

Instrument Control Number

001927

# Commonwealth of Virginia

## Land Record Instruments

### Cover Sheet - Form A



Doc ID: 033289570009 Type: DEE  
 Recorded: 03/01/2016 at 03:43:10 PM  
 Fee Amt: \$0.00 Page 1 of 9  
 Albemarle County, VA  
 Jon R. Zug Circuit Clerk  
 File# 2016-00001927

[ILS VLR Cover Sheet Agent 1.0.66]

BK 4729 PG 744-752

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Date of Instrument: [3/1/2016 ]

Instrument Type: [DE ]

Number of Parcels [ 1 ]

Number of Pages [ 7 ]

City ☐ County ☒ [Albemarle County ] (Box for Deed Stamp Only)

## First and Second Grantors

Last Name	First Name	Middle Name or Initial	Suffix
[River Heights Associates] [	]	[	]
[	]	[	]

## First and Second Grantees

Last Name	First Name	Middle Name or Initial	Suffix
[County of Albemarle, Vir ] [	]	[	]
[	]	[	]

Grantee Address (Name) [County of Albemarle, Virginia ]  
 (Address 1) [401 McIntire Road ]  
 (Address 2) [ ]  
 (City, State, Zip) [Charlottesville ] [VA ] [22902 ]

Consideration [0.00 ] Existing Debt [0.00 ] Assumption Balance [0.00 ]

Prior Instr. Recorded at: City ☐ County ☒ [Albemarle County ] Percent. in this Juris. [ 100 ]

Book [711 ] Page [738 ] Instr. No [ ]

Parcel Identification No (PIN) [045000000068D0 ]

Tax Map Num. (if different than PIN) [045000000068D0 ]

Short Property Description [Greenway Easement, TMP 45-68D ]

Current Property Address (Address 1) [Berkmar Drive ]

(Address 2) [ ]

(City, State, Zip) [Charlottesville ] [VA ] [22901 ]

Instrument Prepared by [Albemarle County Attorney ]

Recording Paid for by [Albemarle County Attorney ]

Return Recording to (Name) [Albemarle County Attorney ]

(Address 1) [401 McIntire Road ]

(Address 2) [Suite 325 ]

(City, State, Zip) [Charlottesville ] [VA ] [22902 ]

Customer Case ID [ ] [ ] [ ]



001927

This document was prepared by:  
Albemarle County Attorney  
County of Albemarle  
401 McIntire Road  
Charlottesville, Virginia 22902

Tax Map and Parcel Number 04500-00-00-068D0

This deed is exempt from taxation under *Virginia Code* § 58.1-811(A)(3) and from Clerk's fees under *Virginia Code* § 17.1-266.

**DEED OF DEDICATION AND EASEMENT**

**THIS DEED OF DEDICATION AND EASEMENT** is made this 29th day of February 2016 by and between **RIVER HEIGHTS ASSOCIATES**, a Connecticut Limited Partnership, sometimes known as **RIVER HEIGHTS ASSOCIATES LIMITED PARTNERSHIP**, Grantor, and the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, whose address is 401 McIntire Road, Charlottesville, Virginia, 22902, Grantee.

**WITNESSETH:**

**WHEREAS**, the Grantor is the owner in fee simple of the real property located in Albemarle County that is described below and hereinafter referred to as the "Property;"

**WHEREAS**, the Grantor desires to dedicate, grant and convey to the Grantee, and Grantee is willing to accept, an easement over a portion of the Property for the purpose of allowing the Grantee to establish and maintain a public access trail and greenway, including authorized improvements (collectively, the "Greenway"), subject to the terms and conditions stated in this Deed.

**NOW, THEREFORE**, in consideration of the recitals and the mutual benefits, covenants and terms herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor hereby dedicates, grants, conveys, covenants and agrees as follows:

1. **DEDICATION, GRANT AND CONVEYANCE OF EASEMENT.** For and in consideration of ONE DOLLAR (\$1.00), cash in hand paid, the Grantor hereby dedicates, grants and conveys to the Grantee and their successors and assigns (hereafter, all references to the Grantee include its successors and assigns), with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE, a public access trail and greenway easement (the "Easement") in gross over the Property described below, restricting in perpetuity the use of the Property in the manner set forth herein:

That certain property identified as the "Greenway Easement" on the plat entitled "Plat Showing Greenway Easement Located on T.M.P. 45-68D," dated December 16, 2003, last revised February 8, 2013, and prepared by Robert W. Coleman, Jr., a copy of which is attached hereto.

The property conveyed herein is a portion of the property acquired by River Heights Associates by deed from S-V Associates dated February 25, 1981, and recorded March 4, 1981 in the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia, in Deed Book 711, page 738 and described as all that certain tract or parcel of land situated in the County of Albemarle, Virginia, located on State Route 659, containing 20.874 acres, more or less, shown as Parcel F on a plat by B. Aubrey Huffman & Associates, Ltd., dated June 14, 1991 and recorded in the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia, in Deed Book 1174, pages 304-305, LESS AND EXCEPT all that certain strip or parcel of land conveyed to the Commonwealth of Virginia in instrument of record in the aforesaid Clerk's Office in Deed Book 1754, page 514.

2. **PURPOSE OF THE EASEMENT.** The purpose of the Easement is to establish on the Property a segment of a countywide system of greenway trails that will link people to the area's natural, recreational, cultural and commercial resources. As part of this system, the Easement will serve to protect important and/or sensitive resources, provide recreational and educational opportunities, provide an alternative transportation system, and provide an economic benefit.

3. **ESTABLISHMENT AND MAINTENANCE OF THE GREENWAY.** The Grantee shall have the right to establish and maintain at its expense a Greenway within the Easement, as follows:

A. **Public access trail.** The Grantee may establish and maintain, in its sole discretion, either Class A or Class B trails. The trails shall be available for pedestrians and bicyclists.

B. **Improvements.** The Grantee may establish and maintain the following improvements within the Easement: (1) appropriate trail surfaces, foot bridges and associated trail structures and culverts; (2) trail markers and signs along all trails and at all points of access; (3) barriers, fences and gates to prevent motorized vehicular access on the trails; (4) benches for the convenience and comfort of the public; and (5) all other improvements that are reasonable for a public access trail.

C. **Ownership of improvements.** All improvements within the Easement established by the Grantee shall be and remain the property of the Grantee.

D. Right to inspect, maintain and operate the greenway. The Grantee may enter the easement to inspect, maintain and operate the greenway as provided herein:

1. Right to disturb and maintain the Easement premises. The Grantee shall have the right to trim, cut or remove any trees, brush or shrubbery; remove and relocate fences, structures or other obstructions; and take other similar action reasonably necessary to establish, maintain and operate an adequate and fully functioning Greenway; provided, however, that: (i) the Grantee, at its own expense, shall restore as nearly as possible, repair and replace only ground cover disturbed, damaged or removed as a result of establishing, maintaining or operating the Greenway to the extent the restoration or replacement is consistent with its proper maintenance, operation, and use; and (ii) after the Grantee establishes the Greenway, no trees having a diameter at breast height of four (4) inches or greater shall be removed, destroyed or cut within the Easement except to protect public safety, eliminate trees that are either diseased, dying or dead, or is deemed necessary in accordance with standard arborist practices.

2. Obligation to remove trash and other debris. The Grantee shall remove from the Easement all trash and other debris resulting from the establishment, maintenance or operation of the Greenway.

4. **RESTRICTIONS ON USES AND ACTIVITIES IN THE EASEMENT.** The Grantee shall have the right to regulate and restrict the uses and activities of the public within the Easement, in its sole discretion.

5. **MISCELLANEOUS PROVISIONS.**

A. Easement runs with the land. The Easement shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.

B. Restrictions. Neither the Grantor nor any person acting under the Grantor's express or implied consent shall, without the Grantee's express written permission, either (a) modify, alter, reconstruct, interfere with, disturb or otherwise change in any way the land or any improvement located within the Easement; and/or (b) erect any building, fence, retaining wall or other structure within the Easement.

C. Grantee's right to assign. The Grantee shall have the right to assign this Deed as its interests may require. An eligible assignee shall be one that is able to perform the terms, conditions and obligations of this Deed to assure that its purposes are fulfilled.

D. Enforcement. In addition to any remedy provided to enforce the terms of this Deed, the parties shall have the following rights and obligations:

1. Monetary remedy is inadequate remedy. It is conclusively presumed that an action seeking a monetary remedy is an inadequate remedy for any breach or violation, or any attempted breach or violation, of any term of this Deed.

2. Failure to enforce does not waive right to enforce. The failure of the Grantee to enforce any term of this Deed shall not be deemed a waiver of the right to do so thereafter, nor discharge nor relieve the Grantor from thereafter complying with any such term.

3. No third party right of enforcement. Nothing in this Easement shall create any right in the public or any third party to maintain any suit or action against any party hereto.

E. Notice of proposed transfer or sale. The Grantor, its successors and assigns, shall notify the Grantee in writing at the time of closing on any transfer or sale of the Property. In any deed conveying all or any part of the Property, the Easement shall be referenced by deed book and page number in the deed of conveyance and shall state that this Deed is binding upon all successors in interest in the Property in perpetuity.

F. Relation to applicable laws. This Deed does not replace, abrogate or otherwise supersede any federal, state or local laws applicable to the Property.

G. Severability. If any provision of this Deed is determined to be invalid by a court of competent jurisdiction, the remainder of this Deed shall not be affected thereby.

H. Recordation. Upon execution by the parties, this Deed shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Albemarle, Virginia.

I. Authority to convey easement. The Grantor covenants that it is vested with good title to the Property and may convey the Easement.

J. Authority to accept easement. The Grantee is authorized to accept the Easement pursuant to Virginia Code § 15.2-1800.

K. Hold harmless. The Grantee shall hold the Grantor harmless as provided in Virginia Code § 29.1-509(E).

L. Proceeds from Condemnation, Taking or Sale of Easement. If the Easement or any portion of it is condemned, taken, or sold under the power or threat of eminent domain, the Grantee shall be entitled to 2.35% of any award, damages, or consideration attributed to any of the underlying Property so condemned, taken, or sold.

M. Agreement survives closing. All agreements, promises, stipulations and representations contained in the Agreement for Transfer of Real Estate, by and between River Heights Associates, also sometimes referred to as River Heights Associates Limited Partnership, Z & S Development Corporation and the County of Albemarle, Virginia, dated June 5, 2008, shall

survive closing and shall bind the heirs, executors, administrators, agents, successors and assigns of the parties hereto.

The Grantee, acting by and through its County Executive, duly authorized by resolution adopted by the Board of Supervisors of the County of Albemarle, Virginia, accepts the conveyance of this property pursuant to Virginia Code § 15.2-1803, as evidenced by the County Executive's signature hereto and the recordation of this Deed.

WITNESS the following signatures.

**GRANTOR:**

**RIVER HEIGHTS ASSOCIATES**

By:   
Wendell W. Wood, General Partner

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF Charlottesville

The foregoing *Deed of Dedication and Easement* was acknowledged before me this 1<sup>st</sup>  
day of March, 2016, by Wendell W. Wood on behalf of River Heights Associates.

  
Notary Public

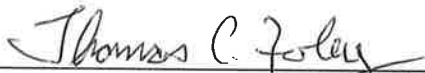
My Commission Expires: 10/31/18

Registration Number: 702 3282



**GRANTEE:**

**COUNTY OF ALBEMARLE, VIRGINIA**

By:   
Thomas C. Foley, County Executive

COMMONWEALTH OF VIRGINIA  
CITY OF CHARLOTTESVILLE:

The foregoing *Deed of Dedication and Easement* was acknowledged before me this 1<sup>st</sup>  
day of March, 2016, by Thomas C. Foley, County Executive, County of Albemarle,  
Virginia.

  
Notary Public

My Commission Expires: June 30, 2017

Registration Number: 253994



Approved as to form:

  
County Attorney



RECORD MERIDIAN  
D.B.1174 Pg.334



**Legal References:**  
D.B.1011 Pg.253

**Notary Public**

The foregoing instrument was  
acknowledged before me this  
12 day of March  
2016.

My commission expires,  
10/31/2018, 2018

**Owners Approval**

The Greenway Easement described hereon  
is with the free consent and in accordance  
with the desire of the undersigned owners,  
proprietors and/or trustees. All statements  
affixed to this plat are true and correct to  
the best of my knowledge.

T.M.P. 45-68D

*Mark B. Graham*  
Authorized Signature  
River Heights Associates  
Limited Partnership

3-1-16  
Date

Utilities and easements other than those  
shown may exist.

A current title report was not furnished for  
this survey.

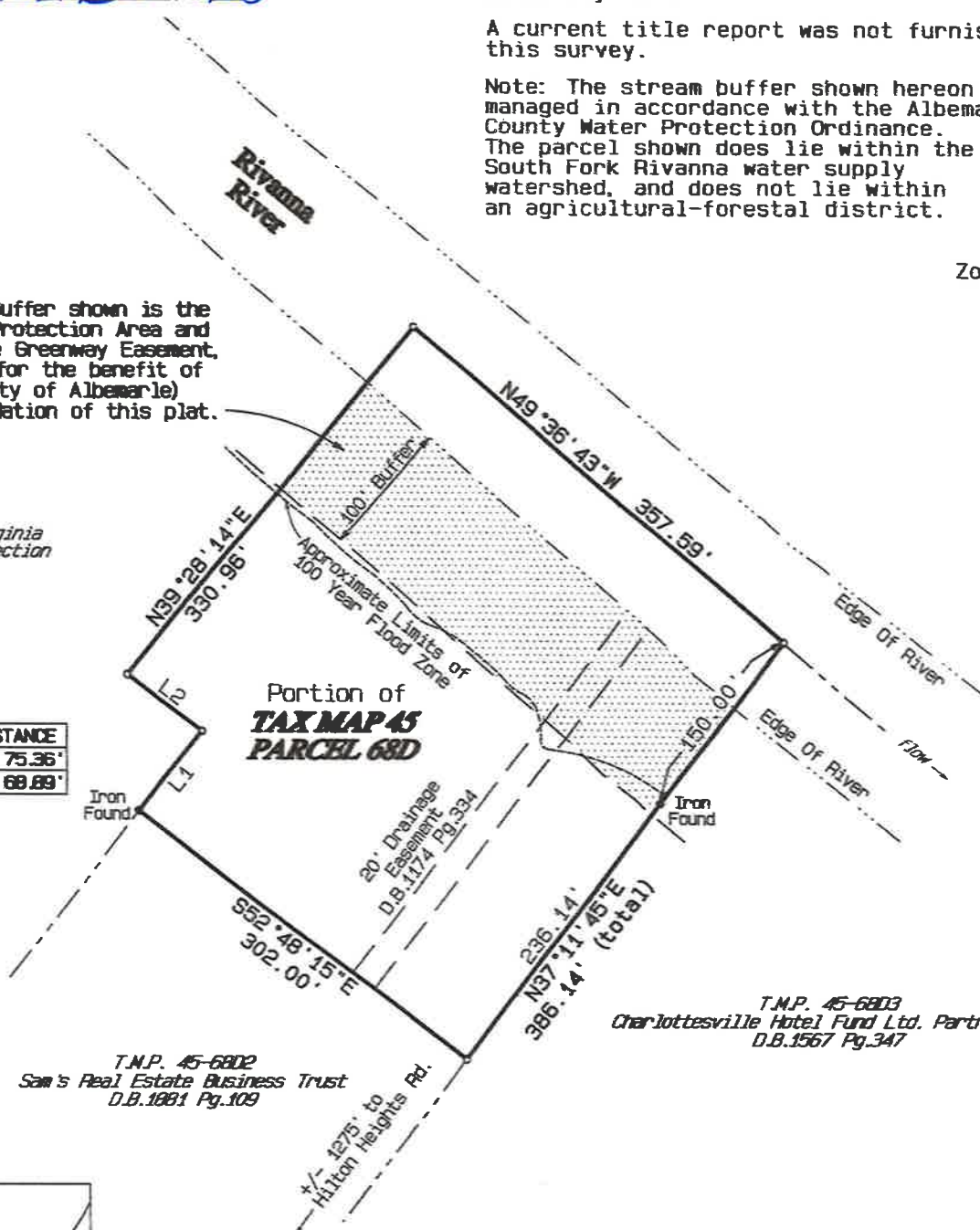
Note: The stream buffer shown hereon shall be  
managed in accordance with the Albemarle  
County Water Protection Ordinance.  
The parcel shown does lie within the  
South Fork Rivanna water supply  
watershed, and does not lie within  
an agricultural-forestal district.

Zoned: R15

The 100' Buffer shown is the  
Resource Protection Area and  
will be the Greenway Easement,  
(created for the benefit of  
The County of Albemarle)  
upon recordation of this plat.

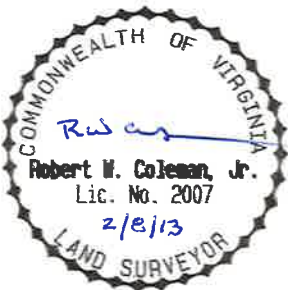
T.M.P. 45-68D7  
Commonwealth of Virginia  
VDOT Right of Way Section  
D.B.1754 Pg.97

LINE	BEARING	DISTANCE
L1	N87°44'45"E	75.36'
L2	N62°48'35"W	68.89'



T.M.P. 45-68D3  
Charlottesville Hotel Fund Ltd. Partnership  
D.B.1567 Pg.347

T.M.P. 45-68D2  
Sam's Real Estate Business Trust  
D.B.1881 Pg.109



Approved For Recordation

*Mark B. Graham* 3/1/16  
Agent for the Board of Supervisors ECR Date

PLAT SHOWING  
GREENWAY EASEMENT  
LOCATED ON  
T.M.P. 45-68D

ALBEMARLE COUNTY, VIRGINIA  
DECEMBER 16, 2003

**RESIDENTIAL  
SURVEYING SERVICES**  
(434) 245-8744  
1214 MONTICELLO ROAD, SUITE 1  
CHARLOTTESVILLE, VIRGINIA 22902

Sheet 1 of 1

Revised: 20 Nov '07  
Revised: 22 Jan '09  
Revised: 8 Feb '13

03-393



RECORDED IN CLERK'S OFFICE OF  
ALBEMARLE ON  
MARCH 1, 2016 at 3:43:10 PM  
AS REQUIRED BY VA CODE §58.1-802  
STATE: \$0.00 LOCAL: \$0.00  
ALBEMARLE COUNTY, VA  
JON R. ZUG CIRCUIT CLERK

*[Handwritten signature]* DC

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