

**ACTIONS**  
**Board of Supervisors Meeting of February 13, 2008**

February 14, 2008

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> <li>Meeting was called to order at 2:30 p.m., by the Chairman, Mr. Boyd. All BOS members were present. Also present were Bob Tucker, Larry Davis, Wayne Cilimberg and Meagan Hoy.</li> </ul>	
<p>2. Discussion: Hollymead Town Center Area A – requirement that all landowners in planned district consent to rezoning.</p> <ul style="list-style-type: none"> <li><b>Held.</b></li> </ul>	
<p>3. <b>Work Session:</b> Economic Development Policy.</p> <ul style="list-style-type: none"> <li><b>HELD.</b></li> <li>Board <b>DIRECTED</b> staff to bring back additional information.</li> </ul>	<p><u>Susan Stimart:</u> Proceed as directed.  <u>Clerk:</u> Schedule on future agenda when ready to come back.</p>
<p>4. <b>Work Session:</b> Preliminary Local Government Budget Overview.</p> <ul style="list-style-type: none"> <li><b>HELD.</b></li> </ul>	
<p>5. <b>Recess.</b></p> <ul style="list-style-type: none"> <li>At 5:28 p.m., the Board went into closed meeting to consult with legal counsel and staff regarding specific matters requiring legal advice relating to an inter-jurisdictional agreement, and to consult with legal counsel and staff regarding specific matters requiring legal advice relating to the negotiation of an agreement relating to public safety services.</li> </ul>	
<p>6. Call to Order.</p> <ul style="list-style-type: none"> <li>Meeting was called back to order at 6:05 p.m., by the Chairman, Mr. Boyd.</li> </ul>	
<p>9. From the Board: Matters Not Listed on the Agenda.</p> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>She will be bringing back more information on the burning of trees and construction debris in the growth area.</li> </ul> <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> <li>Discussed the need for an amendment to the Water Protection Ordinance to modify how stream buffers can be crossed by roads and driveways.</li> </ul> <p><u>Sally Thomas:</u></p> <ul style="list-style-type: none"> <li>There is a good applicant pool of ACE applications for the coming year.</li> <li>Updated the Board on a trip she and Ms. Mallek took to Richmond to meet with the High Growth Coalition to discuss SB 768.</li> </ul> <p><u>Ken Boyd:</u></p> <ul style="list-style-type: none"> <li>Received a letter from IMPACT inviting the Board to attend their March 10, 2008 meeting. Board members discussed and will decide at a later date who will attend.</li> </ul>	<p><u>Clerk:</u> Schedule on future agenda.</p>
<p>10. From the Public: Matters not Listed on the Agenda.</p> <ul style="list-style-type: none"> <li>Susan Bremer, Tom Twomey, and Gene Rader of IMPACT addressed the Board.</li> </ul>	

<ul style="list-style-type: none"> <li>• Morgan Butler, Southern Environmental Law Center, thanked the Board for adopting the Cool Counties Resolution. He provided a report to the Board on the link between climate change and our land use, and transportation patterns.</li> <li>• Jeff Werner, Piedmont Environmental Council, spoke about the importance of the Advanced Mills Historic District.</li> </ul>	
<p>11.1 <b>ZMA-2007-007. McCauley Crossing (formerly Mermac Crossing) (Sign #66). (Defer to April 9, 2008).</b></p> <ul style="list-style-type: none"> <li>• At the applicant's request, <b>DEFERRED ZMA-2007-007</b>, by a vote of 6:0, to April 9, 2008.</li> </ul>	<p>Clerk: Re-advertise public hearing for April 9<sup>th</sup>.</p>
<p>12. <b>Public Hearing:</b> To consider granting an easement to Hurt Investment Company.</p> <ul style="list-style-type: none"> <li>• <b>APPROVED</b>, by a vote of 6:0, the proposed easement and <b>AUTHORIZED</b> the County Executive to sign the deed of easement on behalf of the County.</li> </ul>	<p>County Attorney's office: Provide Clerk with copy of fully executed document. (Attachment 1)</p>
<p>13. <b>PROJECT: SP-2007-047. Graceworks Expansion (Signs #1&amp;56).</b></p> <ul style="list-style-type: none"> <li>• <b>APPROVED SP-2007-047</b>, by a vote of 6:0, subject to the six conditions recommended and modified at the Board Meeting.</li> </ul>	<p>Clerk: Set out conditions of approval. (Attachment 2)</p>
<p>14. <b>PROJECT: SP-2007-050. Carters Mountain (ATC) - Verizon Tier III PWSF (Signs #75&amp;80).</b></p> <ul style="list-style-type: none"> <li>• <b>APPROVED SP-2007-050</b>, by a vote of 5:1 (Rooker), subject to the three recommended conditions.</li> </ul>	<p>Clerk: Set out conditions of approval. (Attachment 2)</p>
<ul style="list-style-type: none"> <li>• <b>APPROVED</b>, by a vote of 5:1 (Rooker) <u>Subsection 5.1.40(C) (3)</u>: Modification of the flush-mounting requirements to allow the installation of a full sectored antenna array.</li> </ul>	
<ul style="list-style-type: none"> <li>• <b>APPROVED</b>, by a vote of 6:0, <u>Subsection 5.1.40(c) (4&amp;5)</u>: Modification of the requirements for a tree conservation plan, as no additional land disturbance is being proposed.</li> </ul>	
<ul style="list-style-type: none"> <li>• <b>APPROVED</b>, by a vote of 4:2 (Rooker, Thomas) <u>Subsection 5.1.40(C) (3)</u>: Modification of the requirement to paint the antennas to match the existing structure.</li> </ul>	
<p>15. <b>PROJECT: SP-2007-051. Peacock (Weber Property) - Verizon Wireless PSWF (Sign #82).</b></p> <ul style="list-style-type: none"> <li>• <b>APPROVED SP-2007-050</b>, by a vote of 6:0, subject to the two conditions recommended and modified at the Board Meeting.</li> </ul>	<p>Clerk: Set out conditions of approval. (Attachment 2)</p>
<p>16. From the Board: Matters Not Listed on the Agenda. <u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> <li>• The Board received a memo from Butch Davies regarding the status of transportation funding. The funding in our area will be further curtailed.</li> </ul>	
<p>17. Adjourn to February 20, 2008, 1:00 p.m.</p> <ul style="list-style-type: none"> <li>• The meeting was adjourned at 8:25 p.m.</li> </ul>	

ewj/mrh

Attachment 1 – Deed of Easement – Hurt Property

Attachment 2 – Conditions of Approval – Planning Items

Tax Map 61W (Peyton Drive right-of-way)

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

**DEED OF EASEMENT**

**THIS DEED OF EASEMENT**, is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, Grantor, hereinafter referred to as the "County," and the **HURT INVESTMENT COMPANY**, a Virginia corporation, Grantee, whose address is 195 Riverbend Drive, Charlottesville, Virginia, 22911, hereinafter referred to as the "Grantee."

**WITNESSETH:**

That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid, receipt of which is hereby acknowledged, the County does hereby GRANT and CONVEY with SPECIAL WARRANTY to the Grantee, subject to the terms and conditions set forth herein, a sewer line lateral easement and right-of-way (hereinafter, the "Easement") to construct, install, maintain, repair, replace and extend a sewer line lateral consisting of pipes and appurtenances thereto, over, under and across the real property of the County known as Peyton Drive in Albemarle County, Virginia, and more particularly described as follows:

A sewer line lateral easement in the public right-of-way known as Peyton Drive, located off of Greenbrier Drive in Albemarle County, Virginia, as shown on the plat prepared by Dominion Development Resources, LLC, entitled "Plat Showing New 20' Private Lateral Easement In The Closed Right-Of-Way Of Peyton Drive, Albemarle County, Virginia", dated September 4, 2007, (the "Plat"), identified as "New 20' Private Lateral Easement."

Reference is made to the Plat, a copy of which is attached hereto to be recorded herewith, for the exact location and dimensions of the sewer line lateral easement hereby granted and the property over which the Easement crosses.

This Easement shall be subject to the following:

1. Location of Improvements. The Grantee shall construct, install, maintain, repair, replace and extend improvements (hereinafter, the "Improvements") only within the Easement. The Improvements shall be underground.
2. Right to Enter; Ingress and Egress. The Grantee shall have the right to enter upon the Easement for the purpose of installing, constructing, maintaining, repairing, replacing and extending the Improvements within the Easement. The Grantee also shall have the right of ingress and egress thereto as reasonably necessary to construct, install, maintain, repair, replace and extend the Improvements. If the Grantee is unable to reasonably exercise the right of ingress and egress over the Peyton Drive right-of-way, the Grantee shall have the right of ingress and egress over the property of the County, if any, adjacent to the right-of-way.
3. Excavation and Restoration. Whenever it is necessary to excavate earth within the Easement, the Grantee shall backfill the excavation in a timely, proper and workmanlike manner so as to restore the surface conditions to the same condition as they were prior to excavation, including the restoration of all paved surfaces that were damaged or disturbed as part of the excavation.
4. Vegetation and Obstructions. The Grantee may cut any trees, brush and shrubbery, remove obstructions, and take other similar action reasonably necessary to provide economical and safe installation, operation and maintenance of the Improvements. The Grantee shall replace or reimburse the County for the cost of replacing or repairing any County-owned trees, brush, shrubbery or obstructions that are removed or otherwise damaged in the installation, operation and maintenance of the Improvements.

5. Ownership of Improvements. The Improvements shall be the property of the Grantee.

6. Indemnification and Hold Harmless. The Grantee shall at all times indemnify and save harmless the Grantor, its employees, agents, officers, assigns, and successors in interest from any claim whatsoever arising from Grantee's exercise of rights or privileges stated herein.

7. Obligations of the Grantee if and when Peyton Drive is Proposed for Acceptance or is Accepted into the State-Maintained or Other Publicly-Maintained Street System. If and when the segment of Peyton Drive in which the Easement lies is proposed for acceptance or is accepted into the state-maintained or other publicly-maintained system of highways, the Grantee shall comply with the following:

a. Permits. The Grantee shall obtain all permits required by the Virginia Department of Transportation (hereinafter, "VDOT") or such other public entity that becomes responsible for the maintenance of Peyton Drive (hereinafter, "such other public entity") to authorize the Improvements to exist or remain within the Peyton Drive right-of-way (hereinafter, the "Permits") and shall comply with all applicable requirements of VDOT or such other public entity.

b. Acts Required of Grantee to Assure Acceptance of Peyton Drive into State-Maintained or Publicly-Maintained System. Until the Grantee quitclaims its interest in the Easement to VDOT, such other public entity, or the County as required in conjunction with the acceptance of Peyton Drive into the state-maintained or other publicly-maintained system, the Grantee, at its sole expense, shall, promptly alter, change, adjust, relocate or remove the Improvements from the Peyton Drive right-of-way if VDOT or such other public entity determines that such alteration, change, adjustment, relocation or removal is required in order for VDOT or such other public entity to accept Peyton Drive into the system. Neither the County, VDOT, nor such other public entity shall be responsible or liable to the Grantee or its successors or assigns for any costs associated with such alteration, change, adjustment, relocation or removal of the then-existing Improvements. In addition, neither the County, VDOT, nor such other public entity shall be obligated to compensate or reimburse the Grantee or its successors or assigns for any increased or decreased cost or value associated with either the Improvements or Peyton Drive resulting from such alteration, change, adjustment, relocation or removal.

c. Continuing Obligations of Grantee to the County. After VDOT or such other public entity has issued the required Permits, the Grantee shall be subject to the following conditions, notwithstanding any quitclaim of its interests to VDOT or such other public entity, and these conditions shall be continuing obligations of the Grantee:

1. The Grantee, to the extent authorized by law, shall at all times indemnify and save harmless the County, its employees, agents, officers, assigns, and successors in interest from any claim whatsoever arising from the Grantee's exercise of rights or privileges stated herein.

2. In the event that the County or such other public entity becomes responsible for the maintenance of Peyton Drive and the County or such other public entity requires, for its purposes, that the Grantee alter, change, adjust, or relocate the Improvements, across or under Peyton Drive, the cost to alter, change, adjust, or relocate the Improvements shall be the sole responsibility of the Grantee. Neither the County nor such other public entity shall be responsible or liable to the Grantee or its successors or assigns for any costs associated with altering, changing, adjusting or relocating the then-existing Improvements as may be required herein. In addition, neither the County nor such other public entity shall be obligated to compensate or reimburse the Grantee or its successors or assigns for any increased or decreased cost or value associated with either the Improvements resulting from such alteration, change, adjustment or relocation.

8. Covenants Running with the Land. The terms and conditions set forth herein shall be covenants running with the land.

The County, acting by and through its County Executive, duly authorized by action of the Albemarle County Board of Supervisors on February 13, 2008, does hereby convey the interest in real estate made by this deed.

By its acceptance and recordation of this Deed of Easement, the Grantee acknowledges that it, its successors and assigns, shall be bound by the terms herein.

**WITNESS** the following signatures.

**GRANTOR:**

**COUNTY OF ALBEMARLE, VIRGINIA**

By: \_\_\_\_\_  
Robert W. Tucker, Jr., County Executive

**GRANTEE:**

**HURT INVESTMENT COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CONDITIONS OF APPROVAL  
PLANNING ITEMS**

**PROJECT: SP-2007-047. Graceworks Expansion (Signs #1&56).**

1. A maximum of fourteen (14) children shall be allowed on the site at any time;
2. A minimum of two (2) adults shall supervise the children at all times;
3. The children shall be transported to and from the property as a group. The pick up and drop off of individual children shall not be permitted except for medical, family and weather-related emergencies;
4. The days of operation shall be limited to four (4) days per week, Monday through Thursday, and the hours of operation shall be limited to 2:30 P.M. to 5:30 P.M. on the days of operation;
5. Expansion of the facilities for the private school shall require an amendment to this special use permit; and
6. Within thirty (30) days after the date of approval of Special Use Permit 2007-00047, the applicant shall submit a schematic concept plan of the property (the "Plan") in a form acceptable to the Director of Planning that shows the existing and proposed locations of the improvements and activity areas of the school. The improvements, scale and location of the improvements, and activity areas authorized by Special Use Permit 2007-00047 shall be in general accord with the Plan. However, the Zoning Administrator may approve revisions to the Plan to allow compliance with the Zoning Ordinance.

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**PROJECT: SP-2007-050. Carters Mountain (ATC) - Verizon Tier III PWSF (Signs #75&80).**

1. All work shall be done in general accord with what is described in the applicant's request and site construction plans, entitled "Carters Mountain Crown Orchard property, with a final zoning drawing submittal date of 09/17/2007;
2. Additional antennae installation on this tower will require a special use permit; and
3. The facility will have only one (1) outdoor light fixture (that complies with the County's lighting requirements) attached to the proposed shelter to be used by Verizon's technical operations staff only when night-time maintenance is necessary.

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**PROJECT: SP-2007-051. Peacock (Weber Property) - Verizon Wireless PSWF (Sign #82).**

1. The tower height shall not exceed ten (10) feet AMSL more than the AMSL height of the reference tree; and
2. The PWSF be installed as shown on plans approved by County staff, including equipment camouflage in a small farm appropriate building.