

**ACTIONS**  
**Board of Supervisors Meeting of April 4, 2018**

April 5, 2018

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>	<u>VIDEO</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> <li>Meeting was called to order at 1:03 p.m., by the Chair, Ms. Mallek. All BOS members present. Also present were Jeff Richardson, Greg Kamptner, Claudette Borgersen and Travis Morris.</li> </ul>		<a href="#">Link to video</a>
<p>4. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>ADOPTED</b> the final agenda as amended.</li> </ul>		
<p>5. Brief Announcements by Board Members.</p> <p><u>Liz Palmer:</u></p> <ul style="list-style-type: none"> <li>Announced the Samuel Miller District Community Meeting with the North Garden Ruritans on Thursday, April 5 at 7:30 p.m., at the North Garden Volunteer Fire Department.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>Invited Board members to join her at the Dogwood Vietnam Memorial Celebration on April 20 at 11:00 a.m.</li> <li>Announced the Solarize Piedmont program will occur from April 2 to May 31 and it will offer cost saving and procedural help for citizens who would like to install solar panels.</li> </ul>		
<p>6. Proclamations and Recognitions:</p> <p>a. Proclamation Proclaiming March, 2018 as Colon Cancer Awareness Month.</p> <ul style="list-style-type: none"> <li><b>ADOPTED</b> and presented to Cathy Bauer.</li> </ul> <p>b. Proclamation Proclaiming April, 2018 as Fair Housing Month.</p> <ul style="list-style-type: none"> <li><b>ADOPTED</b> and presented to Ron White.</li> </ul> <p>c. Proclamation Proclaiming April 1-7, 2018 as Local Government Education Week.</p> <ul style="list-style-type: none"> <li><b>ADOPTED</b> and presented to Jody Saunders.</li> </ul> <p>d. Proclamation Proclaiming April, 2018 as National County Government Month.</p> <ul style="list-style-type: none"> <li><b>ADOPTED</b> and presented to Mary Stebbins.</li> </ul> <p>e. Certificate of Appreciation for Joan Bienvenue and the University of Virginia's Applied Research Institute.</p> <ul style="list-style-type: none"> <li>Chair read certificate.</li> </ul> <p>f. Introduction of Roger Johnson, as Albemarle County's Director of Economic Development.</p> <ul style="list-style-type: none"> <li>County Executive introduced Roger Johnson.</li> </ul>	<p>(Attachment 1)</p> <p>(Attachment 2)</p> <p>(Attachment 3)</p> <p>(Attachment 4)</p> <p>(Attachment 5)</p>	
<p>7. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <li><u>Freddy Weinberg</u>, Whitehall District, spoke towards the lack of pedestrian infrastructure on the 250 corridor.</li> <li><u>Frank Dukes</u>, Rio District, Encouraged the Board to participate in the Equal Justice Initiative recognizing lynchings and requested that the Board consider adopting a resolution against the public display of the confederate battle flag.</li> </ul>		

19.	<p><b><u>SP 2017-27 Keswick Tier III Personal Wireless Service Facility.</u></b></p> <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>DEFERRED</b> SP 2017-27 Keswick Tier III Personal Wireless Service Facility to June 6, 2018 at the request of the applicant.</li> </ul>	<p><u>Clerk:</u> Schedule on June 6, 2018 agenda and advertise in Daily Progress.</p>
8.2	<p>FY 2018 Appropriations.</p> <ul style="list-style-type: none"> <li><b>ADOPTED</b> Resolution to approve appropriations #2018077, #2018079, and #2018080 for local government and school division projects and programs.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to OMB and County Attorney's office. (Attachment 6)</p>
8.3	<p>Brookdale Affordable Housing Performance Agreement.</p> <ul style="list-style-type: none"> <li><b>ADOPTED</b> resolution to approve the revised Performance Agreement.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Office of Housing and County Attorney's office. (Attachment 7 and 8)</p> <p><u>County Attorney:</u> Provide clerk with fully executed copy of agreement.</p>
8.4	<p>SUB 201700067 Dunlora Park – Special Exception to Front Setbacks.</p> <ul style="list-style-type: none"> <li><b>ADOPTED</b> resolution to approve the special exception.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 9)</p>
8.5	<p>Special Exception: Boar's Head Connector Road.</p> <ul style="list-style-type: none"> <li><b>ADOPTED</b> resolution to approve the special exception request.</li> </ul>	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 10)</p>
9.	<p>Open Air Burning Regulations for Land Clearing and Development Operations.</p> <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>APPROVED</b> recommendations, as presented by staff and <b>AUTHORIZED</b> a public hearing.</li> </ul>	<p>(Attachment 11)</p>
10.	<p>Biodiversity Action Plan for Albemarle County.</p> <ul style="list-style-type: none"> <li><b>RECEIVED.</b></li> </ul>	
	<p>Recess.</p> <ul style="list-style-type: none"> <li>At 3:25 p.m., the Board recessed and reconvened at 3:35 p.m.</li> </ul>	
11.	<p>Rivanna Water and Sewer Authority Quarterly Report.</p> <ul style="list-style-type: none"> <li><b>RECEIVED.</b></li> </ul>	
12.	<p>Autonomous Vehicles.</p> <ul style="list-style-type: none"> <li><b>RECEIVED.</b></li> </ul>	
13.	<p>County Transportation Planner Quarterly Report.</p> <ul style="list-style-type: none"> <li><b>RECEIVED.</b></li> </ul>	
14.	<p>Transportation Priorities for Smart Scale and the Secondary Six-Year Plan.</p> <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>APPROVED</b>, the recommended prioritized list of paving project and expenditure of other state funds through the secondary road programs as set forth in the staff report for inclusion in the counties draft FY 19-24 SSYP; and <b>SET</b> a public hearing on the SSYP for June 13, 2018; and <b>APPROVED</b> the recommended prioritized list of Smart Scale Grant applications.</li> </ul>	<p><u>Clerk:</u> Schedule on agenda and advertise in Daily Progress.</p>
	<p>Recess.</p> <ul style="list-style-type: none"> <li>At 5:40 p.m., the Board recessed and reconvened at 6:02 p.m.</li> </ul>	
18.	<p>From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <li>There were none.</li> </ul>	

<p>15. Closed Meeting.</p> <ul style="list-style-type: none"> <li>• At 6:04 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia:</li> <li>• Under Subsection (1), to consider Appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments.</li> <li>• Under Subsection (3), to discuss and consider the disposition of real property in the City of Charlottesville related to court facilities, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County.</li> <li>• Under Subsection (8), to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice relating to: <ol style="list-style-type: none"> <li>1. Pending applications for emergency Communications facilities; and</li> <li>2. Negotiating an agreement for, and the possible relocation of, court facilities.</li> </ol> </li> </ul>		
<p>16. Certify Closed Meeting.</p> <ul style="list-style-type: none"> <li>• At 7:38 p.m., the Board reconvened into open meeting and certified the closed meeting.</li> </ul>		
<p>17. Boards and Commissions:</p> <ul style="list-style-type: none"> <li>• <b>REAPPOINTED</b>, Mr. Rob Farrell to the Acquisition of Conservation Easements Committee (ACE), with said term to expire August 1, 2019.</li> <li>• <b>APPOINTED</b>, Mr. Josh Rector and Ms. Katya Spicuzza to the Crozet Community Advisory Committee, with said terms to expire March 31, 2020.</li> <li>• <b>APPOINTED</b>, Mr. Kennon Williams to the Natural Heritage Committee, with said term to expire September 30, 2021.</li> <li>• <b>REAPPOINTED</b>, Ms. Lynda White to the Village of Rivanna Community Advisory Committee, with said term to expire March 31, 2020.</li> </ul>	<p>Clerk: Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.</p>	
<p>19. <b><u>Pb. Hrg: SP 2017-27 Keswick Tier III Personal Wireless Service Facility.</u></b></p> <ul style="list-style-type: none"> <li>• Moved early on agenda.</li> </ul>		
<p>20. From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <p><u>Rick Randolph:</u></p> <ul style="list-style-type: none"> <li>• Provided an update on the Southwood Executive Committee meeting.</li> <li>• Provided update on B.F. Yancey Work Group meeting.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>• Provided an update on the Sugar Hollow dam.</li> </ul>		
<p>21. From the County Executive: Report on Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> <li>• Announced that he will be traveling for Continuing Education on Friday, April 6.</li> </ul>		
<p>23. Adjourn to April 10, 2018, 4:00 p.m., Lane Auditorium.</p> <ul style="list-style-type: none"> <li>• The meeting was adjourned at 7:50 p.m.</li> </ul>		

ckb/tom

- Attachment 1 – Proclamation Proclaiming March, 2018 as Colon Cancer Awareness Month
- Attachment 2 – Proclamation Proclaiming April, 2018 as Fair Housing Month
- Attachment 3 – Proclamation Proclaiming April 1-7, 2018 as Local Government Education Week
- Attachment 4 – Proclamation Proclaiming April, 2018 as National County Government Month
- Attachment 5 – Certificate of Appreciation
- Attachment 6 – Resolution to Approve Additional FY 18 Appropriations
- Attachment 7 – Resolution to Approve a Revised Performance Agreement between EDA, Brookdale Partners LP,  
and the County
- Attachment 8 – Brookdale Performance Agreement
- Attachment 9 – Resolution to Approve Special Exception for SUB 201700067 Dunlora Park
- Attachment 10 – Resolution to Approve Special Exception for Boar's Head Connector Road
- Attachment 11 – Proposed Strengthening to Open Air Burning Regulations

**PROCLAMATION**

**PROCLAIMING MARCH 2018 AS  
COLON CANCER AWARENESS MONTH**

**WHEREAS**, Albemarle County recognizes the month of March as Colon Cancer Awareness to bring greater awareness to colon cancer and the importance of being screened; and

**WHEREAS**, colon cancer is the second leading cause of cancer death in the United States and 1 in 20 people will develop colon cancer and every 10 minutes a life is lost to the disease; and

**WHEREAS**, this year alone, 142,000 new cases of colon and rectal cancer will be diagnosed in America and nearly 50,000 deaths are expected; and

**WHEREAS**, a simple screening test is recommended to individuals over age 50 and those with a family history to help combat the disease and through recommended screenings, this cancer can be caught early when treatment is most effective; and

**WHEREAS**, Albemarle County recognizes that increase screening can save lives in Albemarle County and across the country and education and increased awareness can help inform the public of methods of prevention and the early detection of colon cancer.

**NOW, THEREFORE, BE IT RESOLVED**, that we, the Albemarle County Board of Supervisors, do hereby proclaim the Month of March, 2018 to be Colon Cancer Awareness Month in the County of Albemarle and encourage all individuals to work together to promote awareness and understanding of colon cancer and the need for screening to eradicate the disease.

**PROCLAMATION**

**PROCLAIMING APRIL 2018 AS  
FAIR HOUSING MONTH**

**WHEREAS**, April is Fair Housing Month and marks the 50th anniversary of the passage of the federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988); and

**WHEREAS**, the Fair Housing Act provides that no person shall be subjected to discrimination because of race, color, national origin, religion, sex, disability, or familial status in the rental, sale, financing or advertising of housing (and the Virginia Fair Housing Law also prohibits housing discrimination based on elderliness); and

**WHEREAS**, the Fair Housing Act supports equal housing opportunity throughout the United States; and

**WHEREAS**, fair housing creates healthy communities, and housing discrimination harms us all.

**NOW, THEREFORE, BE IT RESOLVED**, that we, the Albemarle County Board of Supervisors, do hereby supports equal housing opportunity and seek to affirmatively further fair housing not only during Fair Housing Month in April, but throughout the year.

**PROCLAMATION**  
**April 1-7, 2018 Local Government Education Week**

- WHEREAS,** the nation's 3,141 counties serving more than 325 million Americans provide essential services such as law enforcement, public health and safety, recreational opportunities, and the education of local children to create healthy, safe, economically-resilient, and engaged communities; and
- WHEREAS,** in celebration and appreciation of the valuable services local governments throughout the Commonwealth provide to the citizens of the communities they serve, the Virginia General Assembly designated the first week in April as Local Government Education Week; and
- WHEREAS,** Albemarle County takes great pride in our responsibility to protect and enhance the health, well-being and safety of our residents in efficient and cost-effective ways; and
- WHEREAS,** in order to remain healthy, vibrant, safe, and economically competitive, Albemarle County provides public health, justice, emergency management and economic services that play a key role in everything from resident's daily health to disaster response; and
- WHEREAS,** Albemarle County encourages active and meaningful community engagement in local government activities through partnerships like the Community Advisory Committees and community policy groups.
- NOW, THEREFORE, BE IT RESOLVED,** that the Albemarle County Board of Supervisors proclaims that April 1-7, 2018 is hereby designated as Local Government Education Week; and
- BE IT FURTHER RESOLVED,** that the Albemarle County Board of Supervisors and the Albemarle County School Board will partner to promote civic education and engagement in an effort to educate citizens about their local government, strengthen the sense of community, and engage the next generation of local government managers.

Signed this 4th day of April 2018.

**PROCLAMATION**  
**NATIONAL COUNTY GOVERNMENT MONTH**

**WHEREAS,** the nation's 3,069 counties serving more than 325 million Americans provide essential services to create healthy, safe and vibrant communities; and

**WHEREAS,** Albemarle County's continuing commitment to "serving the underserved," this year's theme, is demonstrated through efforts to increase capacity for education for at-risk four-year-olds through Bright Stars and other community partnerships; the innovative Family Finder program, that places children with trusted family and natural supports who are willing to serve as placements for children, rather than entering the foster care system; and the Public Schools' Albemarle Forward program, which seeks to provide equity and opportunity for our students; and

**WHEREAS,** Albemarle County and all counties take pride in their responsibility to protect and enhance the health, welfare and safety of its residents in efficient and cost-effective ways; and

**WHEREAS,** in order to remain healthy, vibrant and safe, America's counties provide public health, justice, safety, infrastructure, transportation, technology, environmental stewardship and economic services that play a key role in everything from residents' daily commutes to emergency response; and

**WHEREAS,** each year since 1991 the National Association of Counties has encouraged counties across the country to actively promote their own programs and services to the public they serve;

**NOW, THEREFORE, BE IT RESOLVED,** that we, the Albemarle County Board of Supervisors, do hereby proclaim

Sunday, April 1 through Monday, April 30, 2018

As

**NATIONAL COUNTY GOVERNMENT MONTH**

Signed this 4th day of April, 2018.



**CERTIFICATE OF APPRECIATION  
TO  
JOAN BIENVENUE AND THE UVA APPLIED RESEARCH INSTITUTE**

**WHEREAS,** Albemarle County places significant value on the overwhelming importance of our region's national defense installations as critical contributors to the overall safety and security of the United States and its citizens both domestically and around the world; and

**WHEREAS,** The County also appreciates the many positive direct impacts to our community resulting from a vibrant and energetic defense industry presence including quality jobs, internships/mentorships, volunteer and charitable partnerships, and increased economic vitality, among many others; and

**WHEREAS,** Our regional national defense and intelligence community is strengthened and supported when leaders from government, academia and industry are brought together specifically to focus on critical challenges and to develop a coherent, coordinated approach to those challenges; and

**WHEREAS,** The University of Virginia's Applied Research Institute, under the leadership of Director Joan Bienvenue, inaugurated the annual Conference on National Defense and Intelligence in 2014 at the University and Rivanna Station to serve as a convening platform for these critical conversations; and

**WHEREAS,** June 10 – 12, 2018, will mark the fifth year of this very successful and productive conference, helping our region stay in the national and international forefront of efforts to build resilience and partnership in the interests of national security.

**NOW, THEREFORE,** we the Albemarle County Board of Supervisors would like to express our sincere appreciation to Ms. Bienvenue and the UVA Applied Research Institute for your vision and energetic leadership in establishing and continuing to develop and grow this very important event in support of the national defense industry and thank you for the many positive benefits it brings to our region.

Signed this 4<sup>th</sup> day of April 2018.

**RESOLUTION TO APPROVE  
ADDITIONAL FY 18 APPROPRIATIONS**

**BE IT RESOLVED** by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2018077, #2018079, and #2018080 are approved; and
- 2) That the appropriations referenced in Paragraph #2, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2018.

**RESOLUTION TO APPROVE  
A REVISED PERFORMANCE AGREEMENT  
BETWEEN THE ECONOMIC DEVELOPMENT AUTHORITY  
OF ALBEMARLE COUNTY, VIRGINIA,  
BROOKDALE PARTNERS LP, AND ALBEMARLE COUNTY, VIRGINIA  
FOR AFFORDABLE HOUSING IN THE BROOKDALE DEVELOPMENT**

**WHEREAS**, the Board finds it is in the best interest of the County to enter into a revised Performance Agreement with the Economic Development Authority of Albemarle County, Virginia and Brookdale Partners LP for the construction of affordable housing in the Brookdale Development.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia hereby approves the revised Performance Agreement between the Economic Development Authority of Albemarle County, Virginia, Brookdale Partners LP, and Albemarle County for the construction of affordable housing in the Brookdale Development, and authorizes the County Executive to execute the revised Agreement on behalf of the County once it has been approved as to substance and form by the County Attorney.

**PERFORMANCE AGREEMENT**

THIS PERFORMANCE AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between the **ECONOMIC DEVELOPMENT AUTHORITY OF ALBEMARLE COUNTY, VIRGINIA**, (“the EDA”) **BROOKDALE PARTNERS LP**, a Virginia limited partnership (the “Developer”), and **ALBEMARLE COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the “County”).

WHEREAS, the Developer intends to develop affordable housing at Albemarle County Parcel Number 07600-00-00-046C1, located on Country Green Road, Albemarle County, Virginia, in substantial conformance with the Initial Site Plan application number SDP201700003 approved by the County on March 20, 2017 (the “Project”); and

WHEREAS, the Albemarle County Board of Supervisors (“Board of Supervisors”) desires to promote and encourage affordable quality housing for all income levels in the County of Albemarle, Virginia pursuant to Objective 6 of Chapter 9 in the Albemarle County Comprehensive Plan; and

WHEREAS, on September 6, 2017, the Board of Supervisors adopted a Resolution expressing the County’s commitment to support the development of affordable housing by agreeing to provide the Project with semi-annual grants through the EDA based on a certain percentage of the taxes paid by the Developer due to the increased real estate assessment; and

WHEREAS, the EDA desires to promote and encourage the economic development and vitality of the County and assist in providing affordable quality housing in the County by agreeing to provide the Developer with any grants submitted to the EDA by the County to support the development of affordable housing in the County; and

WHEREAS, the Board of Directors of the EDA approved a Resolution on \_\_\_\_\_, agreeing to the terms of this Agreement and authorized the Chairman of the EDA to sign this Agreement on behalf of the EDA; and

WHEREAS, the Board of Supervisors approved a Resolution on \_\_\_\_\_, agreeing to the terms of this Agreement and authorized the County Executive to sign this Agreement on behalf of the County.

NOW, THEREFORE, in consideration of the mutual promises, covenants and obligations herein contained, and other good and valuable consideration, the parties agree as follows:

1. The Developer agrees to the following:

(a) The Developer agrees to develop the Project in substantial conformity with the Initial Site Plan application number SDP201700003 approved by the County on March 20, 2017. The Developer specifically agrees to develop at least eighty-four (84) units reserved for households with incomes less than 60% Area Median Income (AMI). As recommended by County Planning staff during the Initial Site Plan process, the Developer intends to utilize Density Bonus provisions in the Albemarle County Code (Section 18.4.3) to develop up to ninety-six (96) units reserved for households with incomes less than 60% Area Median Income (AMI) to be shown in a Final Site Plan application. This Performance Agreement shall apply

to all affordable units developed pursuant to an approved Final Site Plan. The Developer shall certify annually to the County Executive that these affordable housing uses are continuing with respect to the Project.

(b) The Developer shall obtain site plan and building permit approval from the County to construct at least eighty-four (84) residences at the Project. The Developer shall certify to the County it has been awarded Federal Low Income Housing Tax Credits eligible for affordable housing development and has obtained approval from a reputable financial institution agreeing to finance the construction of the buildings and appurtenant site improvements.

(c) The Developer agrees to begin construction of the Project within One Hundred Eighty (180) days of obtaining building permit approval, subject to force majeure events or written agreement of the parties extending such time period.

(d) The Developer shall substantially complete the construction of the Project in substantial accordance with the approved conceptual elevation and site plan and obtain the required certificate of occupancy (which may be a temporary certificate of occupancy) for the first building within thirty-six (36) months from the date construction begins, subject to force majeure events or written agreement of the parties extending such time period.

(e) The Developer agrees to continuously operate and to maintain the Project during the term of this Agreement and be responsible for all maintenance, taxes, insurance and other costs associated with the Project. If the use of the Project changes during the term of this Agreement, the Performance Incentive will no longer be provided. If any County taxes on the Project are delinquent during the term of this Agreement, the Performance Incentive will not be provided until the delinquency is satisfied.

2. The County agrees to the following:

(a) The County agrees to provide to the EDA funding for a Performance Incentive Grant (the "Grant") over a time period commencing with the first real estate tax bill that is based on an increased assessment of the property due to development of the Project which is billed after a certificate of occupancy (which may be a temporary certificate of occupancy) for the Project is issued and ending nineteen (19) years from the date of issuance of the final certificate occupancy for the Project. The Performance Incentive Grant shall be as follows:

(i) Commencing on the date of issuance of the first tax bill reflecting an increased assessment arising out of the development of the Project after issuance of a certificate of occupancy (which may be a temporary certificate of occupancy) for Project and through 15 years after the issuance of the final certificate occupancy for the Project, the annual grant shall be based on 100% of real estate taxes paid on the tax increment (the amount of future increases in the real estate tax assessment above the existing assessment) (the "Tax Increment") of the property owned by the Developer and comprising the Project (Albemarle County Tax Parcel Number 07600-00-00-046C1), which shall be determined annually by subtracting (i) the stipulated current assessed value of the property of \$1,057,800 from (ii) the future assessed value of the property based upon a re-assessment of the property arising out of development of the Project (as determined by the Albemarle County Commissioner of the Revenue on an annual basis).

(ii) In year 16, the Grant shall be based on 80% of the real estate taxes paid on the Tax Increment. In year 17, the Grant shall be based on 60% of the real estate taxes paid on the Tax

Increment. In year 18, the Grant shall be based on 40% of the real estate taxes paid on the Tax Increment. In year 19, the Grant shall be based on 20% of the real estate taxes paid on the Tax Increment.

(b) The County shall provide to the EDA the required funding for the Grant semi-annually subject to the terms and conditions of this Agreement. The County shall provide the EDA the required funding for the Grant within fifteen (15) days after the Developer has paid the full amount of the assessed County real estate taxes due for the applicable half of the year.

(c) The Grant shall commence with the first real estate tax bill issued that is based on an increased assessment of the property due to development of the Project after the issuance of a certificate of occupancy (which may be a temporary certificate of occupancy) for the Project. The Grant shall continue to be paid for a period of nineteen (19) years from the date of issuance of the final certificate occupancy for the Project.

3. The EDA Agrees to the following:

(a) Subject to the Developer performing each and all of its obligations under this Agreement, the EDA agrees to, on a semi-annual basis, and within fifteen (15) days of receipt of the semi-annual Grant funding from the County, to disburse the Grant funding proceeds to the Developer consistent with the terms and conditions of this Agreement as requested by the County.

(b) The EDA shall have no obligation to the Developer to provide the Grant if the County does not first provide the EDA with the funds. The EDA's only obligation to the Developer is to provide the Developer with the Grant funds that were provided to the EDA by the County.

4. This Agreement shall be governed by, construed, interpreted and the rights of the parties determined in accordance with the applicable laws of the United States and the Commonwealth of Virginia. The venue for any dispute between the parties relating to this Performance Agreement shall be exclusively state courts of competent jurisdiction in Albemarle County, Virginia or the United States District Court, Western District of Virginia, Charlottesville, Virginia.

5. Notice and other correspondence regarding this Agreement shall be hand delivered or mailed through the U.S. Mail or by national overnight carrier to the following addresses, or to such other or additional addresses as the parties may designate in writing:

EDA: Albemarle County Economic Development Authority  
Attention: Chair  
401 McIntire Road  
Charlottesville, VA 22902

Developer: Brookdale Partners LP  
Attention: William Park  
1821 Avon Street Extended, Suite 200  
Charlottesville, VA 22902

County: Albemarle County Executive's Office  
Attention: County Executive  
401 McIntire Road  
Charlottesville, VA 22902

6. This Agreement shall inure to the benefit of any party acquiring the Project, without the written consent of the EDA or the County so long as the new entity expressly assumes the obligations herein and remains fully liable under this Agreement.

7. Each party shall execute and deliver, or cause to be executed and delivered, any and all instruments, documents and conveyances, and take any and all action as shall be necessary or convenient, required to vest in each party all rights, interests and benefits intended to be conferred in and under this Agreement.

8. This Agreement may be executed in Counterparts, each one of which, when all parties have signed, may be conformed and shall constitute an original document.

9. This Agreement shall be binding on the parties, their respective successors and assigns.

10. This agreement shall be subject to an annual appropriation by the Board of Supervisors. Failure by the Board of Supervisors to appropriate the Grant shall terminate this Performance Agreement with no further obligation upon the part of either party. Notwithstanding the foregoing to the contrary, provided the Developer pays the full amount of assessed real estate taxes due, the County shall fund the Grant as set forth in this Agreement.

11. This Performance Agreement may be amended by the mutual written consent of all three parties.

12. This Agreement is the full and complete agreement between the parties and no amendment or modification can be made to this Agreement unless and until it is reduced to writing and executed and delivered by all parties.

WITNESS the following signatures and seals.

**DEVELOPER:**

**BROOKDALE PARTNERS LP,  
a Virginia limited partnership**

By: BROOKDALE LLC,  
a Virginia limited liability company, its General Partner

By: BLUESTONE LAND, L.L.C.,  
a Virginia limited liability company, its Manager

By: \_\_\_\_\_  
William N. Park, Manager

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF \_\_\_\_\_:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ by William N. Park, Manager of Bluestone Land, L.L.C., a Virginia limited liability company, in  
its capacity as the Manager of Brookdale LLC, a Virginia limited liability company, the General Partner of  
Brookdale Partners LP, on behalf of the partnership.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

Registration Number: \_\_\_\_\_

SIGNATURES CONTINUE ON THE FOLLOWING PAGE



**ECONOMIC DEVELOPMENT AUTHORITY OF  
ALBEMARLE COUNTY, VIRGINIA**

\_\_\_\_\_  
W. Rod Gentry, Chair

COMMONWEALTH OF VIRGINIA  
CITY OF CHARLOTTESVILLE:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018  
by W. Rod Gentry, Chair, on behalf of the Economic Development Authority of Albemarle County,  
Virginia.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

Registration number: \_\_\_\_\_

**COUNTY OF ALBEMARLE, VIRGINIA**

\_\_\_\_\_  
Jeffrey B. Richardson  
County Executive

COMMONWEALTH OF VIRGINIA  
CITY OF CHARLOTTESVILLE:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018  
by Jeffrey B. Richardson, County Executive, on behalf of the County of Albemarle, Virginia, Grantee.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

Registration number: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
County Attorney

**RESOLUTION TO APPROVE SPECIAL  
EXCEPTION FOR SUB 201700067 DUNLORA  
PARK**

**WHEREAS**, the Owner of Tax Map Parcel Numbers 062F0-04-00-00700, 062F0-04-00-00800, 062F0-04-00-01000, and 062F0-04-00-01100 filed a request for a special exception in conjunction with SUB 201700067 Dunlora Park, to modify the required setbacks, as depicted on the pending plans under review by the County's Department of Community Development.

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the Executive Summary prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exception(s) in Albemarle County Code §§ 18-4.19(4), 18-15.3, 18-33.5, and 18-33.9, the Albemarle County Board of Supervisors hereby approves the special exception to modify the required setbacks, subject to the condition attached hereto.

\* \* \* \*

**SUB 201700067 Dunlora Park – Special Exception  
to Front Setbacks Special Exception Condition**

1. The maximum front setback on Tax Map Parcel Numbers 062F0-04-00-00700, 062F0-04-00-00800, 062F0-04-00-01000, and 062F0-04-00-01100 shall be fifty feet (50').

**RESOLUTION TO APPROVE SPECIAL EXCEPTION  
FOR BOAR'S HEAD CONNECTOR ROAD**

**WHEREAS**, the Owner of Tax Map Parcel Number 059D2-01-00-01500 (the "Property") filed an Application for a special exception in conjunction with ZMA201700010 Boar's Head Connector Road and SUB201700203 Temporary Golf Course Connector Road to waive the buffer zone requirements of County Code § 18-21.7(c) to allow grading and construction activity for the permanent use of the "Boar's Head Connector Road," the temporary use of which the Board approved on December 13, 2017 (SP201700023 Birdwood-Boar's Head Temporary Connector Road – Amendment).

**NOW, THEREFORE, BE IT RESOLVED** that, upon consideration of the foregoing, the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exception in Albemarle County Code §§ 18-21.7, 18-33.5, and 18-33.9, the Albemarle County Board of Supervisors hereby approves the special exception to waive the buffer zone requirement for the development of the Property, subject to the conditions attached hereto.

\* \* \* \* \*

**SP201700023 Birdwood-Boar's Head Temporary  
Connector Road – Amendment  
Special Exception Conditions**

1. The proposed grading and construction activity within the twenty (20) foot buffer zone along the adjacent R1 and R4 residential districts shall be for the purposes of constructing the Boar's Head Connector Road and installing the required landscaping and screening, in accordance with the specific terms and details of the Roadway Plans and Grading Plans submitted with the Application for this special exception, prepared by Dewberry Engineers, Inc., dated February 1, 2018, and in accordance with the specific terms and details of the Proposed Landscaping and Screening Exhibit submitted with the Application for this special exception, dated March 5, 2018.
2. Grading and construction of proposed improvements are subject to approval of SUB201700203 Temporary Golf Course Connector Road, WPO201700076 Temporary Golf Course Connector Road, and all other applicable plan approval(s) and/or permit(s).
3. Landscaping and screening shall be installed and maintained in accordance with the specific terms and details of the Proposed Landscaping and Screening Exhibit submitted with the Application for this special exception, dated March 5, 2018.

# Proposed Strengthening to County Open-Air Burning Regulations

*Specific to land/clearing development operations*

REQUIREMENT	CURRENT	RECOMMENDATION
<b>PERMISSION FROM OCCUPANTS</b>	Within 500 feet	Within 2000 feet.  * Exception – within 1000 feet with use of a special incinerator device (e.g. Air Curtain).
<b>WRITTEN SITE AND BURN PLAN</b>	Not Required by County Code	Submitted with application and subject to approval
<b>TIME LIMITS FOR BURNING</b>	May burn any time outside of State Forestry restriction (must comply with noise ordinance).  During Forestry restriction - Feb 15 <sup>th</sup> through April 30 <sup>th</sup> – burning allowed between 4 pm and 10 pm.	Burning only allowed Monday through Friday, between 8 am and 8 pm and only outside of State Forestry restriction.  No burning during State Forestry restrictions – Feb 15 <sup>th</sup> through April 30 <sup>th</sup>
<b>PROOF OF LIABILITY INSURANCE</b>	Not required by County Code	Require proof of a minimum of \$1.5 million liability insurance
<b>LIMIT TO NUMBER OF BURN PERMITS ALLOWED PER PARCEL</b>	No limit in current County Code	Limit 3 permits/annually per parcel