

A regular night meeting of the Board of Supervisors of Albemarle County, Virginia, was held on February 14, 2018, at 6:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Norman G. Dill, Mr. Ned Gallaway, Ms. Ann Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer and Mr. Rick Randolph.

ABSENT: None.

OFFICERS PRESENT: County Executive, Jeff Richardson, County Attorney, Greg Kamptner, Clerk, Claudette Borgersen, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. Call to Order. The meeting was called to order at 6:02 p.m., by the Chair, Ms. Mallek.

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Agenda Item No. 2. Pledge of Allegiance.  
Agenda Item No. 3. Moment of Silence.

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Agenda Item No. 4. Adoption of Final Agenda.

Ms. Mallek asked that the Board add under Matters from the Board, consideration of a joint statement about HB 1148, sponsored by Delegate Steve Landes, as it moves to the Senate.

Mr. Dill **moved** that the Board adopt the final agenda, as amended. The motion was **seconded** by Ms. McKeel.

Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. Mallek, Ms. McKeel, Ms. Palmer, Mr. Randolph and Mr. Dill.  
NAYS: None.

Ms. Mallek introduced the presiding security officer, Officer Beach, and County staff at the dais.

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Agenda Item No. 5. Brief Announcements by Board Members.

Ms. Mallek announced that the ribbon cutting for the new dementia unit at Mountainside Senior Living in Crozet will occur this Thursday at noon.

Ms. Mallek informed the Board of the stampede of 40 salamanders on Polo Grounds Road the previous Saturday night with only three casualties, a record level of success. She said that over 30 people participated during a five-hour period and that additional salamanders will be moving over the next several weeks on rainy, warm nights. She cautioned drivers to beware.

Ms. Mallek informed the Board that water began going over Sugar Hollow Dam the previous day.

Ms. Mallek announced the third River Basin Renaissance Conference will be held at the County Office Building, September 28, with a focus on how the environment affects the river, and vice versa, from history, today, and tomorrow. She said that activities on the water will take place on Saturday, September 29.

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Agenda Item No. 6. Proclamations and Recognitions.

There were none.

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Agenda Item No. 7. From the Public: Matters not Listed for Public Hearing on the Agenda.

Mr. Paul Grady, resident of Crozet, addressed the Board to discuss what he termed a consistently overlooked aspect of the revenue sharing agreement between the County and City. He said that whereas annexation is under a moratorium, a negotiated boundary adjustment is still quite legal, and that no one can say the Charlottesville boundary is logical. He said that one would think I-64 is the southern boundary when it is in fact Bent Creek, just north of Fifth Street Station Parkway, the northern boundary of the Fifth Street Station development. He said that one would think the Rivanna River is the eastern boundary, yet part of the Woolen Mills neighborhood is in the County. He added that the Charlottesville High School football field is in the County, as well as the University and Albemarle County Courthouse. He suggested the addition of Ragged Mountain Reservoir to the City would eliminate a point of contention between the City and County. He expressed hope that a boundary adjustment would be added to the County's arsenal of options as they negotiate with Charlottesville.

Ms. Mallek asked Mr. Andy Herrick to address the Board regarding 8.2 and the building regulations referring to maintenance issues.

Mr. Andy Herrick of the County Attorney's office addressed the Board. He asked Ms. Mallek if her question concerns the proposed Section 5-302 which has to do with a special provision of state law that allows enabling authority for the demolition of derelict structures, with the written consent of the owner. He explained the County has the authority to remove dangerous structures under Section 5-300 and this would take advantage of some enabling authority they do not currently have. He added that the enabling authority they do not currently exercise is only with the consent of the owner.

Ms. Mallek asked for confirmation that the adoption of 5-302 will give the County more ability to do things differently. Mr. Herrick described this as one more tool in the toolbox and that it can only be exercised with the owner's consent.

Ms. Mallek asked if a stronger maintenance ordinance would give them more influence to require that something be done if this were to pass. Mr. Herrick confirmed Ms. Mallek's understanding. He said they are looking at cleaning up the existing sections and not at the maintenance code, though this is an option for the Board in the future.

Ms. McKeel reminded the Board that when they adopted the blight ordinance they said they would come back and look at the maintenance code and she would like the Board to address this at a future date.

Mr. Kamptner related a discussion he had the previous day with Amelia, and learned that they are still conducting an inventory of housing stock for the second part of the Chapter 5 revisions that involve the maintenance code and other amendments the County may consider.

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Agenda Item No. 8. Consent Agenda.

Ms. Palmer **moved** that the Board approve the consent agenda. The **motion** was seconded by Ms. McKeel.

Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. Mallek, Ms. McKeel, Ms. Palmer, Mr. Randolph and Mr. Dill.  
NAYS: None.

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Item No. 8.1. Approval of Minutes: November 29, 2017.

Ms. Mallek had read the minutes of November 29, 2017 and found them to be in order.

**By the above-recorded vote, the Board approved the minutes as read.**

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Item No. 8.2. Ordinance to Amend County Code Chapter 5, Building Regulations.

The Executive Summary forwarded to the Board states that the Board has directed the County Attorney's Office to conduct a comprehensive review and recodification of the County Code. Chapter 5 contains building regulations, outlining required applications, permits, and certifications for certain structures.

State law provides only limited local discretion in this area. Specifically, Virginia Code § 36-98 mandates a Uniform Statewide Building Code, which supersedes any local building codes and regulations. However, Virginia Code § 36-105 makes local building departments responsible for enforcement of the provisions of the Building Code for construction and rehabilitation. County Code Chapter 5 fulfills this State mandate by specifying local procedures consistent with the Uniform Statewide Building Code.

Because County Code Chapter 5 is already largely consistent with the current Uniform Statewide Building Code, most proposed ordinance amendments are stylistic. However, staff highlights the following proposed substantive changes:

\* **Secs. 5-300 to 5-303** - Unsafe buildings and structures - State law authorizes local building officials to remove, repair or secure unsafe buildings and structures, after reasonable notice to the owner(s). Under the current ordinance, the building official must first "order" the removal, repair or securing of the unsafe building or structure, a requirement not found in State law. Staff's proposed amendments would more closely track the State enabling authority in this area.

\* **Sec. 5-302** - Demolition or removal of certain structures - This proposed amendment would allow the County to demolish or remove certain derelict nonresidential buildings or structures, with the written consent of the property owner.

\* **Sec. 5-400** - Smoke detectors - Staff recommends that the building code pertaining to smoke detectors apply to all dwelling units, not just buildings or structures containing four or more dwelling units.

Most other proposed amendments are either stylistic or updates intended to track current State law.

No significant budget impact is expected.

Staff recommends that the Board schedule a public hearing to consider adoption of the attached proposed ordinance (Attachment A) on March 14, 2018.

**By the above-recorded vote, the Board set the public hearing to consider adoption of the proposed ordinance on March 14, 2018.**

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Item No. 8.3. Bucks Elbow ECC Communications Tower Special Use Permit Application.

The Executive Summary forwarded to the Board states that in 2001, as part of the regional Emergency Communications Center's ("ECC's") implementation of an 800 MHz radio system, a special use permit was approved for a 120' tower at Bucks Elbow Mountain on property (Tax Map Parcel 03900-00-00-001B1) owned by the County of Albemarle. (Attachment A-Location Map) The special use permit was later amended in 2003 to extend the period of validity of the permit and for minor ground equipment changes (SP 2003-21). While the tower qualifies as a public use, the County has historically chosen to process public communication tower facilities as special use permits to provide a higher level of review, public input opportunities, and limiting conditions of approval.

The ECC needs to replace major technology components of the system and also construct a replacement tower for the Bucks Elbow site with an increase in height up to a 150' tower. The replacement tower can be accommodated within the existing County owned parcel. However, the proposed increase in height does not comply with the special use permit condition for the site that requires that the site be developed in substantial compliance with the site plan approved. In order to allow for the increase in height, the special use permit condition must be amended. An application to amend SP 2003-21 has been prepared (Attachment B). County Code § 18-33.4 requires the owner of the property to file a special use permit application. The County owns the parcel where the Bucks Elbow site is located. Board authorization is necessary for the County Executive to sign the special use permit application as the property owner.

The special use permit application fee of \$1,075 will be funded from the ECC's budget. There is no operating impact related to this matter at this time, and costs for the project have already been addressed through the CIP process.

Staff recommends that the Board adopt the attached Resolution (Attachment C) authorizing the ECC's application for a special use permit to the County.

**By the above-recorded vote, the Board adopted the following Resolution authorizing the ECC's application for a special use permit to the County:**

**RESOLUTION TO AUTHORIZE THE  
EMERGENCY COMMUNICATION CENTER'S APPLICATION  
FOR A SPECIAL USE PERMIT  
TO INCREASE THE HEIGHT OF THE TELECOMMUNICATIONS TOWER LOCATED ON TAX MAP  
PARCEL 03900-00-00-001B1  
AT BUCK'S ELBOW MOUNTAIN**

**WHEREAS**, the Board of Supervisors finds that it is in the best interest of the County to authorize the Emergency Communications Center's Application for a Special Use Permit to amend a Special Use Permit that was approved by the County in 2001 and amended in 2003 (SP 2003-21) for a telecommunications tower located on Tax Map Parcel 03900-00-00-001B1 at Buck's Elbow Mountain, used as part of the ECC's 800 Mhz radio system, to increase the height of the tower to 150 feet.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of Albemarle County, Virginia hereby authorizes the County Executive to sign, on behalf of the County, the Emergency Communications Center's Application for a Special Use Permit as described hereinabove, and to have it filed with Albemarle County.

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Item No. 8.4. Resolution of Intent to Amend Supplementary Regulations of the Zoning Ordinance.

The Executive Summary forwarded to the Board states that to facilitate preparing a recodified version of the Zoning Ordinance for the Board's consideration, staff is reviewing the Ordinance for clarity and substance. County Code §§ 18-5.1.01 through 18 -5.1.62 include regulations for specific uses whether by right or by special use permit. County Code § 18-5.2 pertains to home occupations. In the process of correcting and updating the Ordinance pursuant to the Resolutions of Intent adopted by the Board on April 5, 2017, staff determined that County Code §§ 18-5.1 and 18-5.2 also require amendment.

County Code §§ 18-5.1.01 through 18-5.1.62 include regulations for uses no longer pursued in the County, such as drive-in theatres; uses that are regulated under special use permit conditions, such as spring water extraction and/or bottling; and uses that contain redundant references to permits required by other agencies and departments, such as the reference to the Virginia Department of Health in Day Camp, Boarding Camp. County Code § 18-5.2 established standards and requirements for home occupations. The majority of the proposed changes would address these outdated regulations and

redundancies. Substantive changes to the Supplementary Regulations will be addressed in separate zoning text amendments, such as the separate amendment for transient lodging.

Proposed public engagement for this amendment includes an initial period of publication in Albemarle County's A-Mail and on the County's website, with a staff point of contact provided and an annotated draft ordinance available. Depending on the extent of public questions or comments, a roundtable can be scheduled. We propose a Planning Commission work session prior to public hearing.

Staff does not anticipate that adopting the Resolution will result in the need for additional staff or funding.

Staff recommends that the Board adopt the attached Resolution of Intent.

**By the above-recorded vote, the Board adopted the following Resolution of Intent:**

#### **RESOLUTION OF INTENT**

**WHEREAS**, the Albemarle County Zoning Ordinance includes regulations for the implementation of specific uses whether by right or by special use permit in Albemarle County Code §§ 18-5.1 and 18-5.2; and

**WHEREAS**, it is desired to amend the regulations to ensure that they are compliant with state and federal laws, applicable to current practices in Albemarle County, and consistent with other applicable policies and standards.

**NOW, THEREFORE, BE IT RESOLVED THAT** for purposes of public necessity, convenience, general welfare, and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to consider amending Albemarle County Code §§ 18-5.1 and 18-5.2 and any other sections of the Zoning Ordinance deemed to be appropriate to achieve the purposes described herein; and

**BE IT FURTHER RESOLVED THAT** the Planning Commission shall hold a public hearing on the zoning text amendment proposed by this resolution of intent, and make its recommendations to the Board of Supervisors, at the earliest possible date.

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Item No. 8.5. VDoT Monthly Report (February) 2018, ***was received for information.***

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Agenda Item No. 9. Old Trail Creekside V, Phases I & II Subdivision Acceptance of Dedication of Open Space.

The Executive Summary forwarded to the Board states that Old Trail Creekside V, Phases I and II are proposed by right subdivisions on the south side of Jarmans Gap Road in western Crozet, approximately one-third of a mile west of the intersection between Old Trail Drive and Jarmans Gap Road. Old Trail Creekside V, Phase I is located on Tax Map Parcel Number 05500-00-00-078A0 and measures 3.190 acres. Old Trail Creekside V, Phase II is located on Tax Map Parcel Number 05500-00-00-078C0 and measures 4.107 acres. Both properties are zoned R-1 Residential.

County Code § 18-13.4.2 allows an applicant to receive a density bonus by dedicating land to public use that is not otherwise required by law, subject to acceptance of the dedication by the Board of Supervisors prior to final approval of the plat. The bonus density allowed is provided in County Code § 18-13.4.2:

“The acreage of the land dedicated and accepted shall be multiplied by twice the gross density-standard level, and the resulting number of dwellings may be added to the site, provided that the density increase shall not exceed fifteen (15) percent.”

The applicant has requested that the Board accept a dedication of open space in order to obtain the density bonus allowed by County Code § 18-13.4.2. The proposed deed of dedication for the open space in Old Trail Creekside V, Phase II is included as Attachment B. The proposed deed of dedication for the open space in Old Trail Creekside V, Phase I is included as Attachment C. The land proposed for dedication contains some wooded areas but is comprised mostly of open fields.

County Code § 18-2.4 states that bonus factors are “intended to encourage development which reflects the goals and objectives of the comprehensive plan. To this end, bonus factors are based on development standards as recommended by the comprehensive plan.”

Bonus densities are also consistent with the Development Areas section of the County's Comprehensive Plan. The expectations for the Development Areas include “[p]romoting density to help create new compact urban neighborhoods” and “[c]ompatible infill development.” Comprehensive Plan, page 8.3.

In Old Trail Creekside V, Phase II, the applicant proposes to dedicate 1.144 acres to the County as shown on Sheet 2 of the proposed subdivision plat and identified as “Lot X” (See Attachment D). Under the formula in County Code § 18-13.4.2 for calculating the bonus density, this dedication, if

accepted, would allow the number of lots within the Old Trail Creekside V, Phase II subdivision to increase from 3 to 5.

In Old Trail Creekside V, Phase I, the applicant proposes to dedicate 0.941 acres to the County as shown on Sheet 2 of the proposed subdivision plat and identified as "Lot X" (See Attachment E). Under the formula in County Code § 18-13.4.2 for calculating the bonus density, this dedication, if accepted, would allow the number of lots within the Old Trail Creekside V, Phase I subdivision to increase from 3 to 4.

In analyzing whether staff could recommend acceptance of the open space to the Board, staff consulted the Crozet Master Plan portion of the Comprehensive Plan. The Crozet Master Plan Chapter on Parks & Green Systems states that new parks and greenways are essential to the quality of life expected for Crozet. The Parks & Green Systems Plan does not show a trail/greenway in the location of Old Trail Creekside V, Phases I and II. However, there are several existing open space parcels that were dedicated to the County when earlier phases of Old Trail Creekside were approved. A trail was installed within those open space parcels because it was recommended by the Parks & Green Systems Plan. The location of the two new open space parcels are adjacent to the existing open space owned by the County. The applicant is also proposing to install a new trail within the existing open space in Old Trail Creekside Phase III (Attachment F and Attachment G). These trails will then connect to new trails in the open space parcels proposed to be dedicated in Old Trail Creekside V, Phase I, and Old Trail Creekside V, Phase II. This will create a cohesive trail network through all phases of the subdivision. Therefore, staff believes that the proposed open space with a trail will enhance the recreational value of this area and provide additional public access points to an existing greenway called for by the Crozet Master Plan. The applicant has worked with the Parks and Recreation Department on the location and limits of the open space dedication. Parks and Recreation staff has stated that this open space dedication and trail construction will provide a valuable addition to the existing greenway. Parks and Recreation staff recommends that the County accept this open space dedication.

The applicant will construct the trails within the proposed open space to be dedicated. The open space area and trails will be maintained by the Department of Parks and Recreation with existing staff and/or volunteers.

Staff recommends that the Board adopt the attached Resolution (Attachment A) approving the acceptance of the dedication of open space and authorizing the County Executive to execute the Deed of Dedication and Easement accepting the conveyance of the open space easements to the County (Attachment B and Attachment C) once the County Attorney has approved the Deed as to form and substance.

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Mr. Cameron Langille, Senior Planner in the Department of Community Development, reported that the two parcels are associated with two separate subdivision plats under review, with the first being Old Trail Creekside V, Phase I – Tax Map Parcel (TMP) 05500-00-00-07 and the second being Old Trail Creekside V, Phase II – Tax Map Parcel (TMP) 05500-00-00-078C0. He pointed out the first parcel on the map and indicated that it measures 4.107 acres and is zoned R1 Residential, while the second parcel measures 3.109 acres; both are in Crozet. He stated that Phase I is located about a half mile west of the Old Trail Drive/Jarman's Gap Road intersection, while Phase II is located 1,500 feet west of this intersection.

Mr. Langille presented a subdivision plat with the area under consideration highlighted, and informed Supervisors of the proposal to create four lots along Birmingham Court as well as an open space parcel measuring .941 acres proposed to be dedicated to the County. He informed the Board that both parcels are bonus level cluster development subdivisions. He said the applicant proposed three separate bonus factors, two of them administrative in nature, including internal streets and landscaping along the streets that would grant them a 15% bonus density. He said that with the dedication of land to the County, they would get an additional 15% and 30% overall bonus density increase. He explained that they could develop three lots by right in Phase I, and with the dedication of open space they would be able to develop four lots. He said if they do not do the open space but only the additional 15%, they would only be able to do three lots.

Mr. Langille pointed to a trail on the map as proposed by the applicant, which would cross the open space parcel as well as adjacent open space owned by the County. He said the trail was to provide a pedestrian connection to both current and new residents. He presented an offsite trail exhibit, which was of a map showing the continuation of the proposed new trail across the open space owned by the County and explained it would connect to an existing trail on other open space parcels that run through the center of Old Trail Creekside. He next presented a subdivision plat of Old Trail Creekside V, Phase II, noting that the map includes the five lots proposed plus the dedicated open space. He explained that the application is asking for the same bonus factors, and they could develop three lots now by right; without any bonus factors they could do four lots, with the first 15% administrative, and five lots with the additional 15% through the open space dedication. He pointed out the area of the proposed trail. He stated that staff recommends approval, adding that the trails would be either built or bonded with the review of the road plans associated with this subdivision plat. He said that once the trails have been installed, the Crozet Trails Crew is willing to take over maintenance so there would not be a concern of maintenance costs. He presented the proposed motions and invited questions.

Ms. Mallek said she was told by parks that this would connect residents of Grayrock to the north of Jarman's Gap.

Ms. Palmer and Ms. Mallek expressed approval of the proposal.

Ms. Mallek **moved** that the Board adopt the proposed resolution to accept the dedication of open space and to authorize the County Executive to execute the Deed of Dedication and Easement accepting the conveyance of the open space easements to the County once the County Attorney has approved the Deed as to form and substance. The motion was **seconded** by Ms. Palmer.

Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Gallaway, Ms. Mallek, Ms. McKeel, Ms. Palmer, Mr. Randolph and Mr. Dill.

NAYS: None.

**RESOLUTION APPROVING THE ACCEPTANCE OF  
THE DEDICATION OF OPEN SPACE ON A PORTION OF  
TAX MAP AND PARCEL NUMBERS 05500-00-00-078A0 AND 05500-00-00-078C0  
IN THE PROPOSED OLD TRAIL CREEKSIDE V, PHASES I AND II SUBDIVISION  
FROM OLD TRAIL CREEKSIDE V, LLC**

**WHEREAS**, Old Trail Creekside V, LLC (the "Owner") is the record owner of Tax Map Parcel Numbers 05500-00-00-078A0 and 05500-00-00-078C0 (collectively, the "Property") consisting of a total of 7.297 acres and composing the proposed Old Trail Creekside V, Phases I and II Subdivision; and

**WHEREAS**, the Owner proposes to dedicate a total of 2.085 acres of the Property to the County in order to receive density bonuses under County Code § 18-13.4.2; and

**WHEREAS**, the Board finds it is in the best interest of the County to accept the dedication of open space.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves the acceptance of the dedication of open space on a portion of Tax Map Parcel Numbers 05500-00-00-078A0 and 05500-00-00-078C0 in the proposed Old Trail Creekside V, Phases I and II Subdivision from Old Trail Creekside V, LLC, and authorizes the County Executive to sign the Deeds of Dedication accepting the conveyance of the open space to the County once the County Attorney has approved the Deeds as to form and substance.

Prepared by and return to:  
Richard G. Rasmussen, III, VSB# 40694  
McCallum & Kudravetz, P.C.  
250 E. High Street  
Charlottesville, VA 22902

TMP: 05500-00-00-078C0

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

**DEED OF DEDICATION**

**THIS DEED OF DEDICATION** is made this \_\_\_ day of \_\_\_\_\_, 2018, by and between OLD TRAIL CREEKSIDE V, LLC, a Virginia limited liability company ("Grantor"), and the COUNTY OF ALBEMARLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia ("Grantee").

W I T N E S S E T H :

WHEREAS, the Grantor acquired certain real property by deed from Jackie Beale Shifflett as recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 4797, pages 46-48 (the "Property");

WHEREAS, the Grantor offers to grant, convey, and dedicate a portion of the Property to the County in fee simple for public use, namely open space; and

WHEREAS, the Grantee is willing to accept the Grantor's offer of dedication.

NOW, THEREFORE, in consideration of the mutual premises, the Grantor hereby grants, conveys, and dedicates for public use to the Grantee, its successors and assigns, with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE, the following real property, to-wit:

Those certain lands shown and designated as "OPEN SPACE HEREBY DEDICATED TO ALBEMARLE COUNTY (1.144 ACRES)", as shown on the plat of Commonwealth Land Surveying, LLC, dated September 11, 2017, revised \_\_\_\_\_, 2018, entitled "Creekside V, Phase II, White Hall District, Albemarle County, Virginia", a copy of which is attached hereto to be recorded with this deed. Reference is made to said plat for a more particular description of the property conveyed herein (the "Dedicated Property").

Reference is made to the aforesaid plat for the exact location and dimensions of the Dedicated Property as they cross the Property.

This conveyance is made expressly subject to all restrictions, conditions, rights-of-way and easements, if any, contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title to the Property conveyed hereby, insofar as the same affect the Property, which have not expired by a time limitation contained therein or have not otherwise become ineffective.

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 the Dedicated Property pursuant to Virginia Code § 15.2-1803, as evidenced by the County Executive's signature hereto and the recordation of this Deed.

**GRANTOR:**

Old Trail Creekside V, LLC,  
a Virginia limited liability company

By: \_\_\_\_\_  
Justin T. Beights, Manager

**GRANTEE:**

COUNTY OF ALBEMARLE, VIRGINIA

By: \_\_\_\_\_  
Douglas C. Walker, Interim County Executive  
\_\_\_\_\_

Prepared by and return to:  
Richard G. Rasmussen, III, VSB# 40694  
McCallum & Kudravetz, P.C.  
250 E. High Street  
Charlottesville, VA 22902

TMP: 05500-00-00-078A0

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

**DEED OF DEDICATION**

**THIS DEED OF DEDICATION** is made this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between OLD TRAIL CREEKSIDE V, LLC, a Virginia limited liability company ("Grantor"), and the COUNTY OF ALBEMARLE, VIRGINIA, a political subdivision of the Commonwealth of Virginia ("Grantee").

**W I T N E S S E T H :**

WHEREAS, the Grantor acquired certain real property by deed from Jackie Beale Shifflett, David Wayne Shifflett, Joyce S. Morris, and Linda Sue Youhess, as recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 4797, pages 54-61 (the "Property");

WHEREAS, the Grantor offers to grant, convey, and dedicate a portion of the Property to the County in fee simple for public use, namely open space; and

WHEREAS, the Grantee is willing to accept the Grantor's offer of dedication.

NOW, THEREFORE, in consideration of the mutual premises, the Grantor hereby grants, conveys, and dedicates for public use to the Grantee, its successors and assigns, with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE, the following real property, to-wit:

Those certain lands shown and designated as "OPEN SPACE HEREBY DEDICATED TO ALBEMARLE COUNTY (0.941 ACRES)", as shown on the plat of Commonwealth Land Surveying, LLC, dated September 11, 2017, revised \_\_\_\_\_, 2018, entitled "Creekside V, Phase I, White Hall District, Albemarle County, Virginia", a copy of which is attached hereto to be recorded with this deed. Reference is made to said plat for a more particular description of the property conveyed herein (the "Dedicated Property").

Reference is made to the aforesaid plat for the exact location and dimensions of the Dedicated Property as they cross the Property.

This conveyance is made expressly subject to all restrictions, conditions, rights-of-way and easements, if any, contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title to the Property conveyed hereby, insofar as the same affect

the Property, which have not expired by a time limitation contained therein or have not otherwise become ineffective.

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 the Dedicated Property pursuant to Virginia Code § 15.2-1803, as evidenced by the County Executive's signature hereto and the recordation of this Deed.

**GRANTOR:**

Old Trail Creekside V, LLC,  
a Virginia limited liability company

By: \_\_\_\_\_  
Justin T. Beights, Manager

**GRANTEE:**

COUNTY OF ALBEMARLE, VIRGINIA

By: \_\_\_\_\_  
Douglas C. Walker, Interim County Executive

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Agenda Item No. 10. Rio/29 Small Area Plan – Overview of Implementation.

The Executive Summary forwarded to the Board states that at a January 30, 2018 joint meeting, staff and consultants shared the Phase 2 final designs and framework with the Board and Planning Commission. The team presented a connectivity plan demonstrating transportation facilities and green infrastructure/amenities. The designs also included renderings and a sample quadrant plan to demonstrate community form. The Board and Planning Commission expressed support for the framework and designs, but wanted further discussion on implementation prior to moving the project forward to a Comprehensive Plan Amendment (CPA).

On February 14 staff will present alternative schedules for moving the project forward to adoption and implementation. Timelines will relate to the CPA process paired with the development of a Zoning Text Amendment (ZTA) to allow the desired form by-right for this area through Form Based Code. Staff is looking for the Board's input on the project timeline moving forward. Staff will also present additional considerations that affect implementation and implementation strategies.

Portions of consultant services for Phase 2 of the Small Area Plan were funded through a \$65,000 Urban Development Area Planning Grant through the Office of Intermodal Planning and Investment. Additional funds for Phase 2 consultant work have been covered by the \$120,000 FY17 budget allocation for the Small Area Plan.

After staff's presentation, questions and discussion, staff recommends the Board provide direction on the project schedule.

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Mr. Andrew Gast-Bray introduced the presentation and said they need to be cognizant of the schedule, so he will review progress and next steps and seek Board guidance regarding this scheduling. He reminded the Board that the plan is an opportunity plan of what could happen, and not what will happen in the Rio/29 area, with an agenda to encourage property owners, stakeholders, and developers to be enticed to join the County in mixed-use development with transit orientation and the fulfillment of goals within the comprehensive plan.

Ms. Rachel Falkenstein, Senior Planner, presented. She began with a quick summary of the engagement and presented important dates and milestones achieved during the project's first two phases. She provided examples of outreach during Phase I, including PTO meetings, soccer games, and HOA meetings. She explained that Phase II involves a focused attempt to work with stakeholders through a steering committee and workgroup comprised of property owners, businesses, and developers who worked through the draft products. She explained that they conducted one-to-one discussions as well as focus groups with property owners. She said they plan to continue with a robust engagement process and invited suggestions from the Board.

Ms. Falkenstein next reviewed milestones and how they align with the strategic plan, with a slide listing strategic plan objectives and milestones during the three phases as well as Board actions, noting that they have tried to be responsive to Board feedback. She said they are not set up to bring a form-based code to the Board by the May 2018 deadline. She presented two alternatives for moving forward that both assume a form-based code, with one option being an expedited process loosely based on strategic plan deadlines, and the second option being a more comprehensive process with more opportunity for engagement and feedback. She reviewed some details of the two alternatives as well as pros and cons of each approach. She explained that the compressed timeline is advantageous to property owners who are ready to develop under a form-based code, with a second advantage of having the timeline based on the strategic plan with previous delays built in. She said the cons of the compressed plan are that it is resource intensive in the short term and would require reprioritizing across

departments, especially from the County Attorney's Office, which could take work away from other identified priorities. Additional drawbacks of this alternative, according to Ms. Falkenstein, are limited public engagement, less opportunity to refine the design-based on consultant work, and a resulting code that may be less comprehensive.

Ms. Falkenstein reviewed Option 2, which would entail a more comprehensive process as recommended by staff. She explained that this would provide ample time for public education and input as well as input from property owners without rushing to make a decision. Additionally, she said this option would provide more time for comprehensive plan refinement and amendment, align better with the consultant work, build in time for additional analysis if needed, and offer another public outreach opportunity prior to moving the comprehensive plan amendment to public hearings. She explained that after completion of a comprehensive plan amendment, they would proceed with a draft of a form-based code, with opportunities for public outreach and feedback throughout the year with expected completion by December 2019. She reviewed the following pros of Option 2: proper sequencing of events, consultant work CPA drafting/adoption, form-based code drafting and adoption, robust opportunities for engagement, time for additional analysis, time to plan for and identify resources. The only con she reviewed was that it would cause delay for those ready to develop. She noted that a potential solution to this is for staff to provide technical assistance and an expedited review process for a neighborhood model zoning district, which could act as a pilot test for form-based code elements, although it could pull staff resources away from the comprehensive plan amendment form-based code work.

Ms. Mallek asked for an example of what the comprehensive plan amendment would say and how extensive it would be. Ms. Falkenstein said the comprehensive plan would be sort of a mini-master plan and a standalone document referencing the connectivity plan, form and design, performance expectations, implementation recommendations, and land use. She said they do not expect it to be very prescriptive on uses.

Ms. Mallek explained that her understanding was that the comprehensive plan amendment would allow the form-based code to operate under it. She asked if the idea is similar to what they had with the form-based code in the Crozet Downtown District, under which it outlined height, proximity to the street, active things on the first floor, with the rest left up to the applicant. She expressed apprehension that it might be too prescriptive and do things like specify the color of door knobs, which she hopes it will not do.

Ms. Falkenstein replied that much of this would depend on feedback from the Board, the community, and stakeholders, with the likelihood that it would end up being somewhere between the code for Downtown Crozet and what Ms. Mallek has described as determining the colors of the doorknobs.

Mr. Dill asked if the comprehensive plan amendment would be specific to a certain geographical area. Ms. Falkenstein confirmed that it would apply to the Rio/29 area.

Mr. Gast-Bray interjected that one possibility would be to offer an optional form-based code and allow an area of overlay to enable those within the district to opt for a more intense development that meets the County's guidelines for proper form and connectivity. He indicated that they would like to have enough engagement with the community to make them comfortable with this.

Ms. Mallek added that some of this engagement might be to find someone to be the pioneer after which others might follow.

Mr. Gallaway commented that Ms. Falkenstein just explained that the new code would be specific to the Rio/29 area, whereas when he asked the same question the previous day, he was told the opposite - that it would not be limited to just one node and would roll up and down Route 29 with even Pantops included.

Mr. Gast-Bray replied that the intent is to have a pilot project they could vet that creates the model to enable this type of development in the nodes. He added that if they are successful on Route 29, they hope to expand to additional areas.

Mr. Gallaway asked if they would make separate comprehensive plan amendments for every node. He asked what would happen in between the nodes. Mr. Gast-Bray confirmed this and said they are concentrating on the nodes to get them right and that the residential areas have shown some reluctance to embrace this overall.

Mr. Gallaway expressed his view that the Hydraulic Road area up Route 29 to Hollymead is a cohesive corridor and he would expect the comprehensive plan amendments to align and be similar. He asked why they could not do an umbrella for the entire corridor that would fit the nodes as well as the areas between nodes.

Mr. Gast-Bray offered clarification and explained that Phase I was distinct about developing in the form of pulse nodes to concentrate development in key areas along the corridor to avoid sprawl and have better revenue generation for the County, as well as better efficiency for transit and other offerings of the area. He said they are developing patterns that are more suited to the way people live and hope to live, which they would replicate rather than spreading a given code over an entire area.

Ms. Mallek asked Mr. Graham to remind the Board of the history of Places 29, which took five years because it was too big.

Mr. Graham identified himself as the person Mr. Gallaway had spoken with the previous day. He said the point he was trying to make was that similar forms of development could occur between the nodes, though the nodes are where they would put their focus and efforts as resources are limited. Mr. Graham emphasized that they could not invest in the infrastructure everywhere at once and would work out of the nodes over time. He added that if someone wants to come in with this form of development for their property, the County would be very open to allowing this.

Mr. Gallaway acknowledged that Mr. Graham's explanation helped. He said the nodes made perfect sense for the public delivery aspect. He stated that it was not efficient to write codes for separate quadrants for private development and commented that to fulfill the economic development needs he would like to see in the Rio District, they should not just focus or limit themselves to a quadrant if there was opportunity outside of this. He expressed that he would not want a comprehensive plan amendment to be so restrictive in nature that it would not help them get something else in motion.

Mr. Graham addressed Ms. Mallek's question about Places 29. He reminded her that in Places 29, they envisioned a midtown and uptown as being priority node areas, with a recognition that Rio/29 would be the first place they would take a detailed look at cohesion and where they are best positioned to spend limited resources to support development efforts matching the land use policy. He continued that this would be a pilot they would subsequently roll out to other areas, and they need to be flexible, adding that the same form could happen outside of the nodes.

Mr. Randolph commented that the previous model of development was uniformity and that Mr. Gast-Bray was speaking to the need not to impose a uniform paradigm but to determine what form of coding was appropriate for each node. He stated that there may be slight differences among the nodes as part of a process of creativity, which was unlike anything they had done outside of Crozet. Addressing the two alternatives for moving forward, he commented that the longer schedule could imperil the possibility that there could be developers ready to participate in this process. He asked Mr. Graham for the number of developers that have shown interest, as this could be helpful in determining whether to use Option 1 or Option 2.

Ms. Palmer asked if timing could disadvantage property owners and managers with long leases, and she also expressed concern with the impact on roads. Mr. Gast-Bray responded they have had a number of people interested at different levels. He explained that expedited review through the use of the neighborhood model district could have a form-based code embedded and allow for a pilot within a pilot without having a larger scale negative impact. Addressing Ms. Palmer's comments about the nature of roads, he said they already require connectivity and are trying to remove obstacles to enable connectivity.

Ms. Palmer asked how the shorter timeline would affect those with longer leases. Mr. Gast-Bray replied that use of the shorter timeline might gain a bit of advantage for those who are in a hurry to develop. He emphasized that use of the form-based code is optional and a developer could still utilize existing zoning.

Ms. Mallek addressed Mr. Gallaway's question about in-between properties. She asked if these properties would have to be rezoned to get into this or whether County-generated rezoning would be available to those who want to adopt this form, even though they might be just outside the line.

Mr. Gast-Bray responded that this would be so eventually, although they would probably not want to charge forward at first to avoid the law of unintended consequences that could result from trying to do too many things at once. He said the beauty of the longer schedule is that it would allow the neighborhood model district to take a property on the edge or outskirts, which may be in a residential area, to participate.

Ms. Falkenstein added that staff's recommendation in the short term is for a pilot of form-based code in the Rio/29 area, though it would not prevent a developer from rezoning a property outside of this area.

Mr. Kamptner stated that under current regulations, the County could not proactively rezone land to the neighborhood model district as an application plan and a code of development would be required from the applicant.

Ms. Mallek stated that unless they establish form-based code for the entire geography then the old process would still be required.

Mr. Kamptner confirmed this and recalled that in 1980 when the zoning ordinance was adopted, the County carried over the prior zoning. He said they had planned districts but not an application plan, so there were those who could not do anything with their new planned district until they went through the process and submitted the plan.

Ms. McKeel said she was taken aback that they were talking about two years, as she believes this to be a long timeline.

Ms. Falkenstein acknowledged that Ms. McKeel had made a fair comment. She said the timeline was reflective of feedback and an educational process that is completely new for them, and it would take time to bring the community along. She emphasized they are ready to move forward with the faster timeline but wanted to offer the longer timeline as an option, acknowledging pros and cons.

Ms. McKeel expressed her understanding that the faster timeline requires more staff time.

Mr. Gast-Bray attempted to clarify this, explaining that the faster timeline would require some tweaks as they go along, similar to what happened in Crozet, whereas the longer timeline already acknowledged an iterative process that may not go all the way through November 2019 and could move faster. He explained that the process to date had taken longer than originally estimated, but the Board had wanted more detail. He said that staff had envisioned a simple form-based code and now has more detail and performance, which he believes added strength - although it would take a long time to bring the public on board.

Mr. Randolph pointed out that the second option would allow a motivated developer to get going early on. He expressed his view that things would happen sooner rather than later as long as the economy stays healthy.

Ms. McKeel expressed concern that developers might not see this as an option unless it is emphasized.

Ms. Palmer said she assumes they would learn a lot more about how to apply this to other areas if they were to take their time and have community engagement.

Mr. Dill commented that they have already started, as Stantec is talking to landowners, and they would fine tune things as they move along.

Ms. Mallek expressed that she hopes staff does not get a sense the Board wants a super-detailed code, as she is comfortable with the more flexible umbrella that would allow changes over time. She noted that a concern of local businesses over the past 10 years has been that they are limited by square footage uses for different floors, and she hopes they can find a way to get rid of a lot more of that, beyond what they did two years ago with the new matrix.

Mr. Gallaway explained that his primary concern regarding the timeline is to take the proper amount of time to get what they put in writing correct. He said that feedback has made it clear what the public wants from the nodes, and it is now time to learn what developers think. He added that he would like to see more substantive public outreach sessions and get into the nuances of what developers could bring to the table, which is what Stantec is working on.

Ms. McKeel said her take on this is that it may appear that they are not yet open for business and are delaying another two years, though she acknowledges that she is oversimplifying.

Mr. Randolph commented that if they embrace the longer timeline, they should be thinking about strategic engagement with existing, key landowners through a one-on-one dialogue process to obtain their input about working under a form-based code. He expressed confidence that they could move forward in less than two years, though they cannot overwork staff.

Mr. Gast-Bray explained his view that the only difference between the two options, as of today, is to be able to integrate Stantec's work directly into the product as opposed to having to validate a product, and the CPA is waiting to make sure they have this input first before launching the CPA process.

Ms. McKeel acknowledged that with the explanations she feels better about this.

Mr. Richardson added that he does not believe the major driver between the two options is staffing and asked Mr. Graham if he concurs.

Mr. Graham replied that staff is prepared to move forward with either option, and this is about how comfortable the Board is with moving forward and how much time they should spend working with stakeholders in an iterative process to get closer to the final answers.

Ms. Falkenstein summarized what she believes to be the Board's direction to staff: have Stantec move forward and finish its work; a timeline check in and analysis; and staff outlining a comprehensive plan amendment and finishing up transportation modeling. She said they would strive for something in the middle of the two timelines.

Mr. Gallaway added that in the event a developer were to come forward, staff would be prepared to be able to assist the Board to take advantage of this.

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Agenda Item No. 11. From the Board: Matters Not Listed on the Agenda.

Item No. 11a. **Discussion: HB 1148.**

Ms. Mallek asked Supervisors if they would like to prepare a response to Delegate Landes' HB 1148, which would set up schedules for discussions among jurisdictions that have revenue sharing agreements, along with annual reports on how funding is used.

Mr. Gallaway asked Ms. Mallek to be specific about the changes. Ms. Mallek replied that the original text allowed one body to pull out of the agreement if the majority agreed, but that was struck

down. She said the new text calls for annual meetings and a declaration of how money would be exchanged for those with agreements longer than five years.

Ms. Palmer asked if it should be "or can request." Ms. Mallek replied that it is "to happen."

Mr. Kamptner interjected that the language was that the parties to the agreement shall convene an annual meeting to discuss anticipated future plans for economic growth in the localities, and that there was no required outcome of those meetings - but there is the requirement for the meeting itself.

Ms. Palmer said there was no requirement for either side to say how the money would be spent and it just requires them to meet.

Ms. Mallek said it requires them to prescribe how to spend the \$17 million. She said she would look to clarify this.

Mr. Kamptner stated that they would discuss anticipated future plans for economic growth in the localities, and whether or not an agreement is reached is not a required element.

Ms. McKeel asked that he read the bill. Mr. Kamptner read the bill as follows: "The parties to an agreement that has been in effect for at least 10 years, and pursuant to which an annual payment that exceeds \$5 million, shall convene an annual meeting to discuss anticipated future plans for economic growth in the localities."

Ms. Mallek agreed to conduct some more research on the changes to the text before the Board decided if it would write a letter.

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Ms. Mallek addressed HB 1017 sponsored by David Blount, which would allow after-school programs to not have to have the extra staffing required by Department of Social Services. She said this was because it was the school teachers working with the same children and would allow schools like Brownsville to have many more kids in the program.

Ms. McKeel suggested that they join the School Board in supporting this because it is holding back a lot of families from having their children participate. She asked that they find out what the School Board had done by the following day and suggested they send a letter in support.

Ms. Mallek addressed the issue of density bonuses, which the Board had discussed over the years. She said the bonuses were for things the developers had to do with internal streets anyway, and asked Mr. Kamptner for a timetable of when a change might occur.

Mr. Kamptner replied that this was part of a gigantic zoning text amendment for all the zoning districts, which would eliminate this particular bonus density for internal streets as the subdivision ordinance already required this.

Ms. Mallek reported that the Alliance for the Chesapeake Bay hopes to meet with elected officials in the area to provide an update on the Chesapeake Bay program, answer questions, and gain support. She said the Rivanna River Basin Commission would be glad to host this once a date is announced.

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Agenda Item No. 12. From the County Executive: Report on Matters Not Listed on the Agenda.

There were none.

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Agenda Item No. 13. Closed Meeting.

*There was no need for a Closed Meeting.*

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Agenda Item No. 14. Adjourn to February 16, 2018, 12:00 p.m., Room 241.

At 7:28 p.m., with no further business to come before the Board, Ms. Mallek adjourned the meeting to February 16, 2018, 12:00 p.m., Room 241.

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Chairman

Approved by Board
Date 08/01/2018
Initials CKB