



COUNTY OF ALBEMARLE
Department of Community Development
401 McIntire Road, North Wing
Charlottesville, Virginia 22902-4596

Phone (434) 296-5832

Fax (434) 972-4126

February 16, 2018

Mr. William R. Pulliam
722 Greenfield Mountain Farm
Afton, VA 22920

**RE: LOD2017-00035- OFFICIAL DETERMINATION OF PARCEL OF RECORD &
DEVELOPMENT RIGHTS – Parcel ID 12700000004100 Samuel Miller Magisterial District**

Dear Mr. Pulliam:

The County Attorney and I have reviewed the title information for the above-noted property. It is the County Attorney's advisory opinion and my official determination that Tax Map 127, Parcel 41 is comprised of one (1) parcel of record, with zero (0) theoretical development rights. The basis for this determination follows.

The Albemarle County Real Estate Assessment records indicate **Parcel ID 12700000004100** contains 65.05 acres and two (2) dwellings. The property is zoned RA, Rural Areas.

The most recent deed for **Parcel ID 12700000004100**, recorded prior to December 10, 1980, the date of adoption of the Zoning Ordinance, is recorded in Deed Book 350, page 131 and is dated June 3, 1959.

PRIOR TO DECEMBER 10, 1980
Parcel ID 12700000004100 (190 acres)

| Deed Book / Page | Date | Parcel Change Y or N | Description | Acres |
|------------------|-----------|----------------------|---|-------------|
| 321 / 165 | 7/20/1955 | Y | Creation of parcel of record "...all that certain tract or parcel of land containing two (2) acres, more or less... being a portion of a tract of 200 acres conveyed... to the said John S. Dawson by William A. Dawson, and others, by a certain deed of partition dated September 2, 1913... in Deed Book 157, page 381." | 200 (-2) |
| 350 / 131 | 6/3/1959 | N | "All that certain tract or parcel... containing 190 acres more or less, and being the same property in all respects... in D.B. 157, p. 381, less about 2 acres that was conveyed... by deed dated 20 July 1955... in D.B. 321, p. 165." No additional deeds between 1913 and 1955 could be found. The 200 acres described in 1955, less 2 acres sold on that date, is presumed to be the "190 acres more or less" described here. | 190 |

AFTER DECEMBER 10, 1980
Parcel ID 12700000004100 (65.05 acres)

| Deed Book / Page | Date | Parcel Change Y or N | Description | Acres | Development Rights |
|------------------|------------|----------------------|--|---|---|
| 760 / 733 | 4/2/1983 | N | "...all that certain tract or parcel of land... designated as Parcel 41 on County Tax Map 127 containing 190 acres, more or less... in Deed Book 350, page 131." | 190^{+/-} | 5 |
| 983 / 183 | 3/10/1988 | Y | Subdivision. "All that certain tract or parcel of land... containing 95.144 acres, being more particularly shown and described on a plat by Robert L. Lum, C.L.S., dated January 22, 1988... This is a portion of the property which was conveyed... in Deed Book 760 at Page 733." "4. No division rights are being conveyed with this lot.... 6. Residue may be divided into 5 lots of less than 21 acres each." It is believed that this plat incorrectly describes the residue as 89.2 acres. The residue should include the approximately 5+ acres conveyed on 11/15/1989, as no subdivision for this parcel was recorded between 4/1983 and 3/1988 to reduce the 190 acres. By calculation, the residue would have been 190 – 95.144 = 94.856 acres | 190 - 95.144 = 94.856^{+/-} | 5 - 0 = 5 |
| 1079 / 41 | 11/15/1989 | Y | Boundary Line Adjustment. "All that certain tract or parcel of land... containing 5.187 acres, which property is more fully shown and described on a plat... dated November 6, 1989... The property hereby conveyed is not conveyed as a separate parcel but is added to and becomes part of a 95.144 acre tract of land described... in Deed Book 983 at page 186... This is a portion of the property which was conveyed in Deed Book 760 at page 733." This plat references a residue of 84^{+/-} acres. This plat is believed to have carried over the error noted above. By calculation, the residue would have been 94.856 – 5.187 = 89.669 acres | 94.856 - 5.187 = 89.669^{+/-} | 5 - 0 = 5 |
| 1673 / 671 | 1/27/1998 | Y | Subdivision. "all that certain tract or parcel of land... containing 65.05 acres, more or less, more particularly described on a plat... attached hereto and made a part hereof; being a portion of the property conveyed... in Deed Book 760, page 733." | 89.669 - 65.05 = | 5 - 0 = |

| | | | | | |
|------------|-----------|---|---|-----------------------|----------|
| | | | <p>"4... The Residue of Par. 41 may also be divided into 5 or fewer lots of less than 21 acres each... Lot C may not be divided into lots of less than 21 ac."</p> <p>The plat describes the residue as 25.099 acres and Lot C as the 65.05 acres. By calculation, the residue would have been 89.669 – 65.05 = 24.619 acres. The current assessment records identify the 24.619 acres as 25.10 acres. The difference does not affect the potential use of development right within the 24^{+/-} acres. *See commentary below.</p> | 24.619 ^{+/-} | 5 |
| 4900 / 607 | 4/20/2017 | N | <p>"All that certain tract or parcel...containing 65.05 acres, more or less, more particularly described on a plat... in Deed Book 1673, page 673."</p> | 65.05 | 0 |

*Commentary and Determination on Development Right Assignment

Of note, the 1998 subdivision poses a question regarding the recorded division and assignment of development rights. In the absence of development rights, Section 10.3.2 of the Zoning Ordinance allows no more than one (1) dwelling unit on any parcel created by subdivision. As clearly shown on the recorded plat associated with the 1998 subdivision, two dwelling units were already existent on TMP 127-41, but no development rights were assigned to that parcel. **It is my determination that the language of this plat did not satisfactorily allocate development rights to the parcels affected by the division pursuant to Section 10.3.2 of the Zoning Ordinance. As such, any further division of the parcel must satisfy the allowance of no more than one (1) dwelling unit per parcel.**

On the basis of these records, Parcel ID 12700000004100 is determined to be one (1) parcel of record containing 65.05 acres^{+/-}, with zero (0) development rights.

Parcels are entitled to development rights if all other applicable regulations can be met. Development rights may only be utilized within the bounds of the original parcel of record with which they are associated. These development rights are theoretical in nature but do represent the maximum number of lots containing less than twenty-one acres allowed to be created by right.

If you are aggrieved by this determination, you have a right to appeal it within thirty (30) days of this notice, in accordance with *Virginia Code* § 15.2-2311. If you do not file a timely appeal, this determination shall be final and unappealable.

An appeal may be taken only by filing an appeal application with the Zoning Administrator and the Board of Zoning Appeals, in accordance with § 34.3 of the Zoning Ordinance, along with a fee of \$258 plus the actual cost of advertising the appeal for public hearing.

Applications for Appeal of the Zoning Administrator's Determination are available at the Department of Community Development located at 401 McIntire Road, Charlottesville, Virginia 22902 or online at www.albemarle.org/cdapps. This form applies to the appeal of a decision of the zoning administrator or any other administrative officer pertaining to the Zoning Ordinance.

Regulations pertaining to the filing of an appeal to the Board of Zoning Appeals are located in Chapter 18, Section 34.3 of the Zoning Ordinance. They may be reviewed online at www.albemarle.org/countycodebza.

(Please note that our online documents are in Adobe Acrobat PDF format and must be viewed with the Adobe Acrobat Reader or an equivalent. A link to download the free plug-in is available at the bottom of www.albemarle.org/cdapps.)

If you have any questions, please contact me.

Sincerely,



Leah H. Brumfield
Senior Planner, Designee of the Zoning Administrator

Attachment: Maps delineating parcels of record.

Copy: Claudette Borgersen, Clerk of the Board of Supervisors
Ches Goodall, ACE Coordinator

| Tax Map & Parcel | Acreage | Division Rights for 21 acre minimum parcels | Development Rights | Dwellings |
|------------------|---------|---|--------------------|-----------|
| 127-41 | 65.05 | 3 | 0 | 2* |

*See commentary above.