



# Albemarle County

## Legislation Text

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**File #:** 16-526, **Version:** 1

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**AGENDA DATE:** 9/7/2016

**TITLE:**

Old Trail Western Park

**SUBJECT/PROPOSAL/REQUEST:** Proposed Agreements and Conveyances across Old Trail Western Park

**ITEM TYPE:** Consent Action Item

**STAFF CONTACT(S):** Foley, Walker, Kamptner, Herrick, Pohl, McCulley, Crickenberger

**PRESENTER (S):** N/A

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Thomas C. Foley

**BACKGROUND:** As part of the approved rezoning of the Old Trail development (ZMA-2004-024), the developer was required to construct and maintain certain improvements on and across a future County park. Specifically, stormwater management and greenway trail improvements were shown and approved in specific park locations. However, the developer conveyed the Old Trail Western Park property to the County in November 2010 before having completed the required improvements, and without reserving for itself the legal right to re-enter the property to complete and maintain the required improvements. In recent months, March Mountain Properties, LLC and East Village, LLC, two current Developers of the surrounding Old Trail development, have approached County staff seeking this legal access to the County-owned park property.

**STRATEGIC PLAN:** Critical Infrastructure: Prioritize, plan and invest in critical infrastructure that responds to past and future changes and improves the capacity to serve community needs.

**DISCUSSION:** Staff has been working with representatives of the two Developers on agreements that would (a) grant the Developers permission to deliver surplus fill material for the County's use, (b) convey easements to the Developers to allow the construction and maintenance of required stormwater management and greenway trail improvements, and (c) convey needed sanitary sewer easements to the Albemarle County Service Authority (ACSA).

Permission to Deliver Fill Material: In developing their respective properties, the Developers will generate excess fill material, which they have offered to deliver to the County. The County could use this fill material to develop playing fields at Old Trail Park or elsewhere, at a cost savings to the County. The Developers have also offered plantings and other landscaping on the park property in satisfaction of their own mitigation requirements. The Developers have requested temporary permission to enter the County property for these purposes. Because the County would have the ability to revoke this permission at any time, it can be granted administratively (Attachment A), without requiring a public hearing, because no interest in real property is conveyed.

Stormwater and Greenway Trail Easements: The Developers have agreed both to construct and maintain these permanent improvements on the County's park property (Attachment B). These permanent improvements would require permanent easements (Attachment C), which in turn would require a public

hearing under Virginia Code § 15.2-1800.

**Sanitary Sewer Easements:** The specific location of the proposed sanitary sewer easements (Attachment D) is set forth on the attached Plat (Attachment E). The sewer lines would be buried within the easements and would not interfere with the use of the property as a public park. Again, Virginia Code § 15.2-1800 requires that the Board also hold a public hearing prior to this proposed conveyance of an interest in County-owned real property.

**BUDGET IMPACT:** Two of the proposed agreements would result in cost savings to the County. The County's receipt of surplus fill material would relieve the County of having to purchase fill material to develop playing fields. The agreement of the Developers to construct and maintain stormwater management and greenway trail improvements likewise would relieve the County of expenses it might otherwise incur. The proposed ACSA sanitary sewer easement would have no fiscal impact.

**RECOMMENDATION:**

Staff recommends that the Board advertise for future public hearing the proposed conveyance of these Old Trail Western Park easements.

**ATTACHMENTS:**

- A -- Right of Entry letter
- B - Proposed Stormwater Agreement
- C -- Proposed Deed of Easement to Developers
- D -- Proposed Deed of Easement to ACSA
- E -- Plat