



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

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January 3, 2008

Mr. John D. Griffin, Esquire
c/o Zobrist Law Group
3 Boar's Head Lane
Charlottesville, VA 22903

**RE: OFFICIAL DETERMINATION OF DEVELOPMENT RIGHTS -- Tax Map 70,
Parcel 47A & Tax Map 84, Parcel 28B (Property of Charles B. & Pamela Fitzgerald)
Whitehall Magisterial District**

Dear Mr. Griffin:

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 70, Parcel 47A is a parcel of record with five (5) theoretical development rights and Tax Map 84, Parcel 28B is a parcel of record with nine (9) theoretical development rights. The basis for this determination follows.

Tax Map 70, Parcel 47A

Our records indicate that Tax Map 70, Parcel 47A contains 33.443 acres and no dwellings. The property is not within an Agricultural and Forestal District. The most recent recorded instrument for this property is recorded in Deed Book 2250, page 244.

This analysis begins with the deed of record in Deed Book 547, page 39 that is dated March 15, 1974. The deed conveys "thirty-three and one half acres of land, more or less" from Larey E. & Virginia Eloise Gray, husband & wife to Aubrey Hamilton Gray and Mary Carter Gray. This is also the most recent instrument for this parcel recorded prior to the adoption of the Zoning Ordinance, December 10, 1980. **This transaction establishes Tax Map 70, Parcel 47A as a parcel of record with five (5) theoretical development rights.**

Deed Book 2250, page 244, dated August 9, 2002, conveyed "Revised T.M: 70-47A, containing 63.84 Acres" from Aubrey Hamilton & Mary Carter Gray, husband & wife to Charles B. & Pamela Fitzgerald, husband & wife. The property is described as being the same as was conveyed by Deed Book 547, page 39 and includes the property that is Tax Map 70, Parcel 47A. **This transaction had no effect on the parcel's development rights.**

Tax Map 84, Parcel 28B

Our records indicate that Tax Map 84, Parcel 28B contains 30.378 acres and one dwelling. The property is not within an Agricultural and Forestal District. The most recent recorded instrument for this property is recorded in Deed Book 3258, page 183.

This analysis begins with the deed of record in Deed Book 313, page 259 that is dated October 27, 1954. The deed conveys 16 acres from Larey E. & Virginia Eloise Gray, husband & wife to Aubrey Hamilton & Mary Carter Gray, husband & wife. The property is described as being the same as the original Tax Map 84, Parcel 28A. **This transaction established Tax Map 84, Parcel 28A as a parcel of record with five (5) theoretical development rights.**

Deed Book 376, page 593, dated March 26, 1962, conveyed 18 acres from Larey E. & Virginia Eloise Gray, husband & wife to Aubrey Hamilton & Mary Carter Gray, husband & wife. The property is described as being the same as the original Tax Map 84, Parcel 28B. This is also the most recent instrument for this parcel recorded prior to the adoption of the Zoning Ordinance, December 10, 1980. **Based on this deed, Tax Map 84, Parcel 28B is determined to be a parcel of record initially with five (5) theoretical development rights.**

Deed Book 2250, page 244, dated August 9, 2002, conveyed "Revised T.M. 84-28A, containing 5.01 acres and Revised T.M. 70-47A, containing 63.84 Acres..." from Aubrey Hamilton & Mary Carter Gray, husband & wife to Charles B. & Pamela Fitzgerald, husband & wife. The property is described as being the same as was conveyed by Deed Book 313, page 259 and Deed Book 376, page 593, with the 63.84 acres containing the Revised Tax Map 84-28B. This Deed references a plat by Roger W. Ray & Assoc., Inc., dated June 27, 2002, which states that the Revised T.M. 84-28A may not be further divided and that the other 4 development rights from T.M. 84-28A are added to T.M. 84-28B, making a total of 9 development rights in Revised T.M. 84-28B. **This transaction established the nine (9) theoretical development rights for Tax Map 84, Parcel 28B.**

Deed Book 3258, page 183, dated July 24, 2006, is a Certificate of Plat by Roger W. Ray, CLS, made minor adjustments between T.M. 84-28A and T.M. 84-28B without reallocating any development rights. **This transaction had no effect on the parcel.**

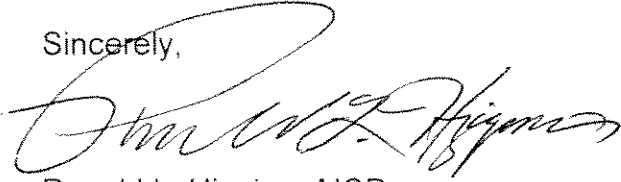
The parcels are entitled to the noted development rights if all other applicable regulations can be met. These development rights may only be utilized within the bounds of the original parcel with which they are associated. These development rights are theoretical in nature but do represent the maximum number of lots containing less than twenty one acres allowed to be created by right. In addition to the development right lots, the parcel may create as many smaller parcels containing a minimum of twenty-one acres as it has land to make.

If you are aggrieved by this determination, you have a right to appeal it within thirty days of the date notice of this determination is given, in accordance with Section 15.2-2311 of the Code of Virginia. If you do not file a timely appeal, this determination shall be final and unappealable. An appeal shall be taken only by filing with the Zoning Administrator and the Board of Zoning Appeals a notice of appeal which specifies the grounds for the

appeal. An appeal application must be completed and filed along with the fee of \$120. The date notice of this determination was given is the same as the date of this letter.

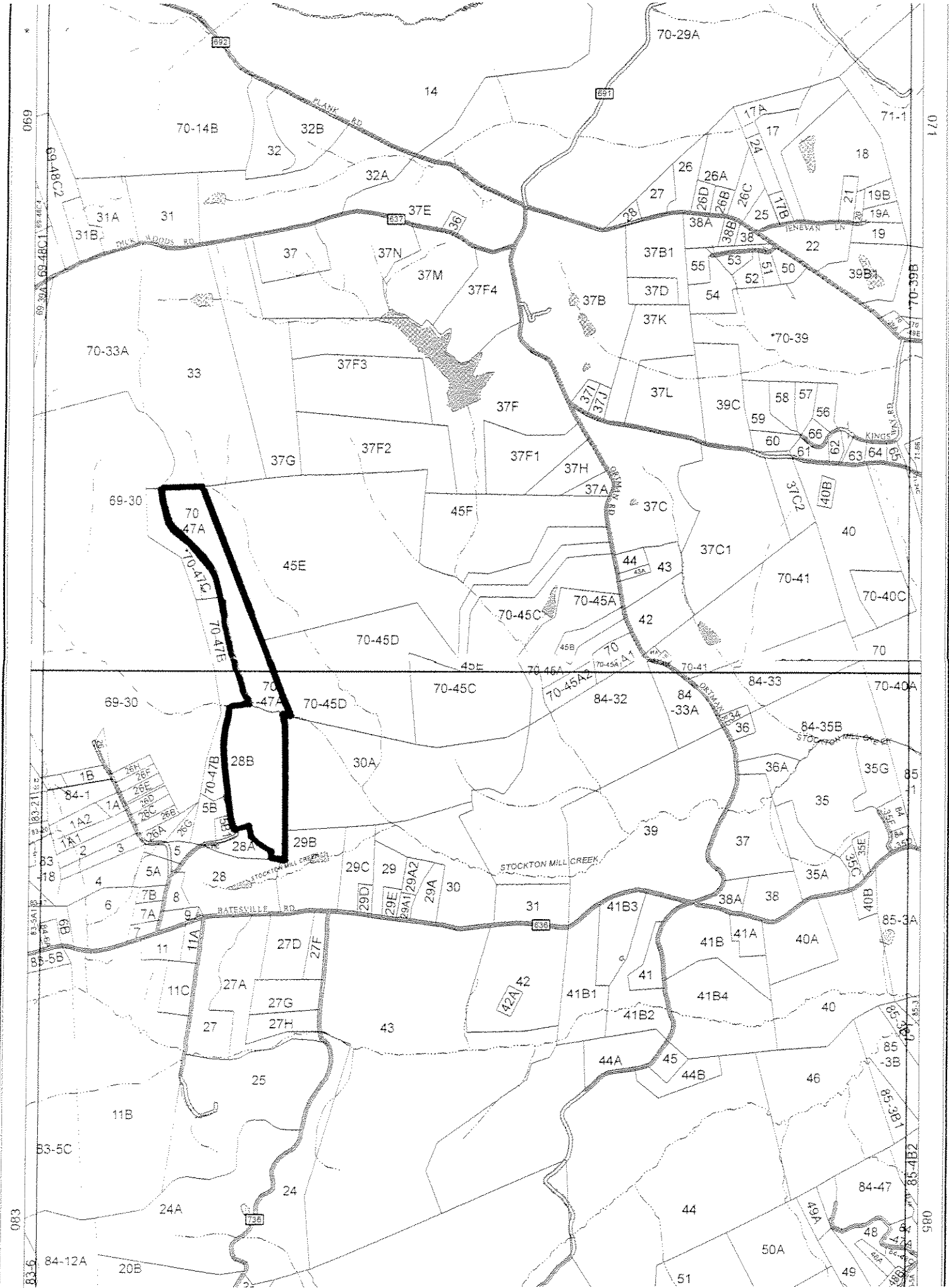
If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Higgins". The signature is fluid and cursive, with a large initial "R" and "H".

Ronald L. Higgins, AICP
Chief of Zoning

Copy: Gay Carver, Real Estate Supervisor
Ella Jordan, Clerk of the Board of Supervisors



969

071

083

580