

December 10, 2002

Noah DeFalco
5650 Orange Blvd.
Sanford, FL 32771

RE: OFFICIAL DETERMINATION OF PARCELS AND DEVELOPMENT RIGHTS - Tax Map 129, Parcels 10A & Tax Map 130, Parcel 7 (Property of Noah DeFalco) Section 10.3.1

Dear Mr. DeFalco:

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 129, Parcel 10A is a parcel of record with five (5) development rights. Tax Map 130, Parcel 7 is comprised of three (3) separate parcels of record identified below as Tracts I, II and IV.

Tract I, containing approximately 173.768 acres has five (5) development rights.

Tract II, containing approximately 8.762 acres has four (4) development rights.

Tract III is not part of this determination.

Tract IV, containing approximately 44.9 acres has five (5) development rights.

These tracts are shown on the attached sketch. The basis for this determination is summarized as follows.

Our records indicate Tax Map 129, Parcel 10A contains 422.875 acres and no dwellings. The property is not in an Agricultural Forestal District. The most recent deed for this property is recorded in Deed Book 1984, page 728.

Our records indicate Tax Map 130, Parcel 7 contains 227.430 acres and no dwellings. The property is not in an Agricultural Forestal District. The most recent deed for this property is recorded in Deed Book 1984, page 728.

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This determination begins with Deed Book 399, page 585. This deed, dated July 21, 1964 conveyed 341.2 acres from Percy Harris, Jr. and Mary Harris Elgin, Trustees under the will of Percy Harris, Sr. to Innes Randolph Harris. The property was made up of four parcels described in part as follows: **[TMP 130/7]**

Parcel I: 269.7 acres known as Coleman Farm shown on a plat by Hugh Simms recorded in Deed Book 187, page 523, less three acres conveyed to the Commonwealth for the widening of Route 6.

Parcel II: 28 acres situated on both sides of the road leading from Scottsville to Esmont, less .8 acres conveyed to the Commonwealth for the widening of Route 6. This is a part the same land conveyed by a deed recorded in Deed Book 246, page 390.

Parcel III: 2 2/5 acres shown on a plat by T. M. Thacker recorded in Deed Book 259, page 462 less a strip of land conveyed to the Commonwealth for the widening of Route 6.

Parcel IV: 44.9 acres shown on a plat by Hugh Sims recorded in Deed Book 221, page 219

The most recent deed for Tax Map 130, Parcel 7 recorded prior to the date of adoption of the Albemarle County Zoning Ordinance, (December 10, 1980) is in Deed Book 442, page 508. This deed, dated April 16, 1968, conveyed 341.2 acres from Percy Harris, Jr. & Alice M. Harris to Waldemar G. Dahl & Alice G. Dahl. The property is described as follows:

All that certain tract, piece or parcel of land, together with improvements thereon, lying and being in the Scottsville District, Albemarle County, Virginia, containing 341.2 acres, more or less, situated approximately three miles west of the Town of Scottsville, on both sides of Route 6, and made up of four parcels of land which are more particularly described in that certain deed from Percy Harris, Jr. and Mary Harris Elgin, Trustees under the will of Percy Harris, Sr. to Innes Randolph Harris, Dated July 21, 1964, and duly recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia. (This is recorded in Deed Book 399, page 585)

Being the same property conveyed to Percy Harris, Jr. by two deeds as follows:

(1) Deed from Innes Randolph Harris, widow, dated July 21, 1964, and recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, and (This DeFalco December 10, 2002 Page 3

deed conveyed 341 acres to Percy Harris, Jr., Innes Harris Moulton, Mary Harris Elgin, and Susan Harris Hamilton and is recorded in Deed Book 399, page 588)

(2) Deed from Innes Harris Moulton, widow, and others dated July 21, 1964, and recorded in Deed Book 399, page 589, in said Clerk's Office. (This deed conveyed the same 341.2 acres to Percy Harris, Jr.)

On the basis of this deed, and a review of the deeds referenced in Deed Book 399, page 585, Tax Map 130, Parcel 7 is determined to have been comprised of four (4) separate parcels of record as provided in Section 10.3 of the zoning ordinance on December 10, 1980.

Deed Book 442, page 510, contains a Deed of Trust dated April 25, 1968 that secured the 341.2 acres conveyed to Waldemar G. Dahl & Alice G. Dahl in the deed immediately preceding this deed as part of one and the same transaction. This had no effect on the number of parcels or development rights of the property.

Deed Book 489, page 630, dated June 16, 1971, conveyed 423.38 acres from Drucilla Ann Allman to Samuel G. Spangler, Charlotte R. Spangler & Samuel G. Spangler, III. The property is described as a portion of a larger, 569.5-acre tract conveyed to Thomas and Drucilla Ann Allman by deed dated June 29, 1956. The parcel is designated as Lot No. 3 on a plat of Carroll Gillispie dated October 6, 1970 and May 5, 1971 attached hereto. This tract is now identified as Parcel 10A on Tax Map 129.

Deed Book 489, page 634 contains a Deed of Trust dated June 28, 1971 that secured four tracts including the 423.38 acres conveyed to Samuel G. Spangler, Charlotte R. Spangler & Samuel G. Spangler, III in the deed immediately preceding this deed.

Deed Book 585, page 209 contains a plat, dated March 27, 1975 that divided 2.00 acres from Parcel 7. This lot is identified as Parcel 7A on Tax Map 130. This portion of the original Parcel 7 located north of Route 6 is not part of this determination.

The most recent deed for Tax Map 129, Parcel 10A recorded prior to the date of adoption of the Albemarle County Zoning Ordinance, (December 10, 1980) is in Deed Book 650, page 355, dated July 6, 1978. This is a Deed of Partition between Samuel G. Spangler & Charlotte R. Spangler and Samuel G. Spangler, III and Judith A. Spangler. The parties to this transaction owned equal shares, as tenants in common, of five tracts of land totaling 895.08 acres. This deed conveyed Allendale Farm to Samuel G.

Spangler & Charlotte R. Spangler. The farm included the 423.38-acre parcel described above and now identified as Tax Map 129, Parcel 10A. **On the basis of this deed, Tax**

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Map 129, Parcel 10A is determined to be a parcel of record as provided in Section 10.3 of the zoning ordinance.

Deed Book 710, page 197, dated January 6, 1981, conveyed 423.38 acres from Samuel G. Spangler, Charlotte R. Spangler to Guenther & Edith Hawranke. The property is described as the parcel designated as Lot No. # 3 on the plat of Carroll Gillispie dated October 6, 1970 and May 5, 1971. This is the same parcel conveyed to Samuel G. Spangler & Charlotte R. Spangler by the Deed of Partition dated July 6, 1978 and recorded in Deed Book 650, page 355 that is described above.

Deed Book 738, page 318, dated February 19, 1982, contains a Deed of Exchange between Paul M. Coleman & Virginia R. Coleman and Guenther & Edith Hawranke. The exchange is shown on a plat by Robert Lum, dated February 15, 1982. Paul and Virginia Coleman conveyed a portion of TMP 129/10, containing 1.486 acres and designated as Lot B, to Guenther & Edith Hawranke property identified as TMP 129/10A. The Hawrankes conveyed a portion of TMP 129/10A, containing 1.991 acres and designated as Lot A, to the Coleman property identified as TMP 129/10. As a result of this transaction, TMP 129/10A contained 422.695 acres. $(423.2 - 1.991 + 1.486)$ This transaction had no effect of the number of parcels or the development rights of the property.

Deed Book 750, page 177, dated October 18, 1982, conveyed 341.2 acres from Waldemar G. Dahl & Alice G. Dahl to Guenther Hawranke & Stephan Hawranke. The property is described as being made up of four parcels and as being the same property in all respects that was conveyed to the Grantors by deed of Percy Harris, Jr. & Alice M. Harris, dated April 16, 1968, and recorded in Deed Book 442, page 508. Deed Book 864, page 201, dated January (illegible), 1984 contains a Deed of Gift and Exchange between Stephan Hawranke, Guenther Hawranke and Guenther Hawranke & Edith Hawranke. In one element of this transaction Guenther Hawranke & Edith Hawranke conveyed 423.38 acres to Guenther Hawranke & Stephan Hawranke. This property is known as Allenwood and is designated as Lot Number 3 on the plat by Carroll Gillispie in Deed Book 489, page 632 and 633. There is also conveyed with this parcel, a parcel of land containing 1.486 and there is excepted from this conveyance a parcel containing 1.991 acres; both shown on a plat of record in Deed Book 738, page 318. This transaction had no effect of the number of parcels or the development rights of Tax Map 129, Parcel 10A.

Deed Book 1148, page 37, dated March 6, 1991 contains a Deed of Gift in which Stephan Hawranke conveyed to Guenther Hawranke Parcel 1 described below and a ½ interest in Parcels 2 thru 6, also described below.

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Parcel 1 is the same property that was conveyed by the deed recorded in Deed Book 864, page 201. (TMP 129/10A)

Parcel 5 is described as containing 341.2 acres and is the same property in all respects that was conveyed by deed recorded in Deed book 750, page 177. (TMP 130/7)

Deed Book 1560, page 81, dated February 5, 1996, conveyed 9.738 acres from Edith Hawranke and Stephan Hawranke to The Scottsville Volunteer Rescue Squad, Inc. The parcel is identified as Lot B on a plat by Robert Lum, dated June 5, 1996. This lot is now identified on Tax Map 130 as Parcel 7B. **At the time of this subdivision, Parcel 7 was considered to be two separate parcels, bisected by Route 6, each with a full compliment of development rights. This lot is divided from the portion of Parcel 7 containing 28 ½ acre tract identified as Parcel II in Deed Book 399, page 585. Real Estate records show that the portion of his tract located south of Route 6 contained 18 ½ acres. As a result of this transaction, the portion of Tax Map 130, Parcel 7 identified as Tract II contained 8.762 acres and four (4) development rights.**

Deed Book 1993, page 715, dated January 3, 2000, conveyed seven parcels of land from Edith Hawranke, Executor of the Estate of Guenther Hawranke to Stephan Hawranke.

Parcel One is described as containing 329.462 acres and is a portion of the land conveyed by deed of Waldemar and Alice Dahl of record in Deed Book 750, page 177 and by deed of Stephan Hawranke recorded in Deed Book 1148, page 37. (130/7)

Parcel Five is described as containing 422.875 acres and is a portion of the land conveyed by deed of Guenther and Edith Hawranke of record in Deed Book 864, page 201 and by deed of Stephan Hawranke recorded in Deed Book 1148, page 37. (129/10A)

This conveyance had no effect on the number of parcels or the development rights of the parcels.

Deed Book 1949, page 740, dated April 28, 2000 contains a subdivision plat approved on August 6, 2000, by Robert Lum showing the subdivision of the portion of Parcel 7 located north of Route 6 into seven parcels. The plat notes that the residue of Parcel 7, which is located south of Route 6, contains 226.9 acres and four development rights.

Lots 1, 2 and 3 shown on this plat consumed the 5 development rights that were DeFalco

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associated with the portion of Parcel 7 located north of Route 6. The four development rights noted on this plat are determined to be associated with the 8.762 acre residue of Tract II. The property shown on this plat included the portions of Tracts I and II located north of Route 6 and all of Tract III. The deed includes a Declaration of Restrictions, Covenants and Conditions that pertain to the new parcels created by the plat.

Deed Book 1984, page 728, dated January 2, 2001, conveyed two parcels from Stephan Hawranke to Noah DeFalco. The parcels are described on Schedule A as follows:

Parcel 1 containing 423.38 shown as Lot 3 on the plat by Carroll Gillispie recorded in Deed Book 489, page 638, less 1.991 acres and including 1.486 acres as shown on the Plat by Robert Lum recorded in Deed Book 738, page 321. (T.M. 129, P. 10A)

Parcel 2, containing about 225 acres, being the same 341.2 acres described in a deed recorded in Deed Book 399, page 585, less and except the following:

- a. Land dedicated to the Commonwealth for Route 6, Route 626 and Route 737;
- b. Albemarle County Tax Map 7A and 7B; and
- c. Lots 1 through 7, "Beaver Creek," shown on the plat recorded in Deed Book 1949, page 744.

Based on this history, each of these four parcels is determined to contain the noted development rights if all other applicable regulations can be met. 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, these parcels may create as many smaller parcels containing a minimum of twenty-one acres as it has land to make. A chart showing the development potential of these parcels is included with this determination.

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.

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Sincerely,

John Shepherd
Manager of Zoning Administration

Copies: Gay Carver, Real Estate Supervisor
Ella Washington-Cary, Clerk to the Board of Supervisors
Ches Goodall, Coordinator of the Acquisition of Conservation Easements Program

Attached: Sketch showing parcel locations
Tax Maps 129, 130, 135 & 136

DEVELOPMENT POTENTIAL OF Tax Map 129, Parcel 10A & Tax Map 130, Parcel 7

PARCEL	ACREAGE	DEVELOPMENT RIGHT LOTS 2 ACRE MIN.	DIVISION RIGHT LOTS 21 ACRE MIN.	TOTAL POTENTIAL PARCELS
129/10A	422.875	5	19	24
130/7 Tract I	173.768 (+/-)	5	7	12
130/7 Tract II	8.762 (+/-)	4	0	4
130/7 Tract III	0	Off-conveyed	0	0
130/7 Tract IV	44.9 (+/-)	5	1	6
ALL PARCELS	650.305 +/-	19	27	46