

2497 Moose Road, Woodstock, VA 22664

Summary of Riparian Easement, Plat of total acreage 95.4 involved (to parcels), Plat of 22.389 acres (second parcel) included in total acreage, Plat showing (full text of Easement follows)

Highlights of the Riparian Easement:

1. The Easement was re-written in October 2000. Prior Easement terms were rescinded in total.
2. The general purpose of the Easement is to “promote the protection of the riparian zone” to maintain water quality and to “improve and maintain wildlife habitat along” the North Fork of the Shenandoah River....”

3. The Easement property contains 86.537 acres arrived at by:

Original property held by John Fishburn	95.4 ac
Less: 2.559 acres deeded off to the Sagers	(<u>2.559 ac</u>)
	92.841 ac

Parcel 1 (TM# 047-A-0-72)	70.452 ac
Parcel 2 (TM# 046-A-1-54A)	<u>22.389 ac</u>
	92.841 ac

Less: Acreage surrounding the Sager property exempted From the Easement	<u>6.304 ac</u>
Remaining acreage placed in Easement	86.537 ac

“The easement is granted in perpetuity to LFSWCD (Lord Fairfax Soil & Water Conservation District....”

“The plan shall implement sound practices of soil, water, timber, and wildlife resource management.”

“The Easement property shall not be subdivided.”

“No dwellings, buildings or other improvements shall be constructed or located in the flood plain.”

With regard the number of dwellings allowable on the property: It is now two and no more. Two are allowed. Currently, there is only one dwelling on the property. Therefore, there is the right to build a second dwelling, above the flood plain, within the Riparian easement zone. The Easement reads: “Presently (10-5-2000), there are two dwellings on the easement....” “If an additional home [a 3rd home] is desired... construction shall begin no later than January 1, 2015... (or) this right shall terminate.” That date is past and a “3rd home” is not allowed.

“Easement property shall be used for only residential and agriculture or agricultural related purposes....” “The operation of intensified and/or commercial operations ... shall be prohibited....”

“Livestock shall be excluded from the area adjacent to the North Fork of the Shenandoah River....”

“Although this easement will benefit the public, nothing herein shall be construed to grant a right of public use....”

“...at least an annual inspection by the Grantee LFSWCD... will be scheduled.”

DEED OF GIFT

CERTIFIED TRUE COPY
Grabill & Cook PC

THIS DEED OF EASEMENT, Made this 5th day of October 2000, by and between JOHN T. FISHBURN, married, "GRANTOR"; the LORD FAIRFAX SOIL AND WATER CONSERVATION DISTRICT (LFSWCD), of 130 Carriebrooke Drive, Stephens City, VA 22655, "GRANTEE"; and VALLEY CONSERVATION COUNCIL (VCC), of P. O. Box 2335, Staunton, VA 24402, "GRANTEE",

WITNESSETH:

WHEREAS, the parties to this deed recognize the need to promote the protection of the riparian zone as a means of water quality preservation and desire to protect the farm of the Grantor as a means of land and water quality maintenance and further desire to improve and maintain wildlife habitat along the north Fork of the Shenandoah River and within the boundary of the farm of the Grantor; and

WHEREAS, The Virginia Conservation Easement Act, Section 10.1-1009, et seq. of the Code of Virginia of 1950, as amended, contemplates the creation of non-possessory interest in real estate for the purposes of maintaining or enhancing water quality and other purposes and VCC is qualified to hold such interests; the Virginia Open-Space Land Act, Section 10.1-1700, et seq. of the Code of Virginia of 1950, as amended, defines land held for conservation purposes as open-space land and provides that public bodies may acquire interests in land for those purposes and LFSWCD is qualified to hold such interest; and

WHEREAS, Section 10.1-543 of the Code of Virginia of 1950, as amended, authorizes the acquisition of easements for soil and water conservation by LFSWCD;

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual covenants contained herein and the benefits which will accrue to each party herein, the said Grantor does hereby grant and convey to the Grantees, the Lord

Del. To: GRABILL + COOK P.C.

TAX MAP # 047 A 072 and portion of 046 A 154A

Fairfax Soil and Water Conservation District (LFSWCD), and Valley Conservation Council (VCC), which hereby accept as evidenced by their signatures hereto, a riparian easement further described herein over those certain pieces, parcels or tracts of real estate situate, lying and being in Johnston Magisterial District, Shenandoah County, Virginia, and being more particularly described by metes and bounds according to that certain plat of survey made by W. P. Whitmore, Surveyor, dated April 15, 1949, containing 95.4 acres, recorded in the aforesaid Clerk's office in Deed Book 326, Page 626, LESS AND EXCEPTING THEREFROM, however, all that certain piece or parcel of real estate containing 2.559 acres conveyed to Richard E. Sager and Bonnie H. Sager, husband and wife, by deed recorded in Deed Book 679, Page 146, and also LESS AND EXCEPTING THEREFROM, that certain piece or parcel of real estate containing 6.304 acres and being the land surrounding the Richard E. Sager and Bonnie H. Sager real estate which is separated from the other land of Fishburn by a fence.

The easement property contains 86.537 acres, more or less, and is made up of a tract described by metes and bounds attached hereto and the remaining land of Fishburn lying on the south side of the line separating Fishburn's 22.389 acre tract and the remaining land of Fishburn shown on that certain plat of survey made by Randall K. Newman, Land Surveyor, dated May 24, 1996 and recorded in the aforesaid Clerk's Office in Deed Book 768, Page 545. The easement property is a portion of that certain tract of real estate which was conveyed to John Tipton Fishburn and Fredelle Keys Fishburn, husband and wife, by deed from F. Wilson Gearing and wife, dated September 10, 1948, recorded in the aforesaid Clerk's Office in Deed Book 156, Page 133. The said Fredelle Keys Fishburn died January 1, 1990, leaving John Tipton Fishburn the sole owner of the above real estate by virtue of the survivorship provisions in the aforesaid deed.

This easement is granted in perpetuity to LFSWCD and its successors as may be determined by modification of the enabling statutes cited herein and to VCC for the purposes hereinafter specified. This easement may be assigned by the Grantees or their successors and/or assigns only with the express written consent of the Grantor, his successors and/or assigns.

The Easement Property shall be subject to the following covenants and conditions:

1. The Grantor shall cooperate with LFSWCD in the development and implementation of a mutually agreeable management plan for the Easement Property. This plan shall implement sound practices of soil, water, timber and wildlife resource management. Access to the Easement Property by the Grantees shall be from State Route 664 over and through two existing driveways located within the last quarter mile on Route 664. The Grantees and their agents shall contact the Grantor, his successors and/or assigns before going to the Easement Property and oral approval shall be sufficient permission to obtain said access. The Grantor and Grantees recognize that over time the plan may need to be amended to be consistent with conservation goals and these amendments will be made as needed and mutually agreed upon by the parties.

2. The Easement property shall not be subdivided.

3. No dwellings, buildings or other improvements shall be constructed or located in the flood plain.

4. No dwellings or buildings shall be erected on the Easement Property, except as provided herein. Presently, there are two dwellings on the Easement Property and a set of farm, barn and other buildings. If an additional home is desired for a member of the Grantor's family and/or the family of his successors and/or assigns, only one dwelling and incidental outbuildings to said dwelling, to be used only by a member of the Grantor's family and/or the family of his successors and/or

assigns, shall be permitted to be constructed. The said dwelling and incidental outbuildings shall only be constructed at a location on the Easement Property which has received the prior written approval of Grantees and of Shenandoah County. Commencement of construction of such a dwelling shall begin no later than January 1, 2015, and if no such construction has commenced by that date, this right shall terminate.

5. The Easement Property shall be used only for residential and agriculture or agricultural related purposes, provided, however, that pasturage and livestock feeding operations on the farm will be limited in accordance with the carrying capacity of the established sod, conservation of the soil, and preservation of water quality as outlined in the management plan. The operation of intensified and/or commercial operations of any agriculture or agriculture related purposes shall be prohibited, such as livestock feed lots, poultry houses and poultry feed lots.

6. The Grantor, his successors and/or assigns shall be permitted to make repairs to existing improvements located on the Easement Property, and shall have the right to expand existing improvements and to construct new improvements for uses consistent with the purposes of this easement with the prior written approval of the Grantees.

7. The accumulation of trash or refuse in the riparian zone occasioned by the Grantor, his successors and/or assigns, is prohibited. It is understood that poor management practices upstream and in the rest of the watershed inevitably result in the deposit of trash in the riparian zone by flood waters, and the Grantor is under no affirmative obligation to continually remove such debris.

8. Livestock will be excluded from the area adjacent to the North Fork of the Shenandoah River as shown on the photograph identified by attachment two and Grantor shall maintain fencing adequate for that purpose. Two picnic areas may be maintained by the Grantor, his successors and/or assigns for the benefit of canoeists,

fishermen or boaters on the river and for the benefit of families living on the Easement Property.

9. The Grantee, LFSWCD, its successors and/or assigns, shall, subject to any limitation imposed by its enabling legislation, assist the Grantor in documenting such portions of the management plan as may be necessary in order to obtain funding, if available, for the implementation of the plan, including, but not limited to, access to water for agricultural purposes and repairs to fencing or vegetation as occasioned by flooding.

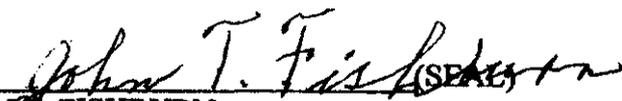
10. Although this easement will benefit the public, nothing herein shall be construed to grant any right of public use or right of public access to the Easement Property from either the public road, access road, or from waters of the North Fork of the Shenandoah River except as otherwise stated herein.

11. It is anticipated that at least an annual inspection by the Grantee, LFSWCD, its successors and/or assigns, or its agents, will be scheduled.

This conveyance is made expressly subject to the easements, conditions, **restrictions and reservations contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title to the property over which the easement is conveyed, which have not expired by limitation of time contained therein or otherwise become ineffective.**

It is understood by the parties hereto LFSWCD is the primary holder of this easement, and that the role of VCC as Grantee is limited to holding and enforcing the easement to the extent that LFSWCD is not able to do so under its enabling legislation in effect from time to time.

WITNESS the following signatures and seals:



JOHN T. FISHBURN

LORD FAIRFAX SOIL AND WATER
CONSERVATION DISTRICT

BY: Edward J. Ward (SEAL)
Chairman

VALLEY CONSERVATION COUNCIL

BY: Mary Joy Scala (SEAL)
Executive Director

STATE OF VIRGINIA AT LARGE

COUNTY OF ^{Augusta} SHENANDOAH, TO-WIT:

The foregoing instrument was acknowledged before me this 5th day of
October 2000 by John T. Fishburn, Grantor.

My commission expires 5/31/03.

[Signature]
NOTARY PUBLIC

STATE OF VIRGINIA AT LARGE

COUNTY/CITY OF Shenandoah, TO-WIT:

The foregoing instrument was acknowledged before me this 8th
^{February 2001}
day of ~~October~~ 2000 by Edward J. Ward, as Chairman
of the Lord Fairfax Soil and Water Conservation District.

My commission expires 10-31-02.

~~My~~ WAS commissioned A Notary As Lorie Jo B + kee

Lorie Jo Chidress
NOTARY PUBLIC



STATE OF VIRGINIA AT LARGE

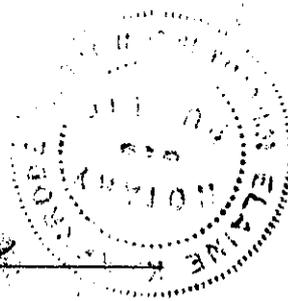
COUNTY/CITY OF Augusta, TO-WIT:

The foregoing instrument was acknowledged before me this 21st day of ~~October 2000~~ February 2001 by Mary Jay Scala, as Executive Director of Valley Conservation Council.

My commission expires April 30, 2002.

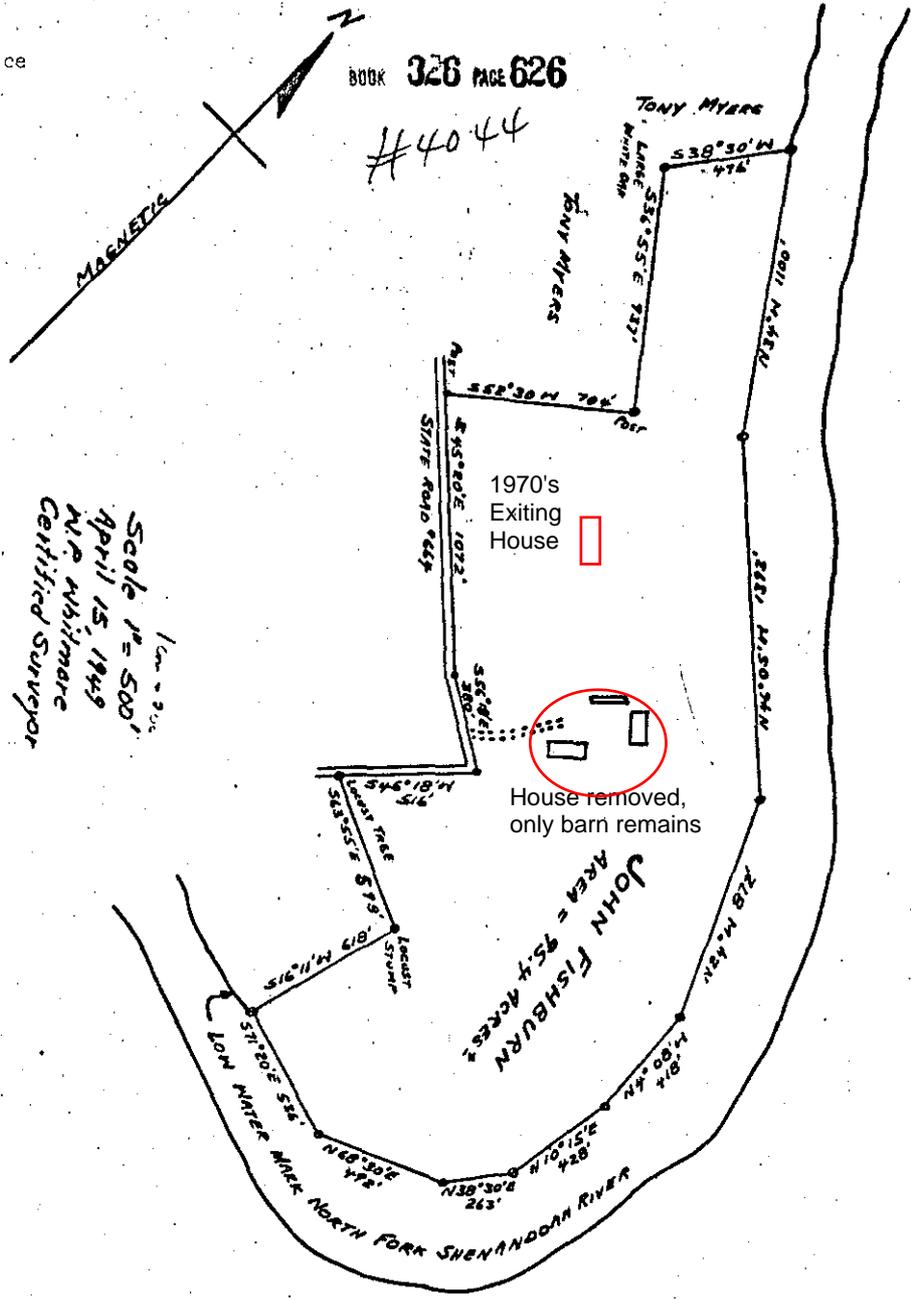
Epine L. Lippold

NOTARY PUBLIC



SHENANDOAH COUNTY, etc.
The foregoing writing with certificate of acknowledgement thereon
as received at the Clerk's Office of said County, was admitted to
record and indexed. The taxes imposed by Sect. 58.1-801 & 802
of the Code of Virginia have been paid
this 21st day of March, 2001
5:47A. Tests: Denise J. Barb Clerk

#4044



John Fishburn's metes and bounds description of farm in Shenandoah County.

Beginning at a fence post on the East side of State Road # 664 a corner with Tony Myers, thence with the said road S 45 20 E 1072 ft. to a post on the East side of said road, thence S 56 18 E 380 ft. to a fence post on the South side of said road, thence continuing with said road S 45 18 W 516 ft. to a locust tree a corner with Tony Myers, thence with Tony Myers lines S 63 55 E 598 ft. to a locust stump, thence S 16 11 W 618 ft. to a point at the low water mark of the North Fork of the Shenandoah River, thence with the low water mark of said river S 71 20 E 536 ft., thence N 68 30 E 492 ft., thence N 38 30 E 263 ft., thence N 10 15 E 428 ft., thence N 4 08 W 418 ft., thence N 24 W 872 ft., thence N 46 05 W 1393 ft., thence N 34 W 1100 ft. to a point at the low water mark of the North Fork of the Shenandoah River a corner with Tony Myers, thence with Tony Myers lines S 38 30 W 476 ft. to a large white oak tree, thence S 36 55 E 937 ft. to a fence post, thence S 52 30 W 704 ft. to the place of the beginning and contains 95.4 acres more or less. Surveyed on April 15, 1949 by W. P. Whitmore, Surveyor.

The foregoing writing with certificate of acknowledgment thereon was received at the Clerk's Office of said County, admitted to record and indexed. The taxes imposed by Sect. 58-54, (a) and (b), of the Code have been paid.

This 2nd day of Oct. 1949

44
ED
2 PM 3:17

- EASEMENTS IF ANY, ARE NOT SHOWN
- 4 - TAX MAP 47-A-72
 - 5 - DATUM AS SHOWN HEREON IS ACCORDING TO RECORDED INFORMATION AND IS A CURRENT FIELD SURVEY

SHENANDOAH COUNTY OFFICIAL
John T. Fishburn
 OWNER
R.B. Childers 9/10/96
 VDOT OFFICIAL

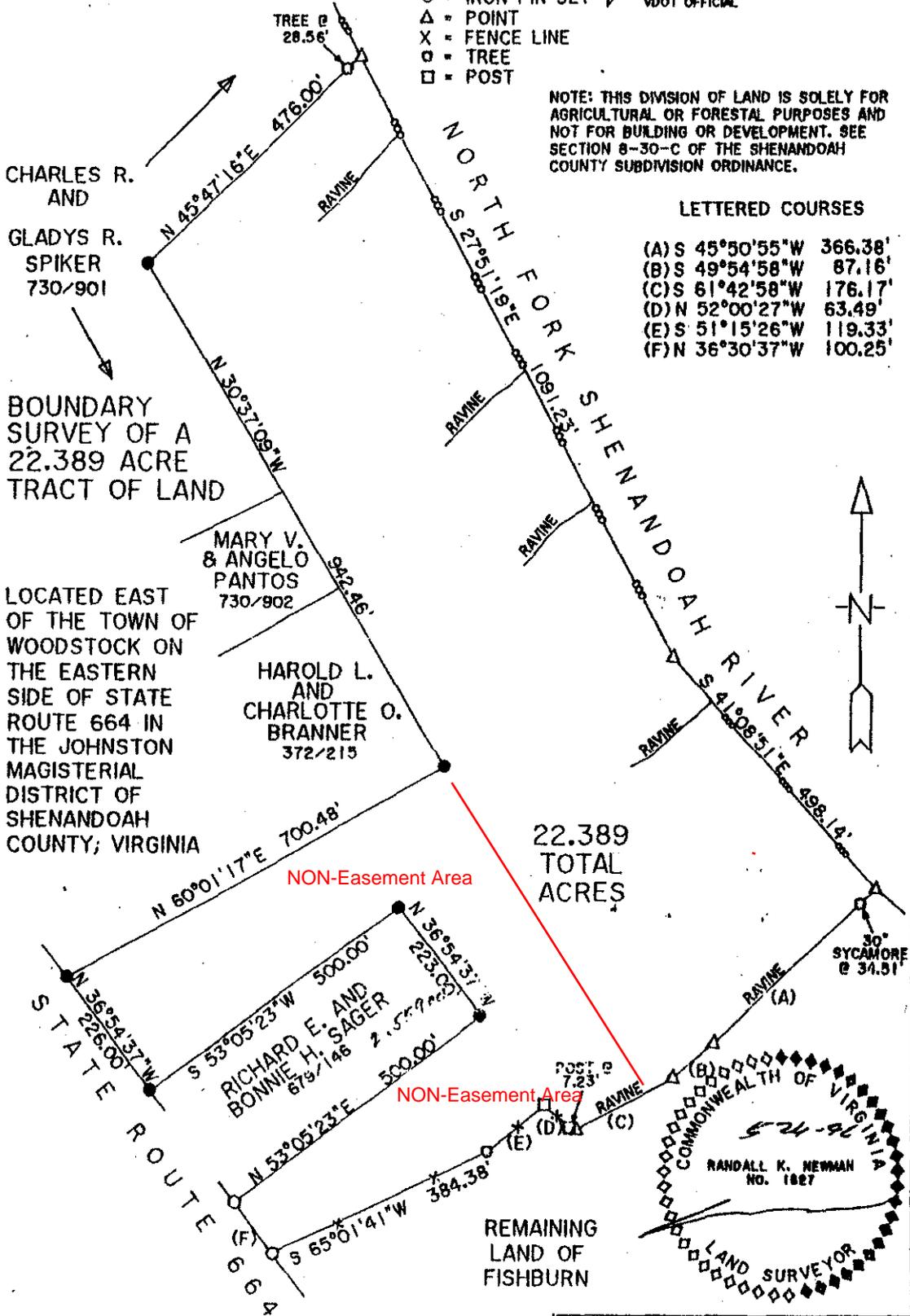
LEGEND

- = IRON PIN FOUND
- = IRON PIN SET
- △ = POINT
- X = FENCE LINE
- = TREE

NOTE: THIS DIVISION OF LAND IS SOLELY FOR AGRICULTURAL OR FORESTAL PURPOSES AND NOT FOR BUILDING OR DEVELOPMENT. SEE SECTION 8-30-C OF THE SHENANDOAH COUNTY SUBDIVISION ORDINANCE.

LETTERED COURSES

- (A) S 45°50'55"W 366.38'
- (B) S 49°54'58"W 87.16'
- (C) S 61°42'58"W 176.17'
- (D) N 52°00'27"W 63.49'
- (E) S 51°15'26"W 119.33'
- (F) N 36°30'37"W 100.25'



OWNER: JOHN T. FISHBURN
 REFERENCE: WILL BOOK H81, PAGE H377

MORRIS AND NEWMAN
 Licensed Land Surveyors
 Mt. Jackson, Virginia 22842
 (540) 477-3730

MAY 24, 1996

22.389-ac Plat with proposed subdivision of 2.603 ac from the 6.3-ac "Non-Easement section"

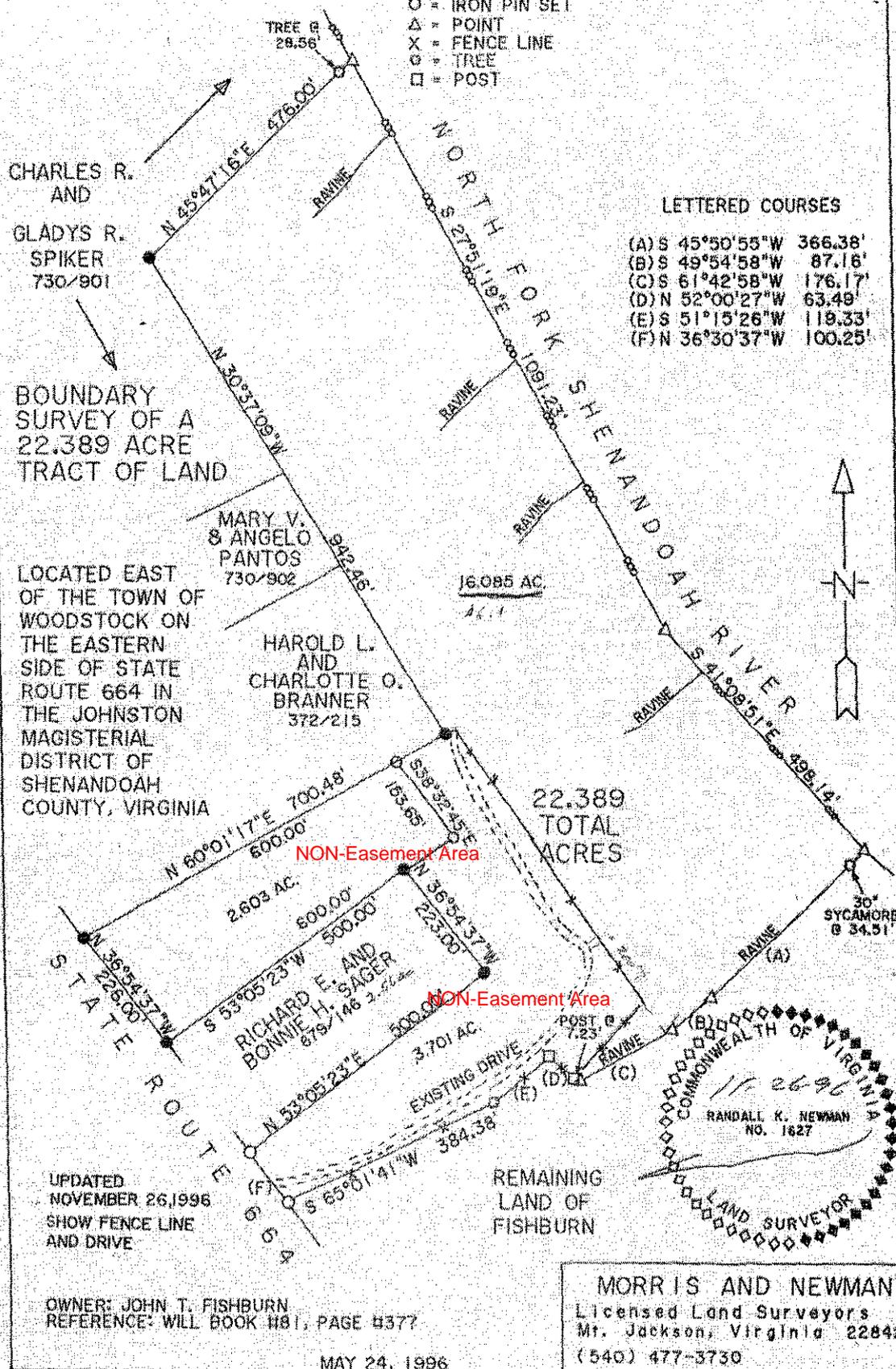
- 1 = BEARINGS ARE MAGNETIC
- 2 = SCALE 1" = 200'
- 3 = OTHER RIGHT OF WAYS AND EASEMENTS IF ANY, ARE NOT SHOWN
- 4 = TAX MAP 47-A-72
- 5 = DATUM AS SHOWN HEREON IS ACCORDING TO RECORDED INFORMATION AND IS A CURRENT FIELD SURVEY

LEGEND

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- = IRON PIN SET
- △ = POINT
- X = FENCE LINE
- ⊙ = TREE
- = POST

LETTERED COURSES

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- (F) N 36°30'37"W 100.25'



CHARLES R. AND GLADYS R. SPIKER 730/901

BOUNDARY SURVEY OF A 22.389 ACRE TRACT OF LAND

LOCATED EAST OF THE TOWN OF WOODSTOCK ON THE EASTERN SIDE OF STATE ROUTE 664 IN THE JOHNSTON MAGISTERIAL DISTRICT OF SHENANDOAH COUNTY, VIRGINIA

MARY V. & ANGELO PANTOS 730/902

HAROLD L. AND CHARLOTTE O. BRANNER 372/215

16.085 AC

22.389 TOTAL ACRES

NON-Easement Area

2.603 AC.

RICHARD E. AND BONNIE H. SAGER 875/146 2.603

NON-Easement Area

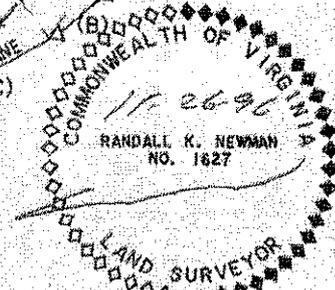
3.701 AC.

EXISTING DRIVE

REMAINING LAND OF FISHBURN

UPDATED NOVEMBER 26, 1996 SHOW FENCE LINE AND DRIVE

OWNER: JOHN T. FISHBURN REFERENCE: WILL BOOK #81, PAGE #377



MORRIS AND NEWMAN
 Licensed Land Surveyors
 Mt. Jackson, Virginia 22842
 (540) 477-3730

MAY 24, 1996