

ACTIONS
Board of Supervisors Meeting of December 9, 2009

December 10, 2009

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> Meeting was called to order at 6:04 p.m. by the Chairman, Mr. Slutzky. All BOS members were present. Also present were Bob Tucker, Larry Davis, and Ella Jordan. 	
<p>4. From the Board: Matters Not Listed on the Agenda. <u>Sally Thomas:</u></p> <ul style="list-style-type: none"> Provided update on RWSA and Meadow Creek Interceptor. City Council allowed their right-of-way to be used for the interceptor. Dominion Power is currently a holdout. There will be a meeting next week, and hopefully it will be approved and move forward. <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> Provided update on the Piedmont Workforce Network. She also serves on the One Stop Committee. The One Stop Committee has received some updates on operations; the Goodwill Industries is manager of the One Stop. The different agencies are working well together and trying to achieve a functional unity to benefit the people who come there in need of services. Also, announced the joint hiring at the TJPED and Workforce of Mary Ann Hussar who will be running the executive pulse part of the business outreach. <p><u>Dennis Rooker:</u></p> <ul style="list-style-type: none"> Moved the appointment of Mr. Russell (Mac) Lafferty as the Jack Jouett District representative on the Planning Commission, with said term to expire December 31, 2013. Motion passed by a vote of 6:0. Stated that Bill Edgerton, who served on the Planning Commission for eight years, decided he did not wish to seek reappointment. Thanked Mr. Edgerton for his service. 	
<p>5. From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> Marcia Joseph, Laura Dollard, Jack Marshall, Jerry Ray, Mary Joy Scala and Sara Lee Barnes thanked Ms. Thomas for her service on the Board and to the County. Board members thanked Marcia Joseph for her service as the at-large representative on the Planning Commission. 	
<p>6.2 Resolution to approve amendment of Personnel Policy P-61, Overtime/Compensatory Time.</p> <ul style="list-style-type: none"> ADOPTED, by a vote of 6:0, the attached Resolution which will approve changes to Personnel Policy P-61. 	<p><u>Clerk:</u> Forward copy of signed resolution to Kimberly Suyes and County Attorney's office. (Attachment 1)</p>

<p>6.3 Authorize County Executive to execute a License Agreement for a private driveway within the County's undeveloped Sun Ridge Road public right-of-way.</p> <ul style="list-style-type: none"> • AUTHORIZED, by a vote of 6:0, the County Executive to execute a license agreement, approved as to content and form by the County Attorney. 	<p><u>County Attorney's office:</u> Proceed as approved. Provide Clerk with copy of fully executed agreement.</p>
<p>6.4 Resolution Certifying Consistency of Albemarle County Comprehensive Plan with Virginia Code § 15.2-2223.1.</p> <p>ADOPTED, by a vote of 6:0, the attached resolution certifying that the Albemarle County Comprehensive Plan accommodates growth in a manner consistent with Virginia Code § 15.2-2223.1.</p>	<p><u>Clerk:</u> Forward copy of signed resolution to Mark Graham, Wayne Cilimberg, David Benish and County Attorney's office. (Attachment 2)</p>
<p>6.5 Increase Department of Social Services (DSS) Full-Time Equivalent (FTE) Employee Authorized Staffing Level.</p> <ul style="list-style-type: none"> • AUTHORIZED, by a vote of 6:0, an increase in the number of authorized General Fund FTE Employees in DSS from 98.2 to 100.2. 	<p><u>Human Resources/Social Services:</u> Proceed as approved.</p>
<p>7. <u>Public Hearing: ZTA-2009-001. Small Wind Turbines.</u></p> <ul style="list-style-type: none"> • DEFERRED ZTA-2009-001, by a vote of 6:0, to December 10, 2009. 	<p><u>Clerk:</u> Reschedule for December 10th agenda.</p>
<p>8. <u>Public Hearing: ZMA-2007-002. Timberwood Commons Phase III (also known as) Hollymead Town Center TIKI (Sign #110).</u></p> <ul style="list-style-type: none"> • APPROVED ZMA-2007-002, by a vote of 6:0, inclusive of the proffers dated and signed November 2, 2009 and the application plan dated September 23, 2009. 	<p><u>Clerk:</u> Set out proffers. (Attachment 3)</p>
<p>9. <u>Public Hearing: ZMA-2008-007. ATNA Building (Signs #15&17).</u></p> <ul style="list-style-type: none"> • APPROVED ZMA-2008-007, by a vote of 5:1(Slutsky), inclusive of proffers dated and signed November 1, 2009. 	<p><u>Clerk:</u> Set out proffers. (Attachment 4)</p>
<p>10. <u>Public Hearing: SP-2008-067. ATNA Building (Signs #15&17).</u></p> <ul style="list-style-type: none"> • APPROVED SP-2008-067, by a vote of 5:1(Slutsky), subject to nine conditions. • MOTION, by a vote of 6:0, to reconsider approval of SP-2008-067. • Motion to REAPPROVE SP-2008-067, by a vote of 6:0, subject to the previous nine conditions, with condition #9 modified to read: "All outdoor lighting shall comply with the requirements of Zoning Ordinance Section 4.17 - Outdoor Lighting, no later than February 15, 2010". 	<p><u>Clerk:</u> Set out conditions of approval. (Attachment 5)</p>
<p>11. <u>Public Hearing: 09-03() – Agricultural and Forestal Districts; AFD 09-54 Kinloch AFD – District addition.</u></p> <ul style="list-style-type: none"> • ADOPTED, by a vote of 6:0, the attached ordinance. 	<p><u>Clerk:</u> Forward copy of ordinance to Mark Graham, Wayne Cilimberg, Eryn Brennan and County Attorney's office. (Attachment 6)</p>
<p>12. From the Board: Matters Not Listed on the Agenda. <u>David Slutzky:</u></p> <ul style="list-style-type: none"> • Will not be present for the December 10th 	

meeting with the legislators. It has been a privilege for him to serve with this Board.	
13. Adjourn to December 10, 2009, Room 241, 12:00 Noon, for Annual Meeting with Legislators. <ul style="list-style-type: none"> • At 8:07 p.m., the Board meeting was adjourned to December 10, 2009. 	

/ewj

Attachment 1– Resolution - Personnel Policy P-61, Overtime/Compensatory Time

Attachment 2 – Resolution Certifying Consistency of Albemarle County Comprehensive Plan with Virginia Code § 15.2-2223.1

Attachment 3 – Proffers - ZMA-2007-002. Timberwood Commons Phase III (also known as) Hollymead Town Center TIKI

Attachment 4 – Proffers - ZMA-2008-007. ATNA Building

Attachment 5 – Conditions of Approval – SP-2008-067. ATNA Building

Attachment 6 – Ordinance - AFD-09-54 Kinloch AFD – District addition

RESOLUTION

WHEREAS, the County of Albemarle Personnel Policy Manual has been adopted by the Board of Supervisors; and

WHEREAS, the Board of Supervisors finds that an amendment to Personnel Policy P-61/62 is necessary to modify and reorganize the County's Overtime and Compensatory Time Policy.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of Albemarle County, Virginia, hereby amends the following section of the County of Albemarle Personnel Policy Manual:

**By Amending:
Section P-61/62 OVERTIME/COMPENSATORY TIME POLICY**

§P-61 OVERTIME/COMPENSATORY TIME POLICY

I. GENERAL

- A. Purpose.** This policy establishes the general guidelines and procedures Albemarle County will follow regarding overtime and compensatory time requirements of the Fair Labor Standards Act (FLSA) and applicable state law. If any conflict arises between this policy and the FLSA or state law, the requirements of the FLSA and/or state law will govern.
- B. Scope.** This policy applies to all County employees.

II. KEY TERMS REGARDING OVERTIME PAY AND COMPENSATORY TIME

- A. Fair Labor Standards Act.** The FLSA requires all covered employers, including the County, to comply with its minimum wage and overtime compensation requirements. Public employers must compensate eligible employees for hours worked in excess of maximum allowable hours by making monetary payment or granting compensatory time.
- B. Exempt Employees.** Employees are exempt from the FLSA's overtime and compensatory time requirements if they satisfy the criteria for bona fide professional, administrative, or executive positions. A list of these positions must be approved by the County Executive and maintained by the Department of Human Resources.
- C. Non-exempt Employees.** Employees who are subject to the FLSA's overtime and compensatory time requirements are considered non-exempt.
- D. Public Safety Exemption.** The FLSA provides a partial exemption to employees whose primary duty is law enforcement or fire protection. Employees who qualify for the 207(k) partial exemption work a 28-day work period.
- E. Workweek and Work Period.** The County Executive has established the official workweek as extending from Saturday at 12:01 a.m. to Friday at 12 midnight. Changes to this established workweek may be adopted by department heads to meet the operational needs of their department, provided that the revised workweek notice is provided in writing to the employees and a copy is on file in Human Resources. The work period for law-enforcement and fire protection employees is a 28-day period. The beginning and ending time for the 28-day work period under section 207(k) of the Fair Labor Standards Act shall be determined by the appropriate department head.

F. Maximum Allowable Hours. Maximum allowable hours for employees are as follows:

Sworn Law-Enforcement Employees	171 hours within the 28-day work period
Fire Protection Employees	212 hours within the 28-day work period
All Other Employees	40 hours within the workweek

G. Hours Worked.

1. General. Non-exempt employees who work more than the maximum allowable hours in a workweek or work period must receive either overtime pay or compensatory time for their excess hours worked. Paid or unpaid time off during which the employee is absent from the service of the County shall not be counted as "hours worked" in determining if the maximum allowable number of hours has been exceeded. Such absences include, but are not limited to, holiday, sick, annual, and compensatory leaves, leaves of absence, meal breaks, and inclement weather closures.
2. Meal Breaks. Bona fide meal breaks do not count as hours worked. Meal breaks must ordinarily be at least 30 minutes long and provide the employee a rest period free from any work requirements.
3. Travel Time. When non-exempt employees are required to attend meetings or conferences that occur outside of County facilities, the hours involved in the actual travel, as well as the hours involved in the training/meeting, shall be considered hours worked. Employees shall report this time to their supervisors, using forms designated for that purpose.

III. GENERAL REQUIREMENTS OF OVERTIME PAY AND COMPENSATORY TIME

A. Eligibility to Earn Overtime/Compensatory Time

1. Non-exempt Employees. Unless excluded by the FLSA, all non-exempt employees of the County who work in excess of 40 hours within one designated workweek or the maximum allowable hours within one 28-day work period are eligible to earn overtime/compensatory time.
2. Exempt Employees. Exempt employees are not eligible to earn overtime, whether as monetary payment or compensatory time. This does not, however, preclude department heads from using their discretion and granting time off to exempt employees in recognition of time worked beyond normal work schedules.

B. Calculation of Overtime/Compensatory Time

All eligible, non-exempt employees are to be compensated one and one half times the employee's regular hourly rate of pay for hours worked in excess of their maximum allowable hours. This compensation may be monetary or through the accrual of compensatory time at the choice of the employee prior to the performance of the overtime work. Special conditions apply if the hours worked are performed pursuant to the Emergency Situation Staffing Policy (P-37). Calculation of overtime/compensatory time shall be as follows:

1. Fire Protection Employees. Fire protection employees who work in excess of 212 hours within the 28-day work period are to be paid one and one half times the employee's regular hourly rate of pay, or be compensated one and one half hours of compensatory time for every hour in excess of 212 hours.
2. Sworn Law-Enforcement Employees. Sworn law-enforcement employees who work in excess of 171 hours within the 28-day work period are to be paid one and one half times the employee's regular hourly rate of pay, or be compensated one and one half hours compensatory time for every hour in excess of 171 hours.

3. All Other Employees. All other, eligible non-exempt employees who work in excess of 40 hours within the workweek are to be paid one and one half times the employee's regular hourly rate of pay, or be compensated one and one half hours of compensatory time for every hour in excess of 40 hours.
4. Compensatory Time for Non-Overtime Work. Non-exempt employees who work in excess of their regularly scheduled work hours but do not exceed the maximum allowable number of hours may be granted compensatory leave in the amount of one hour for each hour worked or may be paid their regular hourly rate for those excess hours worked.
5. Pay-outs of Compensatory Time. Any payment for unused compensatory time shall be based upon the employee's current regular hourly rate. Upon termination, non-exempt employees shall be paid for unused compensatory time. Non-exempt employees who are transferring to another department or who are promoted from a non-exempt into an exempt position shall, prior to assuming the new position, reach an agreement with their department head to use their accumulated compensatory leave or to be paid for the unused compensatory leave balance. The employee's compensatory leave balance must be zero prior to the starting date for the new position.
6. Two or More Hourly Rates. Employees holding more than one position may have two or more regular hourly rates. Department heads should consult with Human Resources for guidance regarding the payment of overtime compensation to such employees.

C. Maximum Compensatory Time Balances

Employees in positions eligible for a 28-day work period under FLSA 207(k) may accrue up to 240 hours of compensatory leave. All other non-exempt employees may accrue up to 100 hours of compensatory leave. Employees shall be paid for all compensatory leave in excess of the maximum allowed for accrual.

D. Employer Responsibilities

1. Managing the Accrual of Overtime. Department heads may require that employees work additional time or overtime to meet the needs of the department, and are responsible for managing employees' hours worked whenever possible within the designated workweek or work period to avoid overtime. If an employee works more than the designated work hours in one day, thus creating the potential to exceed the maximum allowable hours within the workweek or work period as defined in section II.F, the employee's supervisor may require the employee to take leave in the amount of the excess time worked within the same workweek or work period to avoid the accrual of overtime.
2. Fund Availability. Department heads shall ensure that adequate funds are available to pay required overtime compensation and compensatory time pay-outs.
3. Scheduling Compensatory Leave. Department heads shall be responsible for scheduling compensatory leave so that it may be taken within a reasonable period of time after the employee requests it, so long as such use does not unduly disrupt the operations of the department. A "reasonable period" under the FLSA is determined by considering the customary work practices within the department, such as: a) the normal schedule of work; (b) anticipated peak workloads based on past experience; (c) emergency requirements for staff and services; and (d) the availability of qualified substitute staff. Leave is considered to "unduly disrupt the operations of the department" if it would impose an unreasonable burden on the department's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.

4. Recordkeeping. Department heads shall ensure that all non-exempt employees complete and submit, on a timely basis, accurate data recording their hours worked and leave taken.

E. Employee Responsibilities

1. Authorization for Overtime. Employees may work overtime only with prior authorization from their supervisors. Failure to do so may result in disciplinary action in accordance with County policy. Employees will report additional hours worked to their supervisors within five business days.
2. Scheduling Compensatory Leave. Employees are required to arrange use of compensatory leave in advance with their supervisors. In case of a conflict because of the work schedule in a particular department, leave will be granted at the discretion of their supervisors.
3. Time Recording. All non-exempt employees must complete and submit, on a timely basis, accurate data recording their hours worked and leave taken. Failure to do so may result in disciplinary action in accordance with County policy.

IV. ON-CALL AND CALL-BACK COMPENSATION

A. On-Call Compensation

1. Eligibility. Non-exempt employees required to be “on-duty” while on-call must be compensated for the “on-duty” hours worked while on-call. Whether the FLSA considers an employee to be “on-duty” while on-call depends on a number of circumstances, including, but not limited to, being required to remain on the employer’s premises and being restricted from using on-call time effectively for personal purposes. In addition, non-exempt employees may be compensated for “off-duty” on-call time pursuant to a departmental on-call compensation program approved in accordance with this section. Exempt employees are not eligible to receive on-call compensation.
2. Departmental On-Call Compensation Programs. Departments may develop on-call compensation programs to compensate employees for “off-duty” on-call time based on department-specific needs. Department heads must submit their proposed guidelines to the Human Resources Department and the County Attorney’s Office for approval in order to ensure that they meet all applicable legal and policy requirements.

Compensation pursuant to a departmental program will be authorized only if the on-call service meets all of the following criteria:

- a. Service must be mandated.
 - b. On-call employees are expected to respond promptly to calls, resulting in partially restricted personal time of on-call employees. Specific response time may vary depending on individual department requirements.
 - c. On-call employees will not be called if another County employee is already on duty and available to perform the required services.
 - d. The department’s on-call guidelines have been approved by Human Resources and the County Attorney’s Office.
3. Calculation. The rate of compensation for off-duty on-call time shall be established in each departmental on-call compensation program. In all cases, however, employees shall be given the option of monetary payment or compensatory time and must communicate that preference to supervisors prior to working the on-call time.

4. Special Provisions Regarding CPS Workers. Child protective service workers employed by the Department of Social Services shall be compensated for their on-call service in accordance with all state-mandated requirements.

B. Call-Back Compensation

1. Eligibility. Any eligible non-exempt employee who is required by the department head to report back to work outside of the employee's regularly designated work hours on less than 24 hours' notice shall be eligible for call-back compensation at one and one-half times the employee's regular hourly rate, regardless of the number of hours worked in that workweek or work period. An employee's "regularly designated hours" are those hours at which the employee is normally scheduled to work. Hours worked beyond regularly scheduled work hours which require an employee to stay at work, rather than report back to work, shall not be deemed call-back hours and shall be compensated as otherwise provided herein.
2. Calculation. In lieu of paying an employee for call-back time, the County may compensate an employee with compensatory time. Compensatory time shall be accrued at a rate of one and one half hour for every hour of call-back time worked. Employees shall decide whether to receive monetary compensation or compensatory time and communicate that preference to their supervisors prior to working the call-back time.

V. HOLIDAY PAY

A. General Rule. Any non-exempt employee who is required by the department head to work on a holiday which is observed by the County shall be:

1. Compensated for that holiday for the hours worked plus the hours normally accrued for the holiday, all at the regular hourly or daily rate; and
2. At the discretion of the department head, be paid the regular hourly or daily rate for the hours worked and accrue eight hours of compensatory leave. If an observed holiday falls on a day when an employee is not otherwise scheduled to work, the employee shall earn eight hours of compensatory leave for the observed holiday.
3. Full-time employees shall receive eight hours of holiday leave to be used on the designated holiday. For part-time employees, the amount of holiday leave received shall be consistent with the length of a regularly scheduled work day.

B. Alternative Work Schedules. Full-time employees that work an alternative work schedule (e.g., 10 hours/day for 4 days/week) shall also receive eight hours of holiday leave for each observed holiday. It is the employee's responsibility to make up the hourly difference between the hours granted as holiday leave and the employee's regular work schedule. The employee and his/her supervisor may compensate for the difference in hours in one of two ways:

1. The employee may use compensatory leave or annual leave; or
2. The employee may work the difference within that workweek.

VI. SPECIAL PROVISIONS FOR SWORN LAW-ENFORCEMENT EMPLOYEES

A. Court Time. Court time worked by sworn law-enforcement employees outside of the regularly scheduled work hours for that day shall be compensated at one and one-half times the employee's regular hourly rate regardless of the number of hours worked in that work period.

B. Contractual Overtime. Contractual overtime is defined as work hours assigned to a sworn law-enforcement employee at the request of an outside entity that reimburses the wages of the employee. Contractual overtime shall only be compensated monetarily. Voluntary contractual

hours worked by employees shall not count as hours worked for the County. Sworn law-enforcement employees shall be paid for voluntary contractual hours worked at a fixed flat rate established by the County Executive.

Amended August 4, 1993; August 3, 1994; September 1, 1997, December 9, 2009

RESOLUTION

WHEREAS, the County of Albemarle is one of the localities subject to Virginia Code § 15.2-2223.1, which requires localities to amend their comprehensive plans to designate one or more Urban Development Areas (“UDA”) and to incorporate principles of new urbanism and traditional neighborhood development, as defined therein; and

WHEREAS, in lieu of amending the County’s Comprehensive Plan, the Board of Supervisors is authorized by Virginia Code § 15.2-2223.1(E) to adopt a resolution certifying that the Comprehensive Plan accommodates growth in a manner consistent with the elements of a UDA and the principles of new urbanism and traditional neighborhood development; and

WHEREAS, the County’s Comprehensive Plan addresses the elements of a UDA by allowing residential density of at least 4 dwelling units per gross acre (with the exception of the Village of Rivanna) and allowing commercial density having FARs of 0.4 per gross acre; by encouraging a mixture of housing types, including affordable housing, in all Development Areas; by providing that Development Areas are predominantly served by public water and sewer services and having a policy to extend public water and sewer facilities to all lands within the Development Areas; by locating the Development Areas in close proximity to various transportation facilities including inter-county and major intra-county roadways as well as other transportation services; and by locating Development Areas in close proximity to the City of Charlottesville (the Urban Area comprised of Neighborhoods 1-7 including the Pantops Master Plan Area), areas that are developed and continue to develop north of the Urban Area (the Communities of Hollymead and Piney Mountain), and areas that are already developed (the Community of Crozet and the Village of Rivanna); and

WHEREAS, the Development Areas incorporate principles of new urbanism and traditional neighborhood development in that they comprise 36 square miles or 5% of the County’s total land area, and the form and characteristics of their development are guided by the Neighborhood Model, which promotes density through principles of pedestrian orientation, neighborhood friendly streets, street interconnections, parks and open space, neighborhood centers, buildings of human scale, relegated parking, mixture of uses, mixture of housing types and affordability, redevelopment, site development that respects terrain and clear boundaries with the Rural Areas.

WHEREAS, the Development Areas are established to accommodate development for the next 20 years and, while it may be possible that the Development Areas are sufficient to accommodate development beyond 20 years, the overarching elements of a UDA and the principles of new urbanism and traditional neighborhood development expressed in Virginia Code § 15.2-2223.1 are better achieved by the current compact sizes of the Development Areas, their periodic review every 5 years, the County’s existing development policies, and the Neighborhood Model’s policy of establishing clear boundaries with the Rural Areas.

NOW, THEREFORE BE IT RESOLVED that the Albemarle County Board of Supervisors hereby certifies that the County’s Comprehensive Plan accommodates growth in a manner consistent with Virginia Code §15.2-2223.1.

PROFFER STATEMENT

ZMA No. **2007 - 0002**

Tax Map and Parcel Number(s): **03200-00-041D1 and PORTION OF 03200-00-041R0**

Owner(s) of Record: **Post Office Land Trust and Tiki LLC**

Date of Proffer Signature: **November 2, 2009**

1.021 acres to be rezoned from **HC & PDMC to PDSC**

Post Office Land Trust, is the owner of a PORTION OF Tax Map and Parcel Number **03200-00-041R0** and **Tiki, LLC**, is the owner of Tax Map and Parcel Number **03200-00-041D1** (the "owners" and the "Property") which is the subject of rezoning application ZMA No. **2007-0002**, a project known as "**Timberwood Commons**" (the "Project").

This Proffer Statement shall relate to the Application Plan entitled "Application Plan for Timberwood Commons", dated June 5, 2009, and prepared by Dominion Development Resources, LLC.

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owners hereby voluntarily proffer the conditions listed below which shall be applied to the Property if it is rezoned to the zoning district identified above. These conditions are proffered as a part of the requested rezoning and the Owners acknowledge that the conditions are reasonable.

1. The uses of the Property permitted by right shall be only those uses allowed by right under Section 25.2.1 except for the following C-I (Section 22.2.1), CO (Section 23.2.1) and HC (Section 24.2.1) uses permitted in the PDSC zoning district by reference under Section 25.2.1(1), as all of those sections of Chapter 18, Zoning, of the Albemarle County Code, are in effect on December 9, 2009, copies of which are attached hereto and incorporated herein as Attachment A:
 - A. Cemeteries: Sections 22.2.1 (b)(3), 23.2.1(4), 24.2.1(5)
 - B. Fire and rescue squad stations: Sections 22.2.1(b)(6), 24.2.1(13)
 - C. Indoor theaters: Sections 22.2.1 (b)(9), 24.2.1(38)
 - D. Libraries, museums: Sections 22.2.1 (b)(12), 23.2.1(5)
 - E. Automobile service stations: Sections 22.2.1 (b)(16), 24.2.1(3)
 - F. Automobile, truck repair shop, excluding body shop: Sections 22.2.1(b)(22), 24.2.1(2)
 - G. Hotels, motels and inns: Section 24.2.1(20)
 - H. Mobile home and trailer sales: Section 24.2.1(23)
 - I. Modular building sales: Section 24.2.1(24)
 - J. Motor vehicle sales, service and rental: Section 24.2.1(25)
 - K. Building material sales: Section 24.2.1(4)
 - L. Light warehousing: Section 24.2.1(21)
 - M. Machinery and equipment sales, service, and rental: Section 24.2.1(22)
 - N. Sale of major recreational equipment and vehicles: Section 24.2.1(32)
 - O. Wholesale distribution: Section 24.2.1(34)
 - P. Heating oil sales and distribution: Section 24.2.1(39)

2. The uses of the Property permitted by special use permit shall be those uses allowed by special use permit under Section 25.2.2 of Chapter 18, Zoning, of the Albemarle County Code, as that section is in effect on December 9, 2009, a copy of which is attached hereto and incorporated herein as Attachment B.

OWNER

(Signed) Charles W. Hurt, 11/2/2009

By: Charles W. Hurt
Title: Trustee
Post Office Land Trust

(Signed) Shirley L. Fisher, 11/2/2009

By: Shirley L. Fisher
Title: Trustee
Post Office Land Trust

OWNER

(Signed) Anthony D. Valente, 11/2/2009

By: Anthony D. Valente
Title: manager and member
Tiki, LLC

(Signed) Mary K. Valente, 11/2/2009

By: Mary K. Valente
Title: manager and member
Tiki, LLC

PROFFER STATEMENT

ZMA No.: **ZMA 2008-007 (ATNA Corporation, LLC; VETSS, Inc.)**

Tax Map and Parcel Number: **03200-00-00-04800**

Owner(s) of Record: **ATNA Corporation, LLC**

Date of Proffer Signature: **November 1, 2009**

0.78 acres to be rezoned from CO to C-1

ATNA Corporation, LLC is the owner (the "Owner") of Tax Map and Parcel Number 03200-00-00-04800 (the "Property") which is the subject of ZMA No. 2008-007, a project known as "ATNA Building — VETSS Hospital" (the "Project").

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the Owner hereby voluntarily proffers the conditions listed below which shall be applied to the Property if it is rezoned to the zoning district identified above. These conditions are proffered as part of the requested rezoning and the Owner acknowledges that the conditions are reasonable.

1. The use of the Property shall be limited to those uses allowed by right under Section 22.2.l(b)(1), (3), (5), (12), (17), (18), (19), (20), (26) and (27); those uses allowed by special use permit under Section 22.2.2(2), (3), (5), (6), (7), (9), (10), (11) and (14); and those uses allowed by right under Section 23.2.1; of Chapter 18, Zoning, of the Albemarle County Code, as those sections are in effect on December 9, 2009, copies of which are attached hereto and incorporated herein as Attachment A (**on file in Clerk's office**).
2. The Owner shall install a sidewalk in the location shown on Attachment B. The design of the sidewalk shall be approved by the Virginia Department of Transportation ("VDOT") prior to its construction. Construction of the sidewalk shall be completed by not later than June 30, 2010. Construction of the sidewalk shall be deemed complete when the Owner obtains from VDOT a written determination that the sidewalk is completed and safe for pedestrian use.

ATN Corporation, LLC

(Signed) Stuart C. Salmon

By: Stuart C. Salmon, Member

(Signed) Sara V. Salmon

By: Sara V. Salmon, DVM, Member

**CONDITIONS OF APPROVAL
SP-2008-067- ATNA BUILDING**

1. Development of the use shall be in accord with the concept plan, entitled "Proposed Fencing" prepared by Gorman Architects, PLC, dated July 20, 2009 (the "Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in conformity with the Plan, development shall reflect the following elements only and all other elements of the Plan may be modified during site plan review and approval: general location of parking areas, buffer and screening from adjacent residential properties, and proposed fence enclosure. Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;
2. This special use permit applies to the existing building and any new buildings for the veterinary use will require a new special use permit;
3. The opening of any windows shall be prohibited;
4. Dogs may be walked only in the outdoor dog walk area;
5. No animals shall be boarded overnight or groomed, except for those animals under medical care at the veterinary hospital;
6. The use shall not commence until the building located at 1540 Airport Road is served by public sewer;
7. An eight (8) foot tall treated solid wood privacy fence in a cabot slate gray #1445 stain for pressure treated wood shall be constructed and maintained along the full perimeter of the property adjacent to the residential properties. The existing trees and landscape along the perimeter of the property adjacent to the residential properties shall not be disturbed. Screening requirements shall comply with Section 32.7.9.8 Screening of the Albemarle County Code;
8. An eight (8) foot tall treated solid wood privacy fence in a cabot slate gray #1445 stain for pressure treated wood shall be constructed and maintained to enclose the proposed fence enclosure shown on the Plan; and
9. All outdoor lighting shall comply with the requirements of Zoning Ordinance Section 4.17 - Outdoor Lighting, no later than February 15, 2010.

ORDINANCE NO. 09-03(5)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending:

3-220 Kinloch Agricultural and Forestal District

Chapter 3. Agricultural and Forestal Districts

Article II. Districts of Statewide Significance

Division 2. Districts

Sec. 3-220 Kinloch Agricultural and Forestal District.

The district known as the “Kinloch Agricultural and Forestal District” consists of the following described properties: Tax map 49, parcels 5C, 6A1; tax map 50, parcels 13, 19; tax map 65, parcels 7, 7A, 8, 84A, 86, 89, 90, 91, 91A, 92, 93A, 93A1, 94, 94A, 95, 95A, 100, 121; tax map 66, parcels 2, 3C, 10G1, 32, 32D, 32E, 34 (Albemarle part only), 34B. This district, created on September 3, 1986 for not more than 10 years and last reviewed on November 3, 2004, shall next be reviewed prior to November 3, 2014.

(11-17-93; 10-12- 94; Code 1988, § 2.1-4(f); Ord. 98-A(1), 8-5-98; Ord. 00-3(3), 9-13-00; Ord. 04-3(3), 11-3-04; Ord. 09-03(5), 12-9-09)