent to handle the closing of this transaction. The settlement agent's role in closing this transaction involves the coordination of numerous administrative and clerical functions relating to the collection of documents and the collection and disbursement of funds required to carry out the terms of the contract between the parties. If part of the purchase price is financed, the lender for the purchaser will instruct the settlement agent as to the signing and recording of loan documents and the disbursement of loan proceeds. No settlement agent can provide legal advice to any party to the transaction except a settlement agent who is engaged in the private practice of law in Virginia and who has been retained or engaged by a party to the transaction for the purpose of providing legal services to that party.

Variation by agreement: The provisions of the Consumer Real Estate Settlement Protection Act may not be varied by agreement, and rights conferred by this chapter may not be waived. The Seller may not require the use of a particular settlement agent as a condition of the sale of the property.

Escrow, closing and settlement service guidelines: The Virginia State Bar issues guidelines to help settlement agents avoid and prevent the unauthorized practice of law in connection with furnishing escrow, settlement or closing services. As a party to a real estate transaction, the purchaser or borrower is entitled to receive a copy of these guidelines from your settlement agent, upon request, in accordance with the provisions of the Consumer Real Estate Settlement Protection Act.

Seller's Initials _____

Purchaser's Initials _____

7. Standard Provisions.

(a) **Deposit.** If Purchaser fails to complete settlement on or before the Settlement Date, time being of the essence, the Deposit shall be forfeited to the Seller. Such forfeiture shall not limit any liability of the defaulting Purchaser or any rights or remedies of the Seller with respect to any such default, and the defaulting Purchaser shall be liable for all costs of re-sale of the Property (including attorney's fees of Seller), plus any amount by which the ultimate sale price for the Property is less than the defaulting purchaser's bid. After any such default and forfeiture, the Property may, at the discretion of the Seller, be conveyed to the next highest bidder of the Property whose bid was acceptable to the Seller. In the event the Seller does not execute a deed of conveyance for any reason, the Purchaser's sole remedy shall be the refund of the deposit. Immediately upon delivery of the deed for the Property by the Seller, all duties, liabilities, and obligations of the Seller, if any, to the purchaser with respect to the Property shall be extinguished.

(b) **Expenses and Prorations.** Seller agrees to pay the costs of preparing the deed, certificates for non-foreign status and state residency and the applicable IRS Form 1099, and the recordation tax applicable to grantors. Except as otherwise agreed herein, all other expenses incurred by Purchaser in connection with the Contract and the transaction set forth therein, including, without limitation, title examination costs, insurance premiums, survey costs, recording costs, loan document preparation costs and fees of Purchaser's attorney, shall be borne by Purchaser. All taxes, assessments, interest, rent and mortgage insurance, if any, shall be prorated as of Settlement. In addition to the Purchase Price, Purchaser shall pay Seller (i) for all propane remaining on the Property (if any) at the prevailing market price as of Settlement and (ii) any escrow Deposits made by Seller which are credited to Purchaser by the holders thereof.

(c) **Title.** At Settlement, Seller shall convey to Purchaser good and marketable fee simple title to the Property by **Deed of General Warranty**, free of all liens, tenancies, defects and encumbrances, except as otherwise indicated herein, and subject only to such restrictions and easements as shall then be of record which do not affect the use of the Property for residential purposes or render the title unmarketable. If a defect is found which can be remedied by legal action within a reasonable time, Seller shall, at Seller's expense, promptly take such action as is necessary to cure the defect. If Seller, acting in good faith, is unable to have such defect corrected within 60 days after notice of such defect is given to Seller, then this Contract may be terminated by either Seller or Purchaser. Purchaser may extend the date for Settlement to the extent necessary for Seller to comply with this Paragraph but not longer than 60 days.

(d) **Land Use Assessment.** In the event the Property is taxed under land use assessment and this sale results in disqualification from land use eligibility, Seller shall pay, when assessed, whether at or after Settlement, any rollback taxes assessed. If the Property continues to be eligible for land use assessment, Purchaser agrees to make application, at Purchaser's expense, for continuation under land use, and to pay any rollback taxes resulting from failure to file or to qualify.

Seller's Initials _____

Purchaser's Initials _____

(e) **Risk of Loss.** All risk of loss or damage to the Property by fire, windstorm, casualty or other cause, or taking by eminent domain, is assumed by Seller until Settlement. In the event of substantial loss or damage to the Property before Settlement, Purchaser shall have the option of either (i) terminating this Contract, or (ii) affirming this Contract, with appropriate arrangements being made by Seller to repair the damage, in a manner acceptable to Purchaser, or Seller shall assign to Purchaser all of Seller's rights under any applicable policy or policies of insurance and any condemnation awards and shall pay over to Purchaser any sums received as a result of such loss or damage.

(f) **Property Sold "As Is".** Purchaser agrees to accept the Property at Settlement in its present physical condition. No representations or warranties are made as to zoning, structural integrity, physical condition, environmental condition, construction, workmanship, materials, habitability, fitness for a particular purpose, or merchantability of all or any part of the Property.

(g) **Counterparts.** This Contract may be executed in one or more counterparts, with each such counterpart to be deemed an original. All such counterparts shall constitute a single agreement binding on all the parties hereto as if all had signed a single document. It is not necessary that all parties sign all or any one of the counterparts, but each party must sign at least one counterpart for this Contract to be effective.

(h) **Assignability.** This Contract may not be assigned by either Seller or Purchaser without the written consent of the other.

(i) **Miscellaneous.** The parties to this Contract agree that it shall be binding upon them, and their respective personal representatives, successors and assigns, and that its provisions shall not survive Settlement and shall be merged into the deed delivered at Settlement except for the provisions relating to roll back taxes. This Contract contains the final agreement between the parties hereto, and they shall not be bound by any terms, conditions, oral statements, warranties or representations not herein contained. This Contract shall be construed under the laws of the Commonwealth of Virginia.

Seller's Initials _____

Purchaser's Initials _____

IN WITNESS WHEREOF, the Purchaser and the Seller have duly executed this Contract as of the day and year first above written.

12/03/2020

(Seller)

Gary D. and Violet R. Darby Living Trust by and through Violet R. Darby, Trustee

Purchaser Name

Address

Phone #

Email

12/03/2020

(Purchaser signature)

Purchaser Name

Address

Phone #

Email

12/03/2020

(Purchaser signature)

Seller's Initials _____

Purchaser's Initials _____



**SUMMARY OF RIGHTS AND OBLIGATIONS
OF SELLERS AND PURCHASERS UNDER
THE VIRGINIA RESIDENTIAL PROPERTY DISCLOSURE ACT**



Virginia's Residential Property Disclosure Act (the "Act") (Virginia Code § 55.1-700 et seq.) requires real estate licensees to inform the parties to a transaction with whom they deal of their rights and obligations under the Act. The licensee providing this information to you is prepared to answer any questions you may have about what the Act means to you, and to furnish you with a copy of the Act at your request.

The Act applies to sales, exchanges, installment sales, or leases with option to purchase of residential real property improved with one to four dwelling units. The Act does not apply to: transfers pursuant to court order (estate administration, pursuant to writ execution, foreclosure, bankruptcy, condemnation, or by decree for specific performance); transfers among co-owners; transfers among spouses; transfers among parents or grandparents and their children or grandchildren; tax sales; transfers involving a government or housing authority; or (subject to certain exceptions discussed below) sales of new homes.

The Act requires sellers to furnish purchasers with a disclosure statement developed by the Virginia Real Estate Board. The statement must be furnished to the purchaser before final ratification of the purchase contract or the purchaser may terminate the contract or sue later for damages. The disclosures will be current as of the date of delivery. The seller will not be required to provide updated or additional disclosures if a transaction pursuant to a ratified real estate contract proceeds to settlement after the effective date of legislation amending any of the disclosures under § 55.1-700, provided that the correct disclosures were delivered under the law in effect at the time of delivery. The statement will direct purchasers to the RESIDENTIAL PROPERTY DISCLOSURES webpage (http://www.dpor.virginia.gov/News/Residential_Property_Disclosures/) for important information about the real property. Purchasers are advised to consult the webpage.

A seller, in furnishing a disclosure statement, makes no representations or warranties as to the condition of the property or any improvements located thereon nor with respect to the matters set forth and described at the RESIDENTIAL PROPERTY DISCLOSURES web page (http://www.dpor.virginia.gov/News/Residential_Property_Disclosures/). Purchase r is advised to exercise whatever due diligence purchaser deems necessary, including a home inspection, as defined in Virginia Code § 54.1-500, in accordance with the terms and condition of the purchase contract, but in any event prior to settlement.

A builder of a new home must disclose to a purchaser in writing all known material defects which would constitute a violation of any applicable building code. In addition, for property located wholly or partially in any locality comprising Planning District 15 (the City of Richmond, the Town of Ashland, and the counties of Charles City, Chesterfield, Goochland, Hanover, Henrico, New Kent, and Powhatan), the builder (or seller, if the owner is not the builder) shall disclose in writing whether mining operations have previously been conducted on the property or the presence of any abandoned mines, shafts or pits. This disclosure does not abrogate any warranty or other obligations the builder may have to the purchaser, and must be made (i) when selling a completed home, before acceptance of the purchase contract, or (ii) when selling a home before or during construction, after issuance of a certificate of occupancy. No disclosure or statement of any kind is required if there is no such information to disclose. Any required disclosure may be, but need not be, contained in the disclosure statement described in this summary.

A purchaser must be furnished with a disclosure statement signed by the seller prior to final ratification of the purchase contract. If such statement is received after final ratification, the purchaser's sole remedy shall be to terminate the purchase contract by sending written notice to the seller either by hand delivery or U.S. Mail, postage prepaid, at or prior to the earliest of (i) three days after receiving the statement (if delivered in person); (ii) five days after postmark (if sent by U.S. Mail, postage prepaid); (iii) settlement; (iv) occupancy by purchaser; (v) purchaser's making written application for a mortgage loan if such application discloses that the termination right ends upon application; (vi) purchaser's execution of a written waiver of the right to terminate (such waiver may not be in the purchaser contract).

If the seller fails to provide the required disclosure statement, the contract may be terminated as set forth above. If the seller fails to provide the required disclosure statement, or the seller misrepresents, willfully or otherwise, the information required in such disclosure, except as a result of information provided by the locality in which the property is located, the purchaser may bring an action to recover actual damages suffered as a result of such violation. No purchaser of property located in a noise zone designated on the official zoning map of the locality as having a day-night average sound level of less than 65 decibels shall have a right to maintain an action for such damages. Any such action must be brought within one year of the date the purchaser received the disclosure statement. If no disclosure statement was provided to the purchaser, the action must be brought within one year of the date of settlement, or purchaser's occupancy of the property by lease with option to purchase.

Purchasers should be aware that neither a seller nor a real estate licensee is obligated to disclose facts or

occurrences which have no effect on the physical structure of the property, its physical environment, or the improvements located thereon, or the fact that the property was the site of a homicide, felony, or suicide. Furthermore, it is a violation of federal law to disclose whether a previous occupant of the property was afflicted with the HIV virus or has AIDS. Purchasers should be aware that in providing a disclosure statement:

- (a) The owner is making no representations or warranties as to the condition of the real property or any improvements thereon, or with regard to any covenants and restrictions, or any conveyance of mineral rights, as may be recorded among the land records affecting the real property or any improvements thereon. Purchasers should exercise whatever due diligence they deem necessary, including obtaining a home inspection and a residential building energy analysis as defined in § 54.1-1144, in accordance with the terms and conditions as may be contained in the real estate purchase contract.
- (b) The owner is making no representations with respect to any matters that may pertain to parcels adjacent to the subject property, including zoning classification or permitted uses of adjacent parcels. Purchasers should exercise whatever due diligence they deem necessary with respect to adjacent parcels in accordance with the terms and conditions of the purchase contract, but in any event prior to settlement on the subject property.
- (c) The owner makes no representations as to any matters that pertain to whether the provisions of any historic district ordinance affect the property. Purchasers are advised to exercise whatever due diligence they deem necessary with respect to any historic district designated by the locality pursuant to Virginia Code § 15.2-2306, including review of any local ordinance creating such district or any official map adopted by the locality depicting historic districts, any materials available from the locality that explain any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic district and the necessity of any local review board or governing body approvals prior to doing any work on a property located in a local historic district, in accordance with terms and conditions as may be contained in the purchase contract, but in any event prior to settlement on the property.
- (d) The owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Virginia Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to Virginia Code § 62.1-44.15:74. Purchasers should exercise whatever due diligence they deem necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be contained in the purchase contract, but in any event prior to settlement on the property.
- (e) The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2. Purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with the terms and conditions of the purchase contract, but in any event prior to settlement. Such information may be obtained by contacting the local police department or the Department of State Police, Central Criminal Records Exchange, at (804) 674-2000, or on the Internet at <http://sex-offender.vsp.virginia.gov/sort/>.
- (f) The owner makes no representations with respect to whether the property is within a dam break inundation zone. Purchaser is advised to exercise whatever due diligence the purchaser deems necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones.
- (g) The owner makes no representations with respect to the presence of any wastewater system, including the type or size thereof or associated maintenance responsibilities related thereto, located on the property and the purchaser is advised to exercise whatever due diligence the purchaser deems necessary to determine the presence of any wastewater system on the property and the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to that contract.
- (h) The owner makes no representations with respect to any right to install or use solar energy collection devices on the property.
- (i) The owner makes no representations with respect to whether the property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) reviewing any map depicting special flood hazard areas, (iii) contacting the Federal Emergency Management Agency (FEMA) or visiting the website for FEMA's National Flood Insurance Program or the Virginia Department of Conservation and Recreation's Flood Risk Information, and (iv) determining whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract.
- (j) The owner makes no representations with respect to whether the property is subject to one or more conservation or other easements and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract; and
- (k) The owner makes no representations with respect to whether the property is subject to a community development authority approved by a local governing body pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2 of the Virginia Code and that purchasers are advised to exercise whatever due diligence a particular purchaser deems

necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including determining whether a copy of the resolution or ordinance has been recorded in the land records of the circuit court for the locality in which the community development authority district is located for each tax parcel included in the district pursuant to Virginia Code § 15.2-5157, but in any event, prior to settlement pursuant to such contract.

- (l) The seller represents that there are no pending enforcement actions pursuant to the Virginia Uniform Statewide Building Code (§ 36-97 et seq.) that affect the safe, decent and sanitary living conditions of the property of which the seller has been notified in writing by the locality, nor any pending violation of the local zoning ordinance that the seller has not abated or remedied within the time period set out in the written notice of violation from the locality or established by a court of competent jurisdiction, except as set out in the disclosure statement.
- (m) The seller makes no representations with respect to whether the property is located on or near deposits of marine clays (marumscos soils), and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with the terms and conditions as may be contained in the real estate purchase contract, including consulting public resources regarding local soil conditions and having the soil and structural conditions of the property analyzed by a qualified professional.
- (n) The seller makes no representations with respect to whether the property is located in a locality classified as Zone 1 or Zone 2 by the U.S. Environmental Protection Agency's (EPA) Map of Radon Zones, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether the property is located in such a zone, including (i) reviewing the EPA's Map of Radon Zones or visiting the EPA's radon information website; (ii) visiting the Virginia Department of Health's Indoor Radon Program website; (iii) visiting the National Radon Proficiency Program's website; (iv) visiting the National Radon Safety Board's website that lists the Board's certified contractors; and (v) ordering a radon inspection, in accordance with the terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract.
- (o) The seller makes no representations with respect to whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free" pursuant to 42 U.S.C. § 300g-6, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free", in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract.
- (p) The seller makes no representations with respect to the existence of defective drywall on the property, and purchasers are advised to exercise whatever due diligence they deem necessary to determine whether there is defective drywall on the property, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event prior to settlement pursuant to such contract. For purposes of this paragraph, "defective drywall" means the same as that term is defined in Virginia Code § 36-156.1.
- (q) The seller makes no representation with respect to the condition or regulatory status of any impounding structure or dam on the property or under the ownership of the common interest community that the owner of the property is required to join, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine the condition, regulatory status, cost of required maintenance and operation, or other relevant information pertaining to the impounding structure or dam, including contacting the Department of Conservation and Recreation or a licensed professional engineer.

If the property is located in a locality in which a military air installation is located, the seller must provide purchasers with a disclosure statement setting forth whether the property is located in a noise zone or accident potential zone, or both, if so designated on the official zoning map of the locality. Such disclosure shall state the specific noise or accident potential zone, or both, in which the property is located.

Please acknowledge receiving a copy of this summary by signing below.

Violet R. Darby

10/30/2020 (Date)

_____ (Date)

_____ (Date)

_____ (Date)

RESIDENTIAL PROPERTY DISCLOSURE STATEMENT ACKNOWLEDGEMENT BY SELLER AND PURCHASER

The Virginia Residential Property Disclosure Act (§ 55.1-700 et seq. of the *Code of Virginia*) requires the owner of certain residential real property - whenever the property is to be sold or leased with an option to buy - to provide notification to the purchaser of any disclosures required by the Act and to advise the purchaser that the disclosures are listed on the Real Estate Board webpage.

Certain transfers of residential property are excluded from this requirement (see § 55.1-702).

PROPERTY ADDRESS/ 411 Winery Rd SW, Floyd, VA 24091-4081
LEGAL DESCRIPTION: TAX ID 78-3 / 72-97B

The purchaser is advised of the disclosure listed in the RESIDENTIAL PROPERTY DISCLOSURE STATEMENT located on the Real Estate Board webpage at:

http://www.dpor.virginia.gov/Consumers/Residential_Property_Disclosures

The owner(s) hereby provides notification as required under the Virginia Residential Property Disclosure Act (§ 55.1-700 et seq. of the *Code of Virginia*) and, if represented by a real estate licensee as provided in § 55.1-712, further acknowledges having been informed of the rights and obligations under the Act.

Violet R. Darby
Owner

Owner

10/30/2020
Date

Date

The purchaser(s) hereby acknowledges receipt of notification of disclosures as required under the Virginia Residential Property Disclosure Act (§ 55.1-700 et seq. of the *Code of Virginia*). In addition, if the purchaser is (i) represented by a real estate licensee or (ii) not represented by a real estate licensee but the owner is so represented as provided in § 55.1-712, the purchaser further acknowledges having been informed of the rights and obligations under the Act.

Purchaser

Purchaser

Date

Date



ROANOKE VALLEY ASSOCIATION OF REALTORS®



RESIDENTIAL SEPTIC SYSTEM DISCLOSURE STATEMENT

Section 32.1-164.1:1 Code of Virginia provides whenever any onsite sewage system is failing and is on or serves real property consisting of not less than one nor more than four dwelling units and the Board of Health's (Board) regulations for repairing such failing system impose (i) a requirement for treatment beyond the level of treatment provided by the existing onsite sewage system when operating properly or (ii) a new requirement for pressure dosing, the Owner may request a waiver from such requirements. The Commissioner shall grant any request for such waiver, unless he finds that the failing system was installed illegally without a permit. Any such waivers shall be recorded in the land records of the clerk of the circuit court in the jurisdiction in which the property on which the relevant onsite sewage system is located. Waivers granted hereunder shall not be transferable and shall be null and void upon transfer or sale of the property on which the onsite sewage system is located. Additional treatment or pressure dosing requirements shall be imposed in such instances when the property is transferred or sold.

The Owner of the relevant property shall disclose that any operating permit for the onsite sewage system that has been granted a waiver authorized by this subsection shall be null and void at the time of transfer or sale of the property and that the Board's regulatory requirements for additional treatment or pressure dosing shall be required before an operating permit may be reinstated.

The Owner(s) acknowledges that the Broker has informed the Owner of the Owner's rights and obligations with respect to the information above. The Owner(s) certify that they() have (X) have not been granted a waiver from the Board. In the event the Owner has been granted a waiver, the Owner shall provide a separate disclosure form that acknowledges such waiver.

Property Address / 411 Winery Rd SW, Floyd, VA 24091-4081

Legal Description: TAX ID 78-3 / 72-97B

| | | | |
|------------------------|-------------------|-------|------|
| <u>Violet R. Darby</u> | <u>10/30/2020</u> | | |
| Owner | Date | Owner | Date |

NOTE TO PURCHASER(S): Pursuant to Section 32.1-164.1:1, the Owner is required to deliver the Disclosure, if applicable, to the Purchaser prior to the acceptance of a real estate purchase contract with respect to the Property. If disclosure is applicable and is delivered to the purchaser after the acceptance of the real estate purchase contract, the purchaser's sole remedy shall be to terminate the real estate purchase contract at or prior to the earliest of the following: (i) three days after delivery of the disclosure in person; (ii) five days after the postmark if the disclosure is deposited in the United States mail, postage prepaid, and properly addressed to the purchaser; (iii) settlement upon purchase of the property; (iv) occupancy of the property by the purchaser; (v) the execution by the purchaser of a written waiver of the purchaser's right of termination under this chapter contained in a writing separate from the real estate purchase contract; or (vi) the purchaser making written application to a lender for a mortgage loan where such application contains a disclosure that the right of termination shall end upon the application for the mortgage loan.

The Purchaser(s) acknowledges that the Broker has informed the Purchaser of the Purchaser's rights and obligations with respect to this disclosure.

| | | | |
|-----------|------|-----------|------|
| | | | |
| Purchaser | Date | Purchaser | Date |

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GARY D. DARBY, et ux

TO: DEED OF EXCHANGE

WILLIAM B. BAKER, et ux

THIS DEED OF EXCHANGE, made and entered into this the 30 day of JUNE, 1997, by and between GARY D. DARBY and VIOLET R. DARBY, husband and wife, parties of the first part, Grantors/Grantees; and WILLIAM B. BAKER and SUSAN N. BAKER, husband and wife, parties of the second part, Grantees/Grantors;

W I T N E S S E T H :

THAT WHEREAS, the parties hereto wish to make an exchange of certain parcels of real estate.

NOW, THEREFORE, for and in consideration of the exchange of the herein described real estate, the receipt of which is hereby acknowledged, the parties of the first part do hereby BARGAIN, GRANT and CONVEY with General Warranty and English Covenants of Title unto the parties of the second part, WILLIAM B. BAKER and SUSAN N. BAKER, husband and wife, as tenants by the entirety with the right of survivorship as at common law, all of that certain parcel of real estate situate in the Burks Fork Magisterial District of Floyd County, Virginia, containing 1.24 acres, more or less, designated Parcel "A" on a plat of survey prepared by William F. Ware, Jr., L.S., dated March 27, 1997, being Job Number 95D1, a copy of which plat is of record in the office of the Clerk of the Circuit Court of Floyd County, Virginia, in Plat Cabinet 2, numbered 59A, and

Being a portion of that real estate which was conveyed to Gary D. Darby, et ux, from Darrell C. Ferguson, et ux, by deed

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Delivered 9.9.97 Robert C. Boonell

PG0014 SEP-85

dated March 27, 1992, of record in the aforesaid Clerk's Office in Deed Book 183 at page 428.

This conveyance is made subject to the right and title of Gary D. Darby and Violet R. Darby, their heirs and assigns, to cultivate and harvest the fir trees upon said real estate, which right and title is reserved until December 31, 2000. And, Gary D. Darby and Violet R. Darby do further reserve to themselves, their heirs and assigns, the right and easement to use "Hog Mountain Road", a 30' prescriptive right-of-way for ingress and egress to Virginia Secondary Route No. 777.

And, in consideration of the exchange of parcels of real estate herein, the parties of the second part do hereby BARGAIN, GRANT and CONVEY with General Warranty and English Covenants of Title unto the parties of the first part, GARY D. DARBY and VIOLET R. DARBY, husband and wife, as tenants by the entirety with the right of survivorship as at common law, all of that certain parcel of real estate situate in the Burks Fork Magisterial District of Floyd County, Virginia, containing 1.24 acres, more or less, as shown on a plat of survey prepared by D. B. Dudley & Associates, dated June 29, 1996, revised August 14, 1996, being Job No. 6913-B, a copy of which plat is of record in the office of the Clerk of the Circuit Court of Floyd County, Virginia, ^{CONTEMPORANEOUSLY} ~~in Plat Cabinet~~ 2, ^{HEREWITH} numbered _____, and

Being a portion of that real estate which was conveyed to William B. Baker, et ux, from Robert Newton Crockett, et ux, et al. by deed dated September 25, 1990, of record in the aforesaid Clerk's Office in Deed Book 175 at page 580.

PG0015 SEP-86

WITNESS the following signature(s) and seal(s):

Gary D. Darby (SEAL)
GARY D. DARBY

Violet R. Darby (SEAL)
VIOLET R. DARBY

William B. Baker (SEAL)
WILLIAM B. BAKER

Susan N. Baker (SEAL)
SUSAN N. BAKER

STATE OF VIRGINIA)
COUNTY OF Floyd) TO-WIT:

The foregoing instrument was acknowledged before me this 13th day of August, 1997, by GARY D. DARBY and VIOLET R. DARBY, husband and wife.

My Commission Expires: February 28, 2001

Paula G. Wilkes
NOTARY PUBLIC

STATE OF VIRGINIA)
City) TO-WIT:
COUNTY OF Danville)

The foregoing instrument was acknowledged before me this 30th day of June, 1997, by WILLIAM B. BAKER and SUSAN N. BAKER, husband and wife.

My Commission Expires: November 30, 2000

Gary D. Bequin
NOTARY PUBLIC

VIRGINIA: In the Clerk's Office of the Circuit Court of Floyd County
Sept 8, 19 92, at 10:41, A M
This Instrument received in office, and, with certificate thereto attached
admitted to record. The tax imposed by Section 58.1-602 of the code in
the amount of \$ — has been paid.

Teste: WENDELL G. PETERS, Clerk

Wendell G. Peters D.C.

PG0017 SEP-86

Tax Map Reference Numbers:

78-3 (Darby Property)

78-19A (Burks Fork Property)

78-18 (Cutter Property)

**Prepared by: W. Harrison Schroeder (VSB#45843), licensed to practice in Virginia
File No. 16-1201**

Return to: The Schroeder Law Firm, P.C.

ROAD MAINTENANCE AGREEMENT

THIS ROAD MAINTENANCE AGREEMENT made and entered into this 5th day of December, 2016, by and between Gary D. Darby and Violet R. Darby, Trustees under Declaration of Trust dated October 16, 1997, Burks Fork, LLC, a Pennsylvania limited liability company, Kimberly Elizabeth Cutter (formerly known as Kimberly Cutter Osterman), Amanda Harwood Cutter Brooks, Phoebe Catherine Cutter, Kimberly Cutter and John Gormley, Co-Executors of the Estate of Stephen Cutter, deceased, Grantors and Grantees for purposes of recordation;

WHEREAS Gary D. Darby and Violet R. Darby, Trustees under Declaration of Trust dated October 16, 1997, are the owners of a certain 165.99 acre tract of land in the Burks Fork Magisterial District of Floyd County, Virginia, shown on a certain plat of survey prepared by William F. Ware, Jr., L.S., dated February 22, 1992, a copy of which is recorded in the Clerk's Office of the Circuit Court of Floyd County, Virginia, in PC1-536B, and which is designated as Floyd County Tax Map Parcel No. 78-3; BEING the same property that was conveyed to them by Deed from Gary D. Darby and Violet R. Darby, husband and wife, dated October 16, 1997, recorded in the Clerk's Office of the Circuit Court of Floyd County, Virginia, as Instrument No. 97-2001 (hereinafter referred to as the "Darby

Property”); and

WHEREAS Burks Fork, LLC, a Pennsylvania limited liability company, is the owner of a certain 33.4564 acre tract of land in the Burks Fork Magisterial District of Floyd County, Virginia, shown on that certain plat of survey prepared by John D. Lewis, L.S., dated June 20, 2006, revised October 15, 2007, signed October 18, 2007, of record in the Clerk’s Office of the Circuit Court of the County of Floyd, Virginia, in PC3-399A, and which is designated as Floyd County Tax Map Parcel No. 78-19A (hereinafter referred to as the “Burks Fork Property”); and

WHEREAS Kimberly Elizabeth Cutter (formerly known as Kimberly Cutter Osterman), Amanda Harwood Cutter Brooks, and Phoebe Catherine Cutter are the record owners of a certain 12.8813 acre tract of land in the Burks Fork Magisterial District of Floyd County, Virginia, shown on the aforesaid plat of survey prepared by John D. Lewis, L.S., and which is designated as Floyd County Tax Map Parcel No. 78-18; BEING the same property devised unto them by the Last Will and Testament of Stephen Cutter dated July 11, 2014, probated in the Clerk’s Office of the Circuit Court of Floyd County, Virginia, on January 13, 2016, and recorded as Instrument Number CWF16-12; and BEING a portion of the property conveyed unto Stephen Cutter by Deeds as follows: (a) from John H. Rice, Jr., dated November 21, 1996, recorded in the aforesaid Clerk’s Office as Instrument No. 96-2087; (b) from Veronica H. Sanders, dated June 20, 1997, recorded in the aforesaid Clerk’s Office as Instrument No. 97-1417; and (c) from Elaine K. Adams, dated October 25, 2005, recorded in the aforesaid Clerk’s Office as Instrument No. 05-2874 (hereinafter referred to as the “Cutter Property”); and

WHEREAS Kimberly Cutter and John Gormley are the Co-Executors of the Estate

of Stephen Cutter, deceased, who qualified as such on January 13, 2016 (see Court File No. CWF16-12), and join in this agreement as they intend for the Estate of Stephen Cutter, deceased, to sell the aforesaid Cutter Property; and

WHEREAS the above-described tracts of land border on the public road known as "Winery Road SW", being discontinued Virginia Secondary Route 777, as shown in part on the above-mentioned plats of survey; and

WHEREAS Winery Road is state maintained between its intersection with Virginia Secondary Route 726 ("Black Ridge Road SW") and 0.6 mile south of said intersection; and

WHEREAS Winery Road is a public road, but discontinued as to maintenance between 0.6 mile south of said intersection and 1.3 miles south of said intersection; and

WHEREAS the parties desire to enter into an agreement in order to provide for the maintenance, repair, and upkeep of that portion of Winery Road between their respective properties and the point where state maintenance ends.

NOW, THEREFORE, in consideration of the premises and mutual covenants provided herein, the parties agree as follows:

1. The parties hereby agree on behalf of themselves, their heirs, personal representatives, successors, and assigns, to maintain that portion of Winery Road between their respective properties and the point where state maintenance ends and to perform repairs so as to maintain said portion of Winery Road in good and safe condition.

2. The parties hereby agree to share in the cost of such maintenance and repair of said portion of Winery Road as follows: (a) the owners of the Darby Property, the owners of the Burks Fork Property, and the owners of the Cutter Property shall share equally (1/3 each) the costs of such maintenance and repair for the portion of Winery Road between the end of

state maintenance and the driveway that services the Darby Property; and (b) the owners of the Burks Fork Property and the owners of the Cutter Property shall share equally (1/2 each) the costs of such maintenance and repair for the portion of Winery Road between the aforesaid driveway that services the Darby Property and the driveway that services the Cutter Property; provided, however, that in the event a party or party's invitee causes damage to the road other than ordinary wear and tear, said party shall be required to repair such damage and bear the cost thereof exclusively.

3. The parties shall work together in good faith to obtain estimates from, and agree upon, reputable contractors to perform any necessary repairs and maintenance. There shall be no obligation on the parties, their heirs, personal representatives, successors, and assigns, to upgrade said portion of Winery Road to a superior condition than exists on the date hereof unless all parties obligated hereunder agree to such upgrade in writing; provided, however, that any party shall have the right to upgrade said portion of Winery Road to a superior condition at such party's sole expense.

4. The covenants set forth in this Road Maintenance Agreement shall run with the parcels of land described above and owned by the parties hereto and shall benefit the owners of those parcels of land only, including the present owners and their heirs, personal representatives, successors, and assigns, and shall be binding on the parties hereto, their heirs, personal representatives, successors, and assigns; provided, however, that when any one of the parcels described herein passes to a new owner, all obligations hereunder shall shift to the new owner, and prior owners shall have no obligations hereunder.

5. The provisions herein contained shall be enforceable both by action at law for damages and by suit in equity for injunctive or other relief by the parties hereto, their heirs,

THE SCHROEDER LAW FIRM, P.C.

304 EAST MAIN STREET

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FLOYD, VIRGINIA 24091

TELEPHONE: 540.745.4435

personal representatives, successors, and assigns, and neither remedy shall be exclusive of the other.

6. This agreement is not intended to benefit the owners of other parcels of land on Winery Road not described herein, and those owners shall not be considered third party beneficiaries of this agreement and shall not have any rights or benefits hereunder.

THIS DOCUMENT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE EXAMINATION. THEREFORE, THE ATTORNEY PREPARING THIS DOCUMENT MAKES NO REPRESENTATION AS TO THE STATUS OR CHAIN OF TITLE THERETO.

WITNESS the following signatures and seals:

Gary D. Darby
Gary D. Darby, Trustee under
Declaration of Trust dated October 16, 1997

Violet R. Darby
Violet R. Darby, Trustee under
Declaration of Trust dated October 16, 1997

STATE OF Virginia,

CITY/COUNTY OF Floyd, to-wit:

Acknowledged, subscribed, and sworn to before me this 14th day of
December, 2016, by Gary D. Darby and Violet R. Darby, Trustees under
Declaration of Trust dated October 16, 1997.

Kaylen B. Bowman (SEAL)
Notary Public

My Commission Expires: October 31, 2020

My Registration Number: 7672524

KAYLEN BROOKE BOWMAN
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
NOTARY REGISTRATION NUMBER: 7672524
MY COMMISSION EXPIRES OCTOBER 31, 2020

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