

Instrument Control Number

002669

Commonwealth of Virginia
Land Record Instruments
Cover Sheet - Form A

[ILS VLR Cover Sheet Agent 1.0.66]

Doc ID: 002958360010 Type: DEE
 Recorded: 02/15/2006 at 03:40:34 PM
 Fee Amt: \$23.00 Page 1 of 10
 Albemarle County, VA
 Shelby Marshall Clerk Circuit Court
 File# 2006-00002669

BK 3159 PG 98-107

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Date of Instrument: [2/15/2006]

Instrument Type: [DG]

Number of Parcels [1]

Number of Pages [9]

City ☐ County ☒ [Albemarle County] (Box for Deed Stamp Only)**First and Second Grantors**

Last Name	First Name	Middle Name or Initial	Suffix
[Haden]	[Jesse]	[W.]	[]
[]	[]	[]	[]

First and Second Grantees

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

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 [] Page [] Instr. No []

Parcel Identification No (PIN) [29E, 29F, 29G, 51H, 51J, 51K]

Tax Map Num. (If different than PIN) [85]

Short Property Description [Lot 10 (Preservation Tract), consisting of 40.134 acres, more or]

[Deed of Gift and Easement]

Current Property Address (Address 1) [Stillhouse Ridge]

(Address 2) []

(City, State, Zip) [Batesville] [VA] [22903]

Instrument Prepared by [Albemarle County Attorney]

Recording Paid for by [E. Randall Ralston, Esq.]

Return Recording to (Name) [E. Randall Ralston, Esq.]

(Address 1) [1020 Ednam Center]

(Address 2) [Suite 102]

(City, State, Zip) [Charlottesville] [VA] [22903]

Customer Case ID [] [] []

A Portion of Tax Map 85, Parcel 29E, 29F, 29G, 51H,
51J, 51K

This deed is exempt from taxation under Virginia Code §§ 58.1-811(A)(3) and 58.1-811(C)(4).

DEED OF EASEMENT

THIS DEED OF EASEMENT, made this 10th day of November, 2005, between **JESSE W. HADEN**, Grantor, hereinafter referred to as the "Grantor," and the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, and the **ALBEMARLE COUNTY PUBLIC RECREATIONAL FACILITIES AUTHORITY**, a public body established pursuant to Virginia Code § 15.2-5600 *et seq.*, hereinafter collectively referred to as the "Grantees."

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 lands of the Grantor of which the Property is a part is being developed as a rural preservation development under Albemarle County Code § 18-10.3.3;

WHEREAS, the Property is the rural preservation tract, which is restricted by this deed to insure that it is maintained and preserved to preserve agricultural and forestal lands and activities, to provide water supply protection, and to conserve natural, scenic or historic resources;

WHEREAS, the Grantees are authorized to acquire open space easements over qualifying properties in order to accomplish the purposes of the Open-Space Land Act (Virginia Code § 10.1-1700 *et seq.*);

WHEREAS, the Grantor desires to establish an open space easement on the Property described herein for the purpose of preserving such lands as open space in perpetuity; and

WHEREAS, the rural preservation development is an optional form of development chosen by the Grantor and this conveyance is with the full consent of the Grantor and is, therefore, deemed to be voluntary.

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 grants, conveys, covenants and agrees as follows:

1. **GRANT AND CONVEYANCE OF EASEMENT.** The Grantor hereby grants and conveys to the Grantees and their successors and assigns, with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE, a conservation easement (the "Easement") in gross over the Property described in Attached Schedule A, which is incorporated herein, restricting in perpetuity the use of the Property in the manner set forth herein.

2. **USES AND ACTIVITIES.** In order to accomplish the purposes of the Rural Preservation Development regulations (Albemarle County Code § 18-10.3.3) and the Open-Space Land Act (Virginia Code § 10.1-1700 *et seq.*), the Property shall be subject to the following restrictions:

A. **Division of the Property and boundary line adjustments.** The Property may be divided and its boundary lines may be adjusted only as provided herein:

1. **Division.** The Property shall not be divided or subdivided.
2. **Boundary line adjustments.** If the Property consists of more than one parcel, boundary line adjustments within the Property shall be approved if the adjustment is consistent with the Easement.

B. **Construction, installation, location, placement of structures and improvements.** There shall be no construction, placement or maintenance of any structure or improvements on the Property unless the structure or improvements are either on the Property as of the date of this Easement or are authorized as follows:

1. **Location of structures.** Each structure for which a building site is required shall be located on a building site shown on a site plan approved by the County of Albemarle, Virginia.

2. **Types of structures.** No permanent or temporary building or structure shall be built or maintained on the Property other than: (a) one (1) principal single-family dwelling unit; (b) structures such as outbuildings, swimming pools, pool houses, greenhouses, boat storage structures, decking detached from the single-family dwelling unit, gazebos, garages, and tool sheds; and (c) farm buildings or structures.

3. **Size of structures.** No farm building and farm structure shall exceed a structural footprint of four thousand five hundred (4,500) square feet; no principal single-family dwelling shall exceed a structural footprint of four thousand five hundred (4,500) square feet; unless prior written permission for a greater footprint is obtained from each Grantee.

4. Improvements. The following may be constructed, installed, located or placed, provided they are otherwise consistent with this Easement: (a) driveways; and (b) other improvements and facilities customary and related to the use of a single lot.

C. Commercial and industrial uses prohibited; description of uses not deemed to be commercial and industrial uses. No industrial or commercial uses shall be conducted on the Property; provided, however, that the following uses are not deemed to be commercial or industrial uses for purposes of this Easement and are specifically permitted:

1. *De minimis* commercial recreational uses.
2. Agricultural uses including, but not limited to, establishing, reestablishing, maintaining or using cultivated fields, orchards or pastures (including clearing woodland areas for conversion to crop or pastureland) in accordance with generally accepted agricultural practices, including horticultural specialties; livestock, including all domestic and domesticated animals; and livestock products. Agricultural lands shall be maintained using Best Management Practices. The processing of agricultural products is not an agricultural use, except as an accessory use.
3. Forestal uses including, but not limited to, reforestation, site preparation, timber harvesting and forest management activities undertaken to produce wood products and/or improve the health and productivity of the woodland. Timber harvesting is permitted only in accord with a timber harvesting plan approved in writing by the County of Albemarle, Virginia; provided, the clearing of dead wood and the cutting of firewood for the personal on-site use of the residents of the Property may be performed without a timber harvesting plan. Following all timber harvesting operations, all logging roads and skid trails shall be adequately maintained to minimize erosion and the degradation of streamwater quality. The processing of wood products is not a forestal use, except as an accessory use.
4. Temporary or seasonal activities that do not permanently alter the physical appearance of the Property and are otherwise consistent with this Easement including, but not limited to, the sale of agricultural products grown or raised on the Property, and the granting of licenses to enter and use the Property for hunting or fishing.

5. Uses subordinate and customarily incidental to a principal use of the Property that are not expressly prohibited by and are otherwise consistent with this Easement.

D. Billboards and signs. There shall be no display of billboards, signs or other advertisements on the Property, except to: (1) state solely the name of the Grantor, the name of the farm, and/or the address of the Property; (2) advertise the sale or lease of the Property; (3) advertise the sale of goods or services produced as permitted by this Easement; (4) give directions to visitors; or (5) provide warnings pertaining to trespassing, hunting, dangerous conditions and other similar such warnings. No sign shall exceed fifteen (15) square feet.

E. Grading, blasting, earth removal and mining. Grading, blasting, earth removal, fill or waste activity shall not materially alter the topography of the Property; provided that grading, blasting or earth removal shall be allowed for dam construction to create private conservation ponds or lakes, and during the construction of permitted structures or associated improvements, and that such activities employ applicable Best Management Practices and are approved in writing by each Grantee. The drilling of wells for on-site consumption and common agricultural activities such as plowing, erosion control and restoration, the burial of dead animals, and timber harvesting activities are not activities that materially alter the topography of the Property. Mining on the Property is prohibited.

F. Management of agricultural and forestal resources. Applicable Best Management Practices, as established by a responsible state agency, shall be used in all construction, agricultural and forestal activities to control erosion and protect water quality.

G. Accumulation of waste material. There shall be no accumulation or dumping of trash, refuse or junk on the Property. This restriction shall not prohibit customary agricultural, horticultural or wildlife management practices including, but not limited to, establishing brush, compost or manure piles.

3. MISCELLANEOUS PROVISIONS

A. No public right of access to Property. This Easement does not create, and shall not be construed to create, any right of the public to enter upon or to use the Property or any portion thereof, except as the Grantor may otherwise allow.

B. Easement applies to the whole Property and runs with the land. This Easement shall apply to the Property as a whole rather than to individual parcels, and shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.

C. Enforcement. In addition to any remedy provided by law to enforce the terms of this Easement, the parties shall have the following rights and obligations:

1. Monitoring. Representatives of either Grantee may enter the Property from time to time for the purpose of inspection and enforcement of the terms of this Easement after permission from or reasonable notice to the Grantor or the Grantor's representative.

2. Restoration. Upon any breach of any term of this Easement by the Grantor, each Grantee may require by written demand to the Grantor that the Property be restored promptly to the condition required by this Easement.

3. Action at law inadequate remedy. It is conclusively presumed that an action at law seeking a monetary remedy is an inadequate remedy for any breach or violation, or any attempted breach or violation, of any term of this Easement.

4. Failure to enforce does not waive right to enforce. The failure of either Grantee to enforce any term of this Easement 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.

5. 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.

D. Notice of proposed transfer or sale. The Grantor shall notify each Grantee in writing within ten (10) days after closing on any transfer or sale of the Property. In any deed conveying all or any part of the Property, this Easement shall be referenced by deed book and page number in the deed of conveyance and shall state that this Easement is binding upon all successors in interest in the Property in perpetuity.

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

F. Reference to existing laws. All references to existing laws shall include such laws as they may be hereafter amended or recodified, whether they are referenced herein or not.

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

H. Recordation. Upon execution by the parties, this Easement 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 he is vested with good title to the Property and may convey this Easement.

J. Authority to accept easement. Each Grantee is authorized to accept this Easement pursuant to Virginia Code § 10.1-1701.

K. Transfer of easement by grantee. Neither Grantee nor their successors and assigns may convey or lease this Easement unless the conveyance or lease is conditioned as follows: (1) the conveyance or lease is subject to contractual arrangements that will assure that the Property is subject to the restrictions and conservation purposes set forth in this Easement, in perpetuity; and (2) the transferee is an organization then qualifying as an eligible done as defined by section 170-(h)(3) of the Internal Revenue Code of 1986, as amended, and the applicable Treasury Regulations promulgated thereunder, or is a public body within the meaning of Virginia Code § 10.1-1700.

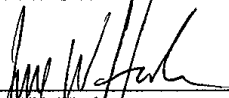
L. Construction. This Easement shall be construed to promote the purposes of this Easement, the Rural Preservation Development regulations and the Open-Space Land Act.

M. Request for approval. Whenever approval by the Grantees is required, the request for approval shall be submitted in writing prior to commencement of the use or activity for which approval is sought. The request shall be submitted to the Clerk of the Albemarle County Board of Supervisors and to the Chairman of the Albemarle County Public Recreational Facilities Authority. Each approval shall be in writing. The failure of the either Grantee to approve or disapprove a request within forty-five (45) days of its receipt shall cause the request to be deemed approved.

N. Consent of trustee and beneficiary to subordinate lien. By deed of trust dated July 1, 2002, of record in said Clerk's Office in Deed Book 2223, page 401, the Grantor conveyed the subject Property to Edward H. Bain, Jr., and E. Randall Ralston, Trustees, to secure an outstanding obligation owed to Curtis Allen Haden, III and Loretta M. Haden, Beneficiaries. Pursuant to the authorization of the Beneficiaries, as evidenced by their signatures hereto, the Trustees join in this deed to subordinate the lien of such deed of trust to the easement conveyed hereby.


WITNESS the following signatures and seals.

GRANTOR




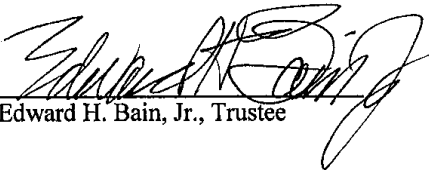
Jesse W. Haden

COUNTY OF ALBEMARLE,
VIRGINIA

By: 
Amelia G. McCulley, Director
Zoning and Current Development

ALBEMARLE COUNTY PUBLIC
RECREATIONAL FACILITIES AUTHORITY

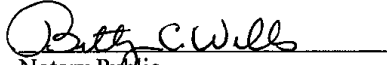
By: 
Charlotte D. Buttrick
Chairman


Edward H. Bain, Jr., Trustee


E. Randall Ralston, Trustee

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Albemarle :

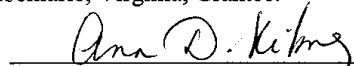
The foregoing *Deed of Easement* was signed, sworn to and acknowledged before me this
10th day of November, 2005 by Jesse W. Haden, Grantor.


Notary Public

My Commission Expires: April 30, 2007

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Albemarle :

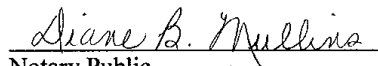
The foregoing *Deed of Easement* was signed, sworn to and acknowledged before me this
14 day of February 2006 by Amelia G. McCulley, Director of Zoning and Current
Development, on behalf of the County of Albemarle, Virginia, Grantee.


Notary Public

My Commission Expires: August 31, 2007

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Albemarle :

The foregoing *Deed of Easement* was signed, sworn to and acknowledged before me this 13th day of
February, 2006 by Charlotte D. Buttrick, Chairman, on behalf of the Albemarle County
Public Recreational Facilities Authority, Grantee.


Notary Public

My Commission Expires: June 30, 2009

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Albemarle:

The foregoing *Deed of Easement* was signed, sworn to and acknowledged before me this
10th day of November, 2005 by E. Edward H. Bain, Jr., Trustee.

Diana D. Johnson
Notary Public

My Commission Expires: 11/30/2009

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Albemarle:

The foregoing *Deed of Easement* was signed, sworn to and acknowledged before me this
10th day of November, 2005 by E. Randall Ralston, Trustee.

Betty C. Wells
Notary Public

My Commission Expires: April 30, 2007

Approved as to form:

By: Greg Kuyt
County Attorney

Schedule A

ALL that certain lot or parcel of land situated in the Samuel Miller Magisterial District, Albemarle County, Virginia near Batesville, near the intersection of State Route 635 and State Route 689, being more particularly designated and described as Lot 10 (Preservation Tract), consisting of 40.134 acres, more or less, and as shown on a Subdivision Plat entitled "Stillhouse Ridge", dated June 1, 2004, revised December 8, 2004 and Revised May 14, 2005, made by Kirk Hughes & Associates, Land Surveyors and Planners, recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, recorded contemporaneous with this Deed.

BEING a portion of the same premises conveyed to Jesse W. Haden by Deed of Curtis Allen Haden (a/k/a Curtis Allen Haden, III) and Loretta M. Haden, husband and wife, recorded on July 1, 2002 in the aforesaid Clerk's Office in Deed Book 2223, Page 392.

RECORDED IN CLERKS OFFICE OF
ALBEMARLE ON
February 15, 2006 AT 3:40:34 PM
\$0.00 GRANTOR TAX PD
AS REQUIRED BY VA CODE § 58.1-802
STATE: \$0.00 LOCAL: \$0.00
ALBEMARLE COUNTY, VA
SHELBY MARSHALL CLERK CIRCUIT COURT
Shelby Marshall DC