



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

Phone (434) 296-5832

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November 3, 2008

Grant Cosner  
1538 E. High Street  
Charlottesville VA 22902

**RE: LOD2008-0017 - OFFICIAL DETERMINATION OF PARCELS & DEVELOPMENT RIGHTS - Tax Map 94, Parcel 8, Tax Map 94, Parcel 48 (Property of KIMCO LC) Scottsville Magisterial District**

Dear Mr. Cosner:

The County Attorney and I have reviewed the title information for the above-noted properties. It is the County Attorney's advisory opinion and my official determination that Tax Map 94, Parcel 8 is one (1) parcel of record with two (2) theoretical development rights and Tax Map 94, Parcel 48 is two (2) parcels of record, collectively with a total of four (4) theoretical development rights, as outlined in the following table:

<b>MAP KEY</b>	<b>Tax Map Parcel</b>	<b>Acreage</b>	<b>Development Rights</b>
<b>1</b>	TMP 94-8	4.134 acres (3.395 + .739)	2
<b>2</b>	TMP 94-48	6.868 Acres	3
<b>3</b>	TMP 94-48	1.14 Acres	1

The basis for this determination follows.

**Tax Map 94, Parcels 8**

Our records indicate **Tax Map 94, Parcel 8** contains 3.395 acres and zero (0) dwellings. The property is not in an Agricultural and Forestal District. The most recent recorded instrument for this property is recorded in Deed Book 3614, page 240.

This analysis begins with the deed of record in Deed Book 305, page 126 that is dated April 10, 1953. The deed conveyed 2.05 acres, more or less, from Ira Maupin and Margaret T. Maupin to Frank N. Lang. The property is described as containing about 2.05 acres, more or less, being bound by certain parcels and a private road shown on the plat in Deed Book 281, page 278 and further referenced in Deed Book 290, page 281. **This established a 2.05 acre parcel as a parcel of record.**

Deed Book 324, page 218 and is dated May 26, 1956. The deed conveyed 2.05 acres from Frank N. Lang to C.J. Barker and Senora W. Barker. The property is described as

2.05 acres and as being the same as was conveyed by Deed Book 305, page 126. **This transaction had no effect on the status of the parcel.**

The most recent deed for this property, recorded prior to December 10, 1980, the date of adoption of the Zoning Ordinance, is recorded in Deed Book 405, page 539 and is dated March 15, 1965. The deed conveyed .742 acres from Charles J. Barker to Robert E. Lewis. **This deed continued to refer to a 2.05 acre parcel more or less, but never accounted for the remaining portion of the parcel once acreage was removed from the parcel. Staff has calculated that the remaining acreage to be 1.308 acres.** The property is continued to be described as being the same as was conveyed by Deed Book 324, page 218.

Deed Book 877, page 21, dated May 2, 1986, conveyed two (2) parcels of land totaling 11.555 acres from Pauline Cash Barker, Widow, and Charles R. Haugh Executor of the estate of Charles J. Barker to Carl Richard Carey and Marian Ramsey Carey. One of the parcels, containing 3.395 acres is described as being the same as was conveyed by Deed Book 324, page 218. The deed notes that the variation of acreage between 3.395 and 2.05 acres is due to a new survey of the parcel. This deed failed to recognize the transaction in Deed Book 405, page 539 that removed acreage from the 2.05 acres. Nevertheless, the new survey established the parcel as 3.395 acres. This acreage is believed to be incorrect. The correct acreage is believed to be outlined below:

Deed Book 281, page 278 creates a 30' right of way over what appears to be Parcel 48, Parcel 8A and Parcel 8.

Deed Book 305, page 126 describes a 2.05 acre parcel more or less being created by the bounds of the right of way described in Deed Book 281 page 278 and the parcels of Frank Lang to the east and of Ira and Margaret Maupin to the south.

Deed Book 877, page 21 contains a plat showing the boundaries of Parcel 8 being 3.395 acres. This plat also refers to Deed Book 337, page 284 which describes the location of an eastern most property line for Parcel 8A to be not at the centerline of the road but the western edge of the road. Thus, the area that was thought to be part of Parcel 8A is now described as .739 acres, designated as Parcel X and is determined to have always been a part of parcel 8. As a result, Parcel 8 is determined to contain 4.134 acres. (3.395 + .739).

**On the basis of these deeds Tax Map 94, Parcel 8 is determined to be a 4.134 acre parcel of record with two (2) development rights. This is designated as #1 on the map key.**

Deed Book 3364, page 616, dated February 7, 2007, conveyed two (2) parcels of land, from Carl Richard Carey, widower, to KIMCO LC. One of the parcels is described as Parcel One containing 3.395 acres. **This transaction had no effect on the development rights of this parcel.**

Deed Book 3614, page 240 contains a quit claim deed, dated June 26, 2008, that released and conveyed any interest of Margaret T. Maupin in land contained in a right-of-way as shown and described in Deed Book 281 page 278 to KIMCO, LC. **This transaction had no effect on the development rights of this parcel.**

#### Tax Map 94, Parcels 48

Our records indicate Tax Map 94, Parcel 48 contains 8.008 acres and one (1) dwelling. The property is not in an Agricultural and Forestal District. The most recent recorded instrument for this property is recorded in Deed Book 3364, page 616.

This analysis begins with the deed of record in Deed Book 124, page 404 that is dated October 4, 1902. This deed conveyed 7.70 acres from Ella V. Bragg to John C. Hackney. **This established the 7.70 acre parcel as a parcel of record.**

Deed Book 234, page 246 that is dated October 10, 1931 conveyed 4.18 acres from Georgie Purvis Whitten and George H. Whitten to J. Culton Hackney.

Deed Book 291, page 502 that is dated September 21, 1950 conveyed .94 acres from J. C. Hackney to Robert E. Lewis and Catherine Lewis. By calculation the remaining acreage of this portion of Parcel 48 was 3.24 acres. The property is described as being the same as was conveyed by Deed Book 234, page 246.

Deed Book 293, page 288 that is dated September 21, 1950 conveyed .82 acres from J. Culton Hackney to Stuart Johnson and Ellen Johnson. By calculation the remaining acreage of this portion of parcel 48 was 2.42 acres. The property is described as being the same as was conveyed by Deed Book 234, page 246. **This established the 2.42 acre parcel as a parcel of record.**

Deed Book 300, page, 522, dated May 29, 1952 conveyed two (2) tracts of land totaling 9.44 acres from John Culton Hackney to Frank N. Lang. The property is described on a plat and by reference to Deed Book 124, page 404, Deed Book 291, page 502, and Deed Book 293, page 288. Assuming the smaller portion of the property contained 2.42 acres, the larger portion is calculated to contain 7.02 acres. **This transaction had no effect on the status of the two parcels.**

Deed Book 324, page 218 that is dated May 26, 1956, conveyed 9.44 acres from Frank N. Lang to C.J. Barker and Senora W. Barker. The property is described as being the same as was conveyed by Deed Book 300, page 522. **This transaction had no effect on the status of the two parcels.**

The most recent deed for this property, recorded prior to December 10, 1980, the date of adoption of the Zoning Ordinance, is recorded in Deed Book 438, page 298 and is dated July 26, 1967. The deed conveyed 1.28 acres from Charles J. Barker and Pauline S. Barker to Carroll R. Kirby and Myrtie E. Kirby. The 1.28-acre lot, designated as Parcel A on a plat by B. Aubrey Huffman and Assoc. is a portion of the 2.42- acre lot

described above. As a result of this transaction, the residue of the 2.42-acre lot is calculated to contain 1.14 acres. The property is described as being the same as was conveyed by Deed Book 324, page 218. **On the basis of this deed, Tax Map 94, Parcel 48 is determined to be two separate parcels of record. One, calculated to contain 7.02 acres is a parcel of record with three (3) development rights. This is designated as #2 on the map key. The other, calculated to contain 1.14 acres, is a parcel of record with one (1) development right. This is designated as #3 on the map key.**

Deed Book 877, page 21 that is dated May 2, 1986, conveyed two (2) parcels of land totaling 11.555 acres from Pauline Cash Barker, Widow, and Charles R. Haugh Executor of the estate of Charles J. Barker to Carl Richard Carey and Marian Ramsey Carey. The property is described as being the same as was conveyed by Deed Book 438, page 298. **This transaction had no effect on the development rights of the parcels.**

Deed Book 1390, page 528 that is dated March 14, 1994, is a deed of trust between Carl Richard Carey and Marian Ramsey Carey, grantors and M. Clifton McClure and Fred S. Landess trustees of the property described by a physical survey by Roudabush, Gale & Assoc., Inc. The plat notes the acreage for the two parcels is 8.008 acres. **The discrepancy in acreage is not explained. This transaction had no effect on the development rights of the parcels. The parcels are designated as #2 and #3 respectively on the map key.**

Deed Book 3364, page 616, dated February 7, 2007, conveyed two (2) parcels of land from Carl Richard Carey, widower, and KIMCO LC. One being described as Parcel Two containing 8.008 acres is described by reference to Deed Book 1390, page 537. **This transaction had no effect on the development rights of the parcels.**

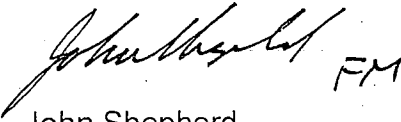
The parcels are entitled to the noted development rights if all other applicable regulations can be met. These development rights may only be utilized within the bounds of the original parcel with which they are associated. These development rights are theoretical in nature but do represent the maximum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

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.

Grant Cosner  
November 3, 2008  
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Sincerely,



John Shepherd  
Manager of Zoning Administration

Copy: Cheri Roberts, Property Transaction Technician  
Ella Jordan, Clerk of the Board of Supervisors

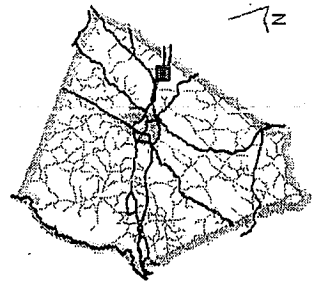
KIMCO LC  
 LOD-2008-00017

Legend  
 (Note: Some items on map may not appear in legend)

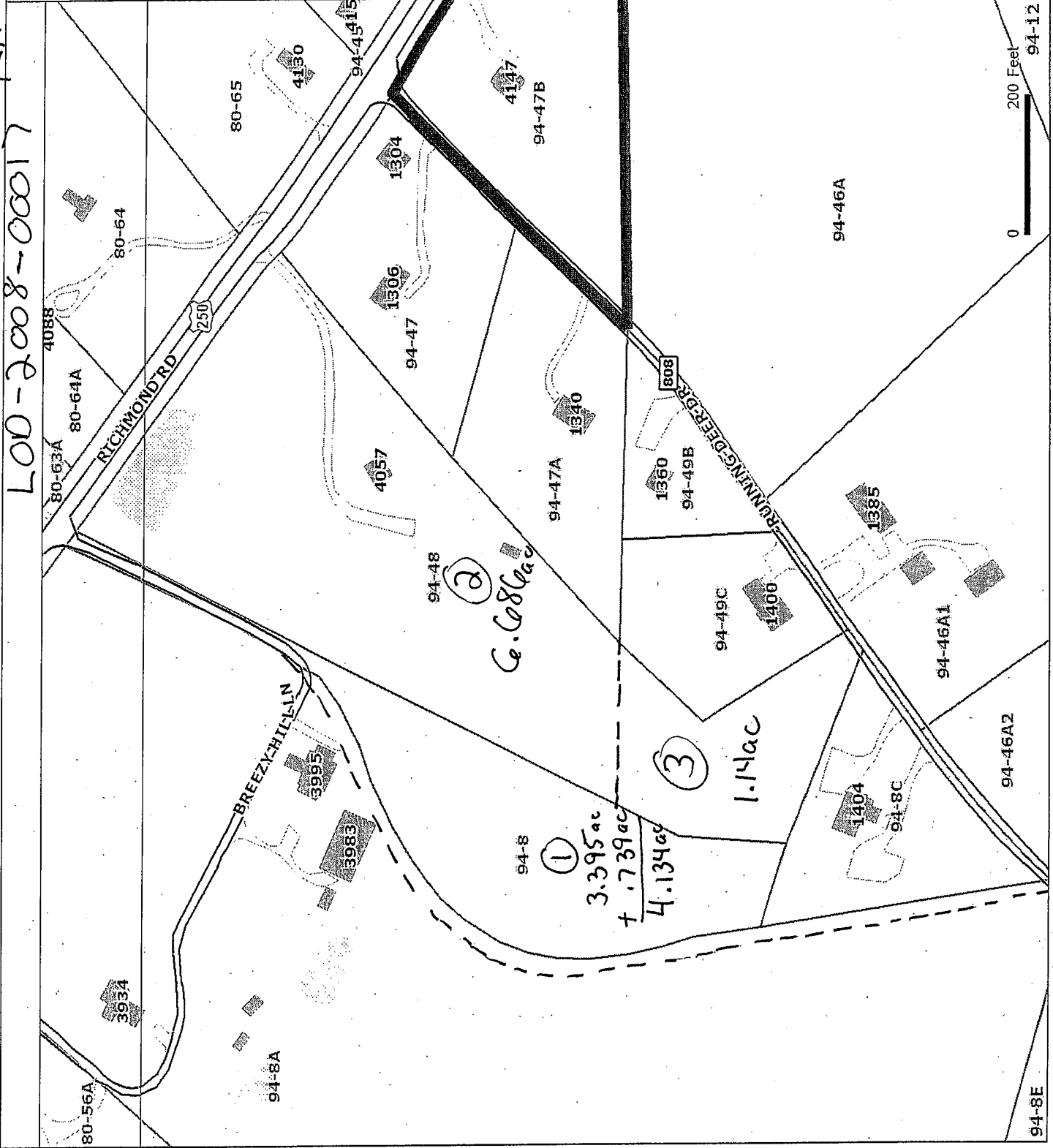
- Other Streets
- Major Streets
- Pavement
- Lakes and Reservoirs
- Fields
- Drainage
- Buildings - City
- Buildings
- Roads - City
- Roads
- Road Construction
- Road Bridges
- Concrete Roads
- Primary Roads
- Secondary Roads
- Traffic Light



GIS-Web  
 Geographic Data Services  
 www.albanyva.org  
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October 10, 2008



Map is for display purposes only - Aerial Imagery from Commonwealth of Virginia