

**Albemarle County Planning Commission
November 10, 2009**

The Albemarle County Planning Commission held a work session on Tuesday, November 10, 2009, at 4:30 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Marcia Joseph, Calvin Morris, Don Franco and Linda Porterfield. Thomas Loach, Vice Chairman, Eric Strucko, Chairman and Bill Edgerton were absent. Julia Monteith, AICP, non-voting representative for the University of Virginia was absent.

Other officials present were Wayne Cilimberg, Director of Planning; Amelia McCulley, Director of Zoning & Zoning Administrator, and Greg Kamptner, Deputy County Attorney.

Mr. Cilimberg noted that an Acting Chair needed to be chosen due to the absence of the Chair and Vice Chairman.

Motion: Ms. Porterfield moved and Mr. Franco seconded to nominate Calvin Morris as Acting Chair for the meeting.

The motion carried by a vote of 4:0.

Call to Order and Establish Quorum:

Mr. Morris, Acting Chair, called the regular meeting to order at 4:30 p.m. and established a quorum. He announced that today was the 234th birthday of the United States Marine Corps.

Work Session:

ZTA-2009-00003 Farm Wineries - Amend the Albemarle County Zoning Ordinance so that its current farm winery regulations are consistent with Virginia Code Section 15.2-2288.3, and in order to promote the efficient and effective administration of the County's zoning regulations and meet the intent of the County's Rural Area Plan and Rural Areas Zoning District (Wayne Cilimberg/Amelia McCulley)

- The purpose of the work session was to review the changes to the zoning ordinance being considered for farm wineries and obtain the Commission's input and guidance.

Mr. Cilimberg made a PowerPoint presentation. (See PowerPoint Presentation – Albemarle County Farm Winery Regulations Changes)

“Defined in State Code farm winery -

VA Code Stipulations re: Local Restriction

*Local restriction . . . shall take into account the economic impact on the farm winery of such restriction, **the agricultural nature of such activities and events** and whether such activities and events are usual and customary for farm wineries throughout the Commonwealth.*

VA Code Definition of Farm Winery

. . . an establishment (i) located on a farm . . . with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine . . . or (ii) . . . with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine . . .

VA Code Limitation on Class A and Class B Farm Wineries

Class A - at least 51 percent of the . . . agricultural products used by the owner or lessee to manufacture the wine shall be grown or produced on such farm and no more than 25 percent of the . . . agricultural products shall be grown or produced outside the Commonwealth.

Class B - 75 percent of the . . . agricultural products used by the owner or lessee to manufacture the wine shall be grown or produced in the Commonwealth and no more than 25 percent of the . . . agricultural products shall be grown or produced outside the Commonwealth. No Class B farm winery license shall be issued to any person who has not operated under an existing Virginia farm winery license for at least seven years.

Opportunities for variation from the % of on-farm production and % of out-of-state products utilized under certain supply conditions through petition to the Department of Agriculture and Consumer Services.

Definitions

- Agritourism
- Farm Winery
- Farm Winery Event

Uses Permitted By-right as Primary Uses

1. *The production and harvesting of fruit . . . and the manufacturing of wine.*
2. *The direct sale and shipment of wine by common carrier to consumers . . .*
3. *The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers . . .*
4. *The storage, warehousing, and wholesaling of wine . . .*
5. *Activities related to the production of the agricultural products used in the wine, including . . . growing, planting and harvesting the agricultural products and the use of equipment for those activities.*
6. *The sale, tasting, including barrel tastings, or consumption of wine **between 9:00 a.m. and 6:00 p.m.** . . . the normal course of business of the farm winery.*
7. *Private personal gatherings of a farm winery owner who resides at the farm winery or on property adjacent thereto that is owned or controlled by the owner, provided that wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.*

Uses Permitted By-right as Accessory to Primary Uses

1. *Exhibits, museums, and historical segments related to wine or to the farm winery.*
2. *Hayrides.*
3. *Kitchen and catering activities.*
4. *Picnics, either self-provided or available to be purchased at the farm winery.*
5. *The sale of wine-related items that are incidental to the sale of wine **between 9:00 a.m. and 6:00 p.m.***
6. *Tours of the farm winery, including the vineyard.*
7. *Providing finger foods, soups and appetizers for visitors.*

Uses Permitted By-right as Accessory to Primary Uses

*During regular business hours (9:00 a.m.-6:00 p.m.), each attracting **not more than 50 people**:*

1. *Farm winery events.*
2. *Guest winemakers and trade accommodations of invited guests at a . . . winery owner's private residence at the farm winery.*
3. *Weddings and wedding receptions.*
4. *Other uses that are agritourism or wine sales . . . determined . . . to be usual and customary uses at farm wineries throughout Virginia.*

Uses Permitted By-right With Zoning Clearance

1. *Outside of regular business hours (before 9:00 a.m./after 6:00 p.m.) or each attracting between 51 and 200 people:*
2. *Farm winery events.*
3. *Guest winemakers and trade accommodations of invited guests at a . . . winery owner's private residence at the farm winery.*
4. *Weddings and wedding receptions.*
5. *Other uses that are agritourism or wine sales . . . determined . . . to be usual and customary uses at farm wineries throughout Virginia.*

"Zoning Clearance

Purpose:

- *Identify uses generally*
- *Identify uses that may cause more than two hundred (200) persons to be in attendance at any given time*
- *Identify those uses that will have a substantial impact on the public health, safety or general welfare*

Requires application providing:

- *Uses*
- *Maximum number of persons who will attend the use at any given time*
- *Frequency and duration of uses*
- *VDOT commercial entrance approval (if necessary)*
- *Sanitation facilities approval from Dep't of Health*
- *On-site parking*
- *Location, height and lumens of outdoor lighting*
- *Location where music will be performed (if applicable)*
- *Compliance with setbacks*
- *Information requested by the county police department or department of fire rescue*
- *Accompanying Sketch Plan*

Substantial impact is an impact that in its nature would result from the use or activity based on facts, and that in its effect is large in extent or degree

Zoning administrator may impose reasonable conditions to reduce the impacts from a use so they are not substantial

Zoning clearance is a determination that the uses conducted at a farm winery are usual and customary and do not create substantial impacts

Other Uses

Any other uses proposed at a farm winery which are determined by the zoning administrator to be related to agritourism or wine sales for the farm winery, but which are neither permitted by right nor by right with a zoning clearance, may be permitted by special use permit.

Not permitted:

1. *Hot air balloons and hot air balloon rides.*
2. *Restaurants.*
3. *Helicopter rides.*

Major Changes -

- *Simplified definition for farm winery and new definitions for agritourism and farm winery event*
- *Farm wineries added to the provisions allowing agricultural product signs*

- *Extent of review based on potential to produce substantial impact – tied to regular business hours and attendance levels*
- *Usual and customary primary and accessory uses producing no substantial impact listed as by-right without limitation as to number of events*
- *Certain usual and customary accessory uses with the potential to produce substantial impact because they operate outside of regular business hours or due to attendance levels listed as by-right with zoning clearance*
- *Other uses determined to be usual and customary, but not listed as by-right or by-right with zoning clearance, permitted by special use permit*
- *Attendance requiring special use permit increased from more than 150 to more than 200 people*
- *Uses not considered usual and customary specifically listed as not permitted”*

Ms. McCulley provided a mock farm winery zoning clearance, including the proposed sketch plan, to explain how such a process would work.

Mr. Morris invited questions for staff from the Commission and asked if staff has a list of questions for the Commission to address.

Mr. Cilimberg replied that staff is here to answer the Planning Commission’s questions and asks that the Commission note any particular changes and provide further direction before the zoning text amendment goes to public hearing.

Public comment was taken from the following persons:

Matt Conrad, Virginia Wine Counsel,
 David King, King’s Vineyard,
 Charlotte Shelton, Albemarle Ciderworks,
 Jeff Werner, Piedmont Environmental Council,
 Neil Williamson, Free Enterprise Forum,
 Casey Callup, Jefferson Vineyard,
 Morgan Butler, Southern Environmental Law Center, and
 Kathryn Glenn-Mathews, Blenheim Vineyards.

Based on the public input received, the Commission provided staff the following direction:

- Review the agritourism definition.
- Review the farm winery definition.
- Review hours of operation.
- The attendance limitation for certain uses that are accessory to primary uses should be based on “persons at any one time” vs. “persons per day”.
- The 50 person limitation should be revisited for appropriateness and enforceability.
- Address grandfathering of site plans that exist that could suffice for the zoning clearance.

The Planning Commission recessed at 5:51 p.m. for a dinner break to reconvene to the regular meeting at 6:00 p.m. in the Auditorium.

The Albemarle County Planning Commission held a public hearing and meeting on Tuesday, November 10, 2009, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Marcia Joseph, Calvin Morris, Don Franco, Linda Porterfield, and Eric Strucko, Chairman. Absent were Bill Edgerton, Thomas Loach, Vice-Chair and Julia Monteith, AICP, non-voting representative for the University of Virginia was present.

Other officials present were Wayne Cilimberg, Director of Planning; Mark Graham, Director of Community Development; Bill Fritz, Chief of Current Development, Eryn Brennan, Senior Planner; Summer Frederick, Senior Planner, and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

Mr. Strucko called the regular meeting to order at 6:04 p.m. and established a quorum.

Committee Reports:

Mr. Strucko invited committee reports from the Commissioners.

- Mr. Morris noted that the Eastern Connector Committee is dormant.
- Ms. Porterfield noted the Historic Preservation Committee met monthly, but would not meet in December. The committee is trying to pull together their information regarding a potential ordinance for historic preservation.
- Ms. Joseph noted that the MPO Tech Committee meets later this month.
- Mr. Morris noted that the Pantops Steering Advisory Committee will meet in January at which time they will tour the new Martha Jefferson Hospital.
- Mr. Strucko reported that the CIP Capital Projects Committee is scheduling to meet for three meetings later this week.
- Mr. Franco noted that the Fiscal Impact Advisory Meeting is being scheduled before the end of the year.

There being no other committee reports, the meeting moved to the next item.

Other Matters Not Listed on the Agenda from the Public:

Mr. Strucko invited comment from the public on other matters not listed on the agenda. There being none, the meeting moved to the next item.

Review of Board of Supervisors Meeting – November 4, 2009

Mr. Cilimberg reviewed the actions taken by the Board of Supervisors on November 4, 2009.

Consent Agenda:

Approval of Minutes – March 17, 2009

Mr. Strucko asked if any Commissioner would like to pull this item from the consent agenda.

Motion: Mr. Morris moved and Ms. Porterfield seconded for approval of the consent agenda.

The motion passed by a vote of 5:0.

Public Hearing Items:

Agricultural/Forestal District Reviews/additions (*See legal ad list*) (Eryn Brennan)

Ms. Brennan presented a PowerPoint presentation and summarized the requests noted below. (See PowerPoint Presentation)

Step 10 Ad/Notice - Batesville – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Batesville Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County

Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 71, Parcels 29C, 29D, 29E, 29G, 29H, and 29I, and Tax Map 84, Parcel 69. The parcels proposed for addition are approximately 146.38 acres in size and located north and southwest of Batesville. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - Blue Run – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Blue Run Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 35, Parcel 41A, Tax Map 49, Parcel 4A1, and Tax Map 35, Parcel 41E. The parcels proposed for addition is approximately 98.40 acres in size and located west of Stony Point Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice – Buck Mountain - PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Buck Mountain Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 8, Parcels 37, 44, and 43A, and Tax Map 17, Parcel 2D6. The parcels proposed for addition are approximately 174.21 acres in size and located west of Markwood Road and north of Davis Shop Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice – Buck’s Elbow - PC Public Hearing on Creation; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the creation of the Buck’s Elbow Mountain Agricultural and Forestal District on November 10, 2009 at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia. The parcels that would compose the proposed District are Tax Map 25, Parcel 1, Tax Map 38, Parcels 4, 7, 8, 10, 20, Tax Map 39, Parcels 1, 1F, 1F1, 1G, 2B, 8, 10A, and 21Q. The proposed District would be approximately 3,156.93 acres in size and located near Buck’s Elbow Mountain. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of this district.

Step 10 Ad/Notice - Carter’s Bridge – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Carter’s Bridge Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 114, Parcels 57, 57C, and 57D, Tax Map 130, Parcel 19B, Tax Map 123, Parcel 13B, Tax Map 112, Parcel 1, Tax Map 122, Parcels 12D and 12E, Tax Map 114, Parcel 2, and Tax Map 102, Parcel 17C. The parcels proposed for addition is approximately 470.51 acres in size and located west of Pig Mountain Road, north of Fox Mountain Road, and south of Tasmania Drive. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - Chalk Mountain – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Chalk Mountain Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 97, Parcels 2, and Tax Map 97, Parcel 27. The parcels proposed for addition is approximately 65.17 acres in size and located west of Pig Mountain Road, north of Fox Mountain Road, and south of Tasmania Drive. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - Eastham – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Eastham Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 46, Parcels 91, 91B, and 91E. The parcels proposed for addition is approximately 101.46 acres in size and located west of Quarles Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice – Fox Mountain - PC Public Hearing on Creation; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the creation of the Fox Mountain Agricultural and Forestal District on November 10, 2009 at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia. The parcel that would compose the proposed District is Tax map 15, parcel 10A. The proposed District would be approximately 283.77 acres in size and located east of Brown’s Cove. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of this district.

Step 10 Ad/Notice - Free Union – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Free Union Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 7, Parcel 33, Tax Map 16, Parcels 15C and 37, and Tax Map 29, Parcels 1D, and 31A. The parcels proposed for addition is approximately 261.65 acres in size and located west of Pig Mountain Road, north of Fox Mountain Road, and south of Tasmania Drive. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - Hardware – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcel to the Hardware Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 74, Parcel 6N. The parcel proposed for addition is approximately 21 acres in size and located north of Blandemar Drive. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of this addition.

Step 10 Ad/Notice - High Mowing – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcel to the High Mowing Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 84, Parcel 69A. The parcel proposed for addition is approximately 63.20 acres in size and located west of Stillhouse Creek Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of this addition.

Step 10 Ad/Notice - Ivy Creek – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Ivy Creek Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 44, Parcels 19, 19A, 19B, 21A1, and 21A2. The parcels proposed for addition are approximately 128.99 acres in size and located north of Barracks Farm Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - Jacob’s Run – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Jacob's Run Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 20, Parcel 6J, Tax Map 30, Parcel 32B, and Tax Map 31B, Parcel 1B. The parcels proposed for addition are approximately 107.29 acres in size and located north of Fray's Mountain Road and north and west of Happy Hollow Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - Keswick – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Keswick Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 48, Parcels 30D, 30, 30B, 30A, 30E, and 30C. The parcels proposed for addition are approximately 453.37 acres in size and located south of Stony Point Pass. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - Kinloch – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Kinloch Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 49, Parcels 5C and 6A1, and Tax Map 50, Parcel 13. The parcels proposed for addition are approximately 101.96 acres in size and located north of Turkey Sag Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - Lanark – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Lanark Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 103, Parcels 2B, 43D, 43F, and 43J, and Tax Map 92, Parcel 64C. The parcels proposed for addition are approximately 150 acres in size and located east of Carter's Mountain Road and south of James Monroe Parkway. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - Moorman's River – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Moorman's River Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 29, Parcels 45, 45H1, 45H2, and 78A1, Tax Map 30, Parcel 23, Tax Map 43, Parcels 1F and 2A1, Tax Map 44, Parcel 31H, and Tax Map 60E3, Parcel 1. The parcels proposed for addition are approximately 230.80 acres in size and located south and west of Ridge Road and south of Barracks Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - South Garden – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the South Garden Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 99, Parcel 35, Tax Map 109, Parcel 70, and Tax Map 11, Parcels 8 and 18E. The parcels proposed for addition are approximately 308.11 acres in size

and located west and south of Plank Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - Sugar Hollow – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Sugar Hollow Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: parcels, Tax Map 27, Parcels 24A and 25, and Tax Map 39, Parcel 13C3. The parcels proposed for addition are approximately 91.47 acres in size and located on Sealville Road and Bourne Farm Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Step 10 Ad/Notice - Yellow Mountain – PC Public Hearing; Virginia Code § 15.2-4307

Notice is hereby given that the Albemarle County Planning Commission will hold a hold a public hearing to receive public comments regarding the addition of the following parcels to the Yellow Mountain Agricultural and Forestal District (Albemarle County Code § 3-222) on November 10, 2009, at 6 p.m., in the Auditorium of the Albemarle County Office Building, 401 McIntire Road, Charlottesville, Virginia: Tax Map 54, Parcels 41, 43, 43A, and 43D, Tax Map 70, Parcel 15G, and Tax Map 71, Parcel 22K. The parcels proposed for addition are approximately 111.09 acres in size and located north of Dick Woods Road and northeast of Ortman Road. The Albemarle County Agricultural and Forestal Advisory Committee has recommended approval of these additions.

Jacob’s Run Legal Ad Text for Review of a District

Periodic (10-year) review of the Jacob’s Run Agricultural & Forestal District, as required in Section 15.2-4311 of the Code of Virginia. The district includes the properties described as Tax Map 18, Parcel 40F; Tax Map 19, Parcels 25 and 25A; Tax Map 31, Parcels 8, 8E, 16, 16B, 23, 23D, 23D2, 23K, 44C, 45, 45B, and 45C. The district includes a total of 1,235.178 acres. The area is designated as Rural Area in the Comprehensive Plan and the included properties are zoned RA Rural Areas.

Staff recommends that the Planning Commission recommend approval of all the proposed additions and the creation of the Fox Mountain Agricultural and Forestal District with the following exceptions:

- Buck Mountain - Note that for Buck Mountain and Free Union the tax map 38, parcel 10 should not be included in the list of proposed additions and in Free Union tax map 29, parcel 45H2 should not be included in the proposed additions.
- The Buck’s Elbow Mountain and the Moorman’s River Mountain should be deferred to December 1, 2009.

Mr. Strucko opened the public hearing and invited public comment on any or all of the agricultural forestal districts that they have on the agenda tonight. There being none, the public hearing was closed and the matter was before the Planning Commission for further comment and action. He had been advised by the legal department to ask if there was general consensus that they can act on all of the agricultural forestal districts with one action with the provisions shown on the screen.

It was the general consensus of the Planning Commission to act on all of the districts as outlined in one motion.

Motion to defer Buck’s Elbow Mountain and Free Union Agricultural Forestal Districts:

Motion: Ms. Porterfield moved and Mr. Morris seconded to defer Buck’s Elbow Mountain and Moorman’s River Agricultural Forestal District Reviews/additions to December 1, 2009.

The motion passed by a vote of 5:0.

Mr. Strucko noted that the Buck's Elbow Mountain and Free Union Agricultural/Forestral Districts were deferred to December 1, 2009.

Motion on Other Requests:

Motion: Ms. Porterfield moved and Mr. Morris seconded to recommend approval of the Chalk Mountain and Jacob's Run District Reviews, all the proposed additions and the creation of the Fox Mountain Agricultural and Forestral District.

The motion passed by a vote of 5:0.

Mr. Strucko noted that the motion passed and the Agricultural/Forestral District Reviews/additions will go to the Board of Supervisors on December 2, 2009.

Public Hearing Items:

ZTA-2009-00017 Zoning Fees (See Chart in Staff Report)

Amend and renumber Sec. 35.0 (to 35.1) , Fees; amend, renumber and rename Sec. 35.1 (to 35.2), Fee reduction, and add Sec. 35.3, Fee refunds, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend and reorganize the Zoning Ordinance's fee regulations and increase existing fees, impose new fees, and change but not necessarily increase other fees, for listed applications, permits, reviews, approvals, inspections and other services provided by the County in the administration of Chapter 18. (Mark Graham)

Mr. Graham presented a PowerPoint presentation and summarized the staff report. (ZtA-2009-000017 Zoning Fees Chart/Legal Ad, Executive Summary and PowerPoint Presentation)

This is a public hearing for consideration of the zoning ordinance fee changes, ZTA-2009-00017. He reviewed the background and fee objectives.

- Fees should be comparable to other localities
- Fees should attempt to recover a significant cost of services
- Policy should be established for regular updating of fees

Staff recommends the fees as presented in Attachment B.

Alternative Recommendation – Recommend the fees as presented in Attachment B, with the change of Home Occupations, Class B, included under Sections C.1 and C.2.

Mr. Strucko opened the public hearing and invited public comment.

Robert Walters read the following statement in the record: "My name is Robert Walters and I am a resident of the County of Albemarle. I am a member of the Boy Scouts of America and have volunteered for numerous other community organizations over the years. I am here tonight to ask you to exempt 501(c) (3) non-profit organizations from Zoning, Sign, and other Community Development fees for temporary fund raising activities. If you cannot exempt these community non-profit organizations, I ask that you do not increase the fees. These organizations provide extensive services and programs for our community that simply cannot be provided or duplicated by the County or other governmental organizations. One of the Scouting activities that I spend a lot of time with is the sale of Christmas Trees. Profits from tree sales fund local unit programs as well as camp capital purchases. We sell Christmas Trees in Louisa, Fluvanna, Charlottesville, and Albemarle. Albemarle is the only locality that requires us to pay fees for Zoning Clearances and Sign Permits. The Boy Scouts of America is a 501(c) (3) organization which was chartered by the Congress of the United States. As such, it is exempt from income taxes. Boy Scouts are exempted from property taxes under Code of Virginia section 58.1-3614. Organizations with a 501(c) (3) designation are exempted from BPOL taxes under Code of Virginia Article 37. I ask that you recommend exempting 501(c) (3) organizations from Zoning, Sign, and other Community Development fees for temporary fund

raising activities. Thank you for listening to me and considering my request.”

Valerie Long, representative for many persons in the community, spoke against the proposed fees due to the adverse impacts. In discussion of these fees to members of the community she felt they were in a state of shock particularly in the times when the real estate community is in distress. She asked if the county wants projects developed by right rather than through rezoning. This could result in not getting the type of design or infrastructure that the county wants. The members of the Task Force several years ago spoke about changes to a number of waivers coming to the Commission. Those changes could save a tremendous amount of staff time since there are a lot of them that could be handled by staff and could be appealed. She asked that they go back and look at ways to streamline to reduce costs in other ways. She did not dispute that some of the fees are due to be updated. The county has high standards and the list of review criteria continues to increase, which is a community decision. The community benefits and should share in the cost. It is not appropriate for applicants to share 100 percent of the burden when the community benefits so greatly. The county has been supportive of home occupations in most cases. She has heard about many wonderful services to be provided at small scale. She would hate for those people not to go through the process because they can't afford fee. She would hate to discourage those types of uses because most are not controversial. She asked that they not set the rules based on exceptions. She would be happy to speak more on these issues.

Peter Wurtzer said that on one hand he did not want to raise fees so that they are discouraging business. In these times the county needs to encourage revenue. A significant amount of money will have to be bearded by the tax rate. They need to start thinking about what are they really getting for it and are they really that much better off. He asked that the county not to go crazy on application fees and not to underwrite it at the taxpayers' expense.

Neil Williamson, with Free Enterprise Forum, suggested that they examine the concerns expressed before moving forward with increased costs. He suggested that they look at stream lining or eliminating some areas to cut costs. He felt that the costs are borne by the applicant and the increased costs should be suspended for 12 months. The review is a community benefit and the community should be part of that investment. He suggested that they look at how other localities are doing this since Charlottesville has cut their fees in half. It is an economic development decision.

Jay Willard, of Blue Ridge Building Association, noted that there is a legitimate question of what measures have been created by the county to create this cost and are there ways to lower cost, eliminate or stream line it. The Association had a meeting tonight on their budget cuts. He urged the county to do that since he felt it was incumbent on the county to find areas and ways to lower these costs.

Scott Collins, local engineer working in private world, suggested that they need to look at any increase in fees in conjunction with the process. They have talked about streamlining many other times. Other localities have round robin reviews and the applicant 45 minutes later can walk away with approval. By red lining and not having to go back and redo plans on minor things it can cut costs. It saves money by cutting down on the amount of copies. He suggested that they look at other aspects of submittals such as going to digital submissions. He asked that they look at the criteria since the ordinance gets out of date and nobody looks at the other aspects of the ordinance when considering the increase in the fees.

There being no further public comment, Mr. Strucko closed the public hearing to bring the matter before the Planning Commission for discussion and action.

Ms. Porterfield asked when the last time the fees were increased.

Mr. Graham replied in 2002. The last time a comprehensive review of fees was 1991

Ms. Joseph asked about the 106 items that are expected on a rezoning. She noted that those items have never been codified.

Mr. Graham replied that it started as direction from the Planning Commission as far as guidance from the Planning Commission on what staff is suppose to look for. The list started growing. He thought that the list started in the 90's and the list has increased with things getting added to what staff should be looking at for rezoning or special use permits. It is not codified and is simply guidance that has been provided to staff.

Motion: Mr. Morris moved and Ms. Joseph seconded to recommend adoption of the fees as presented in Attachment B.

Mr. Kamptner noted that with the motion and second it opened it up for discussion.

Mr. Strucko invited further discussion.

Ms. Porterfield said that she had been a proponent of 100 percent. If it is a service, it is 100 percent of what it costs to do the service. She thought that we as the County, including the Commission and staff, need to see where they can start cutting some corners. Everybody has had to do this in their own lives. She thought that they could find things that could be done more efficiently. That way they could certainly do them for a lot less money. She would be the first one to think that they should go along with that. If the numbers are correct and considering the budget impact, she had a real problem that in any average year it is costing under this scenario \$1,600,000 of which by adopting this resolution the county will be picking up \$1,078,000 of that, which is well over a half. She agreed that the County gets some benefit out of what they do, but she was not sure that the average taxpayer should be having to fund the majority of these services that are asked for by various individuals, businesses, whatever. She could probably support something in addition to this Plan B, but at 30 to 35 percent with reference to numbers that have not truly been looked at since 1991 even if they went back and did cost-of-living increases and things like that, they would be above what is being asked for at this point in that plan. They have to find ways that the taxpayers are not going to have to keep picking these things up. The last thing she read in the paper noted that the Board of Supervisors needed to find cuts of over \$5,000,000, and the Commission is considering another thing that they are going to have to find money to pay for. She liked the idea of having a fee for the first time an application goes through; and then the second, third, and fourth times for anything are a separate fee. Rehearings would not be built into everybody's fee. If she had a Home Occupation Class B and could get it taken care of at staff's \$2,000 level the first time through, she did not have to come back and was done. If she had to come back for whatever reasons, then there is the next fee she would pay. That might be something to look at for a lot of these fees. Based on that, she did not think they were finished with looking at the fees. Either they need to make these fees higher so that at least the County is not picking up more than 50 percent; or hopefully, it will be less than that if they go to efficiencies. Or they should go ahead and go back and look at Hanover if that is a good comparison and look at having a tiered fee for the unusual items that take more than one review or take a review that is more extensive. The number at this level with everything being equal is huge.

Mr. Franco said that the challenge when a rezoning is brought forward is that an applicant can be asked for things that are not required by the ordinance. But in order to move forward the applicant has to answer the question of a specific Commissioner. The same idea just generated that someone should be paying for that really that Commissioner should be paying for service above and beyond what is required. But it does not work that way. Instead it rolls into the staff and into these calculations. He asked how many of those 106 items that are not codified represent the time and effort that they are spending to react to changes that an individual Commissioner or Board member has presented. That is in those numbers.

Ms. Porterfield suggested that maybe those should be some of the efficiencies. Maybe they should not expect somebody to have to do those kinds of things

Mr. Franco noted that it has been real to reign in the Commissions in the past when an applicant comes back and says they are not required to give that information at this point since it is a site plan detail. It is hard to reign in the Commissioner and tell them they can't have that information.

Ms. Porterfield noted that if it was that important, then maybe that is something the County pays for. She did not know. She had been listening to Mr. Franco during the past year and understands that he was talking about trying to come up with efficiencies that are good for everybody. That sounds like that would help to bring fees down, and it would get items through much quicker. She understood that it takes a long time to get through this County's processes sometimes. Philosophically with the numbers right now, she was having real trouble saying she could go along with a 30 to 35 fee increase on a fee that has not been looked at for this long and see what could happen to the County. She did not know where that money to cover the fees was going to come from other than from the taxpayer, and that means that the property taxes are going to go up.

Mr. Morris asked to move the question.

Mr. Strucko asked if there were any more comments. The motion on the table is to adopt Attachment B which is roughly a 30 to 35 percent increase in the fees that have not been changed for 7 years. That will capture some of the cost of living changes that have occurred over that period.

Mr. Joseph asked where the Home Occupation Class B was located.

Mr. Kamptner noted that it was under other special use permits.

Mr. Graham said that on page 12 of Attachment B under C4 and C5 it falls in the all other special use permits. One question outstanding was whether the Commission wanted to put the Home Occupation Class B in the minor classification.

Ms. Joseph noted that under C4 the fee would be \$2,000.

Mr. Graham noted that C4 was for the submission and the resubmission and the above and beyond that each additional resubmission had a fee of \$1,000.

Mr. Strucko noted that the application and resubmission was \$2,000.

Mr. Franco asked if it was possible to amend the resubmittal fee. He asked what happens if the county through the first two reviews does not pick up something. Again they were dealing with scenarios that exist. For example, if they can't approve the site plan without resubmitting for this final change but they did not pick it up in the first two submittals, which was part of the quality of the review, is the applicant going to have to resubmit. He asked if there is the ability here to amend it for those kinds of situation.

Mr. Graham said that staff has talked about that in talking about what technically is a resubmission. It would not be a resubmission if staff is asking for information that was not included in the initial review.

Mr. Franco asked if it would not be a resubmission if the applicants are doing something that is not required that neighbors ask for and they are working with the adjacent neighbor or the Commission or somebody else. He asked if there are exceptions to this resubmittal, which would start to make him feel better about it.

Mr. Graham noted that the Planning Commission can make whatever recommendation it wants in that regard. From the staff perspective he would like to say if it is something that was not asked for with the original submission it does not count as a resubmission. If they make the original submission and staff made a comment on it asking that the comment be addressed and it goes back for a third, fourth or fifth submission because the comment is still not address that is what they would consider a resubmission.

Ms. Joseph asked Mr. Morris to consider amending the motion to reduce that to other special permit application and first resubmission to \$1,000 on page 12 under C4.

Mr. Kamptner asked if the desire was to reduce the fee to C4 to move the Home Occupation Class B to C1.

Mr. Graham noted that staff has an alternative recommendation that did what they were talking about. It recommended the fees as presented in Attachment B, with the change of Home Occupation Class B, included under Section C.1 and C.2.

Mr. Morris amended the motion as stated by Mr. Graham.

Ms. Joseph amended the second to the motion.

Mr. Franco asked if they have concern about the resubmittal aspects that they were just discussing.

Ms. Joseph replied that she did but felt comfortable in what Mr. Graham has said that it would be an internal decision by staff that it is something that they missed and therefore won't require that resubmittal fee. That is what she heard. It is like a retaining wall over a drainage pipe.

Mr. Kamptner said asked regarding the previous discussion regarding the zoning clearance for the temporary fund raising activities if there was a desire to recommend a lower fee for that.

Mr. Strucko asked what the current fee is for that.

Mr. Kamptner replied that if it required a zoning clearance the current fee is \$35.

Mr. Graham noted that fee has been changed to \$50.

Mr. Kamptner said that there is a class for zoning clearance for a Home Occupation Class A which is \$25. He thought that Community Development would need to look at what an appropriate fee would be in relation to these other fees.

Mr. Strucko noted that they were talking about waiving it entirely.

Mr. Kamptner noted that it would be a recommended fee of zero from the Commission.

Mr. Strucko noted that Mr. Morris would have to amend his motion a second time to cover that issue.

Mr. Kamptner noted that staff could do that to carve out and recognize the temporary fund raising activities.

Mr. Morris amended the motion that temporary fund raising events have a fee of \$0. This would include the selling of Christmas trees by a 501C organization.

Ms. Joseph amended the second to the motion.

Mr. Franco noted that Ms. Joseph had talked about a moratorium on the fee increases. He asked if she was not worried about that anymore.

Ms. Joseph said that she was worried about that, but did not think she got the votes.

Mr. Strucko asked if she wanted to pursue that consideration to delay implementation of these fees. He asked what date the fees would be implemented.

Mr. Graham said that staff would tell the Board that the earliest they would recommend making the effective date would be February 1, assuming they made a decision in December. That would give staff time to change forms and notify all of the public about the changes.

Ms. Joseph recommended that the effective date of the fees be at the beginning of the fiscal year on July 1, 2010.

Mr. Graham noted that the recommended effective date would be July 1, 2010 and would tie into the new fiscal year.

Mr. Morris moved to amend the motion that the recommended effective date would be July 1, 2010 to tie into the new fiscal year.

Ms. Joseph amended the second to the motion.

Ms. Porterfield noted what they were saying was that they were going to vote on something now that is not going to help out this year's budget at all. They are going to go ahead and move any fee increase implementation forward for another 8 months. She asked why not have staff go back and try to do something better with all of this and find some efficiency and come up with something better.

Ms. Joseph said that the Board has looked at this and passed a resolution based on Attachment B. She did not think that they need to ask them to waste any more time because this is exactly what they are talking about is staff time.

Ms. Porterfield noted that they were voting that fee increases would not go into effect until July 2010.

Ms. Joseph said she was considering the fact that everybody was in trouble now economically including the builders and developers. One of the things they rely on in this community is the fact that the builders put people to work. They get money churning through this community when they have our builders working and when people are out there buying nails and using the nails to build houses and creating the commercial activity. If they don't have that going on they are in trouble. They have a very low unemployment rate right now but it is rising. She felt that it important for them to show the community that they support them.

Ms. Porterfield felt that supporting the community was fine, but the Commission needed to remind the taxpayers that they would be picking up the difference.

Mr. Strucko reiterated the motion. The motion is for the adoption of the fee structure outlined in Attachment B which represents about a 30 to 35 percent increase from the fees that have not been changed since 2001/2002. That motion includes some special provisions.

Mr. Kamptner noted that the class would simply be temporary fund raising activities. They run into problems when they start basing fees on who the applicant is rather than on the service that is provided. It actually ends up being a broader exemption.

Mr. Strucko agreed with Mr. Kamptner's wording. The final condition would be the recommended implementation date of these fee changes to occur July 1, 2010 which is the beginning of next fiscal year.

Motion: Mr. Morris moved and Ms. Joseph seconded to recommend the fees as presented in Attachment B, with the change of Home Occupation, Class B, to be included under Section C.1 and C.2 and the following special provisions:

1. Temporary fund raising events have a fee of \$0.
2. The recommended implementation date of the fee changes to occur on July 1, 2010 which is the beginning of next fiscal year.

(SEE STAFF REPORT ATTACHMENT B)

The motion passed by a vote of 4:1. (Ms. Porterfield voted nay.)

Mr. Strucko noted that ZTA-2009-00017 Zoning Fees would go to the Board of Supervisors on December 2, 2009 with a recommendation for approval.

The Planning Commission took a five minute break at 7:37 p.m.

The meeting reconvened at 7:45 p.m.

Regular Items:

SDP-2008-00119 Treesdale Park

The request is for approval of a preliminary site plan to construct 40,850 square feet of multi-family residential units and associated parking on 6.646 acres. This application includes a request to modify Section 4.2.3.2 to allow disturbance activity on critical slopes. The property, described as Tax Map 61, Parcels 182, 183, and 183A is zoned PRD-Planned Residential District and is located in the Rio Magisterial District on the western side of Rio Road, approximately one (1) mile north of its intersection with Pen Park Lane. The Comprehensive Plan designates this property as Urban Density in Urban Area 2. (Summer Frederick)

Ms. Frederick presented a PowerPoint presentation and summarized the staff report.

- In light of the favorable factors listed in the staff report staff recommends approval of both the preliminary site plan and the critical slopes waiver.
- Ms. Joseph brought up a point via email about the storm water sewer easement running under numerous retaining walls. The applicant has submitted this alternative to the original submission taking the storm sewer out from underneath the retaining walls.

There being no questions for staff, Mr. Strucko opened the public hearing and invited the applicant to address the Planning Commission.

Scott Collins, representative for the applicant, said that he was present to answer any questions about the project. He noted that they were able to re-route the storm sewer around the retaining walls that keeps all of the structures out of the storm easement. That should eliminate any issues. The storm sewer will pick up some public water from a VDOT right-of-way. The back retaining walls have been tiered in a manner to allow types of landscaping to help soften those walls as well. There will be some tree plantings in front of the walls to help blend in that back area into the natural surroundings of the trees behind it and to help blend it in with the other uses of the neighborhood.

Mr. Strucko invited questions for the applicant.

Ms. Porterfield asked that he talk about the wall heights.

Mr. Collins noted that for the most part they have tried to stage and tier the walls in 6' increments so to step down back to natural grade. On the northwest corner there is only one 6' retaining wall. That gets down to the natural grade a little quicker. That is also where the sanitary sewer comes through. They have tried to create a little natural flat area to get the sewer up as it comes from the Village Green Community. The second building on the southwest corner has a series of two to three walls that steps down into the neighborhood of 6' each to help get back down to the natural grade as well. The retaining wall on the side where the storm sewer now runs parallel with is more or less a 10' wall in order to make that work out.

Ms. Joseph noted that they have an easement with the adjoining property to put the pathway on. She asked if the easement includes the grading and planting.

Mr. Collins replied that it would include the grading and planting back where they do any disturbance.

Ms. Joseph if on the 10' retaining wall on the one side if there is room to put some vegetation to lower the impact.

Mr. Collins replied yes that is actually part of the criteria of that easement as well to put plantings back against the disturbed area within the easement off of the property.

Ms. Joseph said that they were going to disturb enough to get the pipe in. It looks like the grading is off to the Treeddale side. She wondered if that wall is right on the easement they have 20' where they can't plant.

Mr. Collins said that is right.

Ms. Joseph noted that they had 20' that would be naked and then the 10' high wall. She was wondering if there was something that he could do on the adjacent property to help mitigate height with some sort of plantings on the adjacent property. She asked if that was a possibility.

Mr. Collins replied that they could certainly talk a little bit about that. Where the easement falls there is some room still within that easement. The storm sewer easement does not take up that entire 10' of that easement on the adjacent property line. There is still some room right there. That portion of the property is already heavily treed. So the combination of those two facts will provide a fair amount of coverage in that area.

Ms. Joseph asked staff to make sure that is done.

Ms. Frederick said that this portion of the Stonewater property where the path goes through is reserved for the path and open space. So it will remain primarily treed except for the construction of the path and the grading easement that has been agreed to by the two projects.

Ms. Joseph reiterated that she was hearing that the applicant did not have a problem in putting bits of vegetation on tiered areas to just help it. She expected to see a combination of smaller trees, shrubs, etc.

Mr. Collins replied it would include some ivy to help hide it. The developer reminded him that there would be some geo-grid in some of these retaining walls. They have to make sure that they plant something there that works with the geo-grid as well. They will be working on the aspects of that.

Ms. Frederick noted that a landscaping plan will be required at final site plan for this project.

Mr. Strucko invited public comment. There being none, the public hearing was closed and the matter before the Planning Commission.

Ms. Porterfield said that this request was called up by the adjacent property owner. She asked what the concerns were.

Ms. Frederick replied that the most recent concern was from property owners on Rio Road on the other side. They were concerned about the presence of rock in this site and that blasting may cause issues for them across street. The adjacent property owners came to the Site Review Committee Meeting and spoke extensively with the Fire and Rescue representative and he explained the process and how that would be addressed. Fire and Rescue are responsible for granting those permits. The adjacent owner also spent a significant amount of time with the applicant in discussions. It was her understanding they asked questions at length and had good conversations with the applicant and came away with a good understanding of what is going on.

Ms. Porterfield asked if it would entail blasting to put in the project.

Ms. Frederick replied that she did not know. She was not sure if that had been determined at this point.

Mr. Collins pointed out that they have done extensive borings on this project. It appears right now that they are staying above all of those places that do show rock. They are showing rock about 7' to 8' deep mainly up around Rio Road and they are not cutting down that far. They plan to work around the rock.

Ms. Joseph asked to add another condition to the one condition recommended by staff that that the applicant landscape the area between the retaining walls with a variety of small trees and shrubs.

Mr. Strucko asked if the applicant has any significant objections to that condition.

Scott Collins replied as long as the landscaping can work with the geo grid between there. They would need to work with size and the shape of the trees that grow.

Ms. Joseph said that the condition says with a variety of small trees and it was up to the applicant to do so.

Mr. Franco asked if Ms. Joseph's condition was to be done to the best the applicant can with the geo grid.

Ms. Joseph agreed.

Motion on Critical Slopes Waiver:

Motion: Ms. Porterfield moved and Mr. Morris seconded to approve the critical slopes waiver as submitted with the two recommended conditions.

1. Must meet the requirements of Chapter 18 Section 32.6 for Final Site Plan.
2. Landscape the area between the retaining walls with a variety of small trees and shrubs as best they can with the geo grid.

The motion passed by a vote of 5:0.

Mr. Strucko noted that the waiver of Section 4.2.5 for critical slopes was approved.

Motion on Preliminary Site Plan:

Motion: Ms. Porterfield moved and Mr. Morris seconded for approval of the preliminary site plan with the condition recommended by staff, as amended.

1. Must meet the requirements of Chapter 18 Section 32.6 for Final Site Plan.
2. Landscape the area between the retaining walls with a variety of small trees and shrubs.

The motion passed by a vote of 5:0.

Old Business:

Mr. Strucko asked if there was any old business.

- Mr. Cilimberg noted that the Treesdale project is a great example to consider as to why the costs of review are what they are due to level of review/expectations by the Planning Commission and Board of Supervisors to address issues and public concerns and the need for the site plan to come to the Commission for approval.
- It was noted that the action memo is not minutes and just a synopsis of what the Commission decided on.

There being no further old business, the meeting moved to the next item.

New Business:

Mr. Strucko asked if there was any new business. There being none, the meeting moved to the next item.

Adjournment:

With no further items, the meeting adjourned at 8:11 p.m. to the November 17, 2009 meeting at 4:30 p.m. at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning Boards)