

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

The Albemarle County Planning Commission held a public hearing and meeting on Tuesday, March 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, Don Franco, Calvin Morris, Bill Edgerton, Linda Porterfield; Eric Strucko, Chairman; and Thomas Loach, Vice Chairman. Eric Strucko, Chairman arrived at 6:13 p.m. Julia Monteith, AICP, non-voting representative for the University of Virginia was absent.

Other officials present were Wayne Cilimberg, Director of Planning; Mark Graham, Director of Community Development; Bill Fritz, Chief of Current Development, Juan Wade, Transportation Planner; Gerald Gatobu, Principal Planner; Eryn Brennan, Senior Planner; David Benish, Chief of Planning and Greg Kamptner, Deputy County Attorney.

**Call to Order and Establish Quorum:**

Mr. Loach called the regular meeting to order at 6:00 p.m. and established a quorum.

**Committee Reports:**

Mr. Loach invited committee reports.

- Ms. Porterfield reported that the Historic Preservation Committee is working on preservation week which is April 3 – 11. Information is available at [www.preservationweek.com](http://www.preservationweek.com). As part of preservation week, there is an effort to have pictures posted with a sign that says “This place matters.” Anyone interested in getting involved can obtain specifics from Margaret Maliszewski.
- Mr. Morris reported that the Pantops Planning Committee is taking a look at working on things that can be accomplished such as trail connections, crossovers to Route 250, etc.
- Ms. Joseph noted that she missed the MPO Tech meeting because she and Mr. Edgerton were meeting with Mark Graham talking about wind turbines.
- Mr. Edgerton deferred discussion of wind turbines until the end of the meeting under new business.

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

Mr. Loach welcomed Don Franco as the new Planning Commission member.

**Review of Board of Supervisors Meeting – March 4, 2009**

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

**Other Matters Not Listed on the Agenda from the Public:**

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

**Consent Agenda:**

**Approval of Minutes** – January 6, 2009, January 20, 2009, July 31, 2007, October 23, 2007 and December 11, 2007

Mr. Loach asked if any Commissioner would like to pull an item from the consent agenda for further review.

Mr. Morris noted that three Commissioners were not here in 2007.

Mr. Morris moved and Ms. Joseph seconded for approval of the minutes of January 6, 2009, January 20, 2009, July 31, 2007, October 23, 2007 and December 11, 2007

The motion failed by a vote of 3:0:3. (Mr. Loach, Ms. Porterfield and Mr. Franco abstained.)

Mr. Kamptner noted that only gives three votes in the affirmative, which won't be enough to approve the minutes. He suggested that the Commission delay the vote until next week. He pointed out that although a Commissioner was not on the Commission at the time they are eligible to vote on the minutes because the Commission acts as a body.

Mr. Loach tabled the consent agenda items until next week.

### **Regular Items:**

#### **HO-2009-00027 Kate White**

The request is for a modification for a Home Occupation Class A for a massage therapy practice in accordance with Section 5.2 of the Zoning Ordinance. The modification is for the number of vehicles trips allowed and off-site parking for her residence at 658 Tyree Lane. The applicant is currently allowed seven clients per week and is seeking to have that modified to be allowed to have seven clients per day. The property described as is 062G0-01-6B-04700 located in the Belvedere subdivision. The property is zoned neighborhood model district. The Comprehensive Plan designates this property as neighborhood density in the Rio Magisterial District. (Juan Wade)

Mr. Wade summarized the staff report. (See Staff Report)

- This is a request for a modification to a Home Occupation Class A for the number of vehicle trips and parking. The home is located in the Belvedere Subdivision. The garage is actually located on Tyree Lane and the home on Katie Lane. The applicant proposes to have a consulting practice at her home. The practice will take place in the current house, which is located above the garage. Staff has evaluated this request based on the transportation impacts to the Belvedere Subdivision. The applicant is requesting to serve up to seven clients per day which will generate an additional 14 trips per day. Staff does not believe that the transportation impacts for the services proposed will be greater than what will be normally anticipated with a comparable business in a residential neighborhood. There is sufficient parking that exists on the streets.
- There were questions why this was not considered a Home Occupation Class B. Mr. Kamptner can address that. There were also questions about the use of a carriage house for affordable housing. He distributed copies to the Commission of an email sent today by John Shepherd from the Zoning Division.
- Staff recommends approval of the request with the conditions noted in the staff report.

Mr. Loach invited questions for staff.

Ms. Joseph asked Mr. Kamptner to explain what is going on since there has not been any official determination made.

Mr. Kamptner replied that he thought that there was a determination made on the eligibility for this application to be processed as a Class A Home Occupation. He had not seen that determination, but was involved in the discussions that resulted in it. The reason it was determined that it qualified for a Class A Home Occupation is because of the definition, which reads "An occupation conducted in a dwelling unit for profit in connection with no person other than members of the family residing on the premises." That leaves open the door for there to be multiple dwellings on a single site for that use to qualify as a Class A Home Occupation. It is based upon the peculiar language that was used in the definition. This is an issue that staff plans to resolve in a text amendment.

Ms. Joseph noted that she did not understand because the Class B Home Occupation clearly says use of accessory structures shall be permitted only in connection with Home Occupation Class B. She questioned how it could be determined that a garage was not an accessory structure.

Mr. Kamptner noted that this use is being conducted within the carriage house, which is a dwelling. It meets the four corners of the definition of a Class A Home Occupation.

Ms. Joseph asked haven't they in the past required a Class B for something that was just another structure even if it was another home.

Mr. Kamptner replied that as far as he recalled no, not if it was a dwelling.

Mr. Cilimberg noted that he did not know that they had one where that separate structure was actually a dwelling.

Mr. Kamptner said that certainly they have had accessory structures, but not one that was also a dwelling.

Mr. Wade noted that there had been several cases when the applicant requested additional employees to come to the site.

Mr. Edgerton pointed out that his recollection from 7½ years on the Planning Commission was that they have always treated activities in accessory structures as Class B. If it is an official determination, he would like to appeal that decision to the Board.

Mr. Kamptner clarified that this is unique and he did not know if zoning has ever considered this particular issue. Based upon the discussions they were having, this may have been the first one. But this other structure is a dwelling. It is not just an accessory structure, but a dwelling.

Mr. Edgerton noted that it was represented to this Commission, the Board and in the proffers to be used for affordable housing. The email sent out by John Shepherd states regarding the use of the carriage house that they have not issued an official determination of this matter. However, it is our position that neither proffer 2 nor appendix A requires the carriage house to be used for affordable housing. Of course, paragraph 2 has a very simple title – affordable housing- and then it breaks down where they hope to provide the affordable housing. He had no problem with what is being proposed as a use on the property. But he had a problem with a representation made by the applicant to this Commission, which was very clear in the proffers, that states that these units will be used for affordable housing. Then to turn this around for the second time he was uncomfortable with and would vote against this request for that reason. He asked that the Board provide some real direction on this. If staff makes this determination, he disagreed with it and wanted to appeal it to the Board for some clear direction before they make any more exceptions.

Mr. Wade noted that was the applicant for the entire Belvedere Subdivision and not this particular request.

Mr. Edgerton agreed that it had nothing to do with this particular application.

Mr. Kamptner pointed out that the request for a determination would need to be directed to the Zoning Administrator.

Mr. Cilimberg asked if he was asking for an official determination on both, and Mr. Edgerton replied yes.

Mr. Strucko arrived at 6:13 p.m. and took over as Chairman.

Mr. Kamptner noted that the Commission could request that an official determination be made at any point. One motion should be to ask the Zoning Administrator to make a determination as to whether or

not proffer 2-2 requires the provision of affordable housing. The other issue would be whether it is a Class A or Class B Home Occupation. Since they don't have the official determination, he did not know whether the time to appeal that decision has run out or not because he did not know when it was issued. If the Commission wants to proceed with the motion requesting the determination regarding the proffer, it would probably be cleaner if the applicant would be willing to defer the request until that determination could be made. That would help. In the absence of the deferral request, the Commission could take action to consider it on its merits and based upon the other concerns. But on the merits it is a request to expand the number of weekly traffic trips and then to make a determination based upon that particular issue.

Mr. Strucko suggested that they proceed with the discussion of the staff report, take action on the application's merits and then move forward. He opened the public hearing and invited the applicant to address the Commission. He asked if the applicant would consider a deferral.

Kate White, property owner and representative for the request, noted that she was aware of the tensions. There was already a determination by the Zoning Administrator that this use was a Home Occupation Class B, but she left the letter at home. She understood that the Home Occupation Class B was allowed within the confines of the Belvedere Subdivision. The issue of affordable housing is not her affair but belongs to Stonehaus Development, who is the major developer of the development. She could not speak for that organization. She is a business owner and home owner and was waiting for the business section of Belvedere to be built so she could move into that section. This is not a permanent situation. She asked for the request to be approved to allow the business to be conducted in the carriage unit. She corrected that the home was on Tyree Lane and the carriage unit on Katie Lane. She already had been approved to operate a Class A Home Occupation out of the carriage house for five-to-seven visits a week. Therefore, she did not want a deferral. She was simply requesting more visits in order to make a living.

Ms. Porterfield asked if she ever sees patients on an emergency basis, and Ms. White replied it would be rarely and that normal business would be adequate.

There being no further questions, Mr. Strucko invited public comment.

Neil Williamson, with the Free Enterprise Forum, noted that they don't take positions on projects. It appears that much of the discussion revolves around policy. He mentioned the concept of ownership and the representations that would likely have been made when the legal deed was taken of the properties; how the Commission intends to control carriage house uses balancing the competing county priorities for affordable housing; and being positive toward cottage industries that are home occupations. It is a delicate balance. He looks forward to the conversation, but thinks it is important to recognize the ownership issues that are clearly evident in this particular application.

There being no further public comment, the public hearing was closed and the matter brought back before the Commission for discussion and action.

**Motion:** Mr. Morris moved and Ms. Porterfield seconded for approval of HO-2009-00027, Kate White based upon the request with the three conditions as stated.

Ms. Porterfield asked for an amendment to the conditions. She asked to add the condition that no medical procedures will be performed in this office. Also, she would like to delete from condition 1, "these hours of operation shall not apply in an emergency" since the applicant said that she did not see emergency patients.

Mr. Loach said that he did not know if massage was medical therapy.

Ms. Porterfield replied that she did not know either, but for some reason staff wanted to put it into the staff report. Therefore, since it was in the staff report she thought it should be included.

Mr. Wade noted that several years ago the question came up with a similar request. Staff wanted the Commission to know that there would be no medical procedures on site just in case the question came up.

Ms. Porterfield asked to remove the part referring to emergency hours since the applicant said she did not need emergency hours and her business will operate Monday through Friday from 9 am to 5:30 pm.

Mr. Morris asked if the applicant can live with that.

Ms. White agreed with the condition.

Mr. Morris amended the motion to eliminate the portion of condition 1 that says "these hours of operation shall not apply in an emergency."

Ms. Joseph noted that this has to do with policy and has nothing to do with the applicant, Ms. White. Some of the Commissioners thought that the carriage houses were going to be used for affordable housing. She was concerned that this may be marketed this way now and the applicant can go ahead and have the business here. She did not know when the Commission looked at the whole development that they anticipated that there would be all of these home occupations lining up the roads. Although there is plenty of parking now, she wonders what is going to happen in the future. She did not know if she would be inclined in the future to think positively about this because there may be more traffic. If this is a recurring theme, she was having a hard time. She wanted to support the request since she felt it was important, but feels this issue about the Class B is confusing. She felt it was really important for the Commission to see the determination letter. She thought that they have looked at things that might have been dwellings in the past and have decided they were a Class B. When she listened to Mr. Kamptner, he said that they have to appeal or ask for a proffer interpretation from the zoning administrator, but her determination is then appealed to the Board of Supervisors. She asked if that is how this works.

Mr. Kamptner replied yes, that is the procedure if the Commission wants to appeal the Zoning Administrator's interpretation of proffer 2-2.

Ms. Joseph said that the Zoning Administrator, Ms. McCulley, is responsible for determining the proffers and this does not go directly to the Board of Supervisors.

Mr. Kamptner replied no, that the request did not go directly to the Board. He asked if the Turner application had gone to the Board yet.

Mr. Cilimberg noted that the Turner application would not go to the Board since the Planning Commission makes that decision.

Mr. Edgerton said that John Shepherd's email to the Commission today said that they have not issued an official determination on the matter, however it is their position. He asked whose position? He asked if Mr. Shepherd has the authority to determine that or does it have to go to Ms. McCulley.

Mr. Kamptner said that he did not know if he has been delegated that authority to make an official determination regarding proffers.

Mr. Edgerton said that they may have to go through some official thing, but he has already said how he is going to vote on it if he is the person making the determination. He questioned if they already have their determination.

Mr. Kamptner said that this may have been discussed when the Turner home occupation went through.

Mr. Cilimberg said that it was discussed on more than one occasion, which is why Turner came through and this application is before the Commission tonight. When they have an application like this before the Commission, the determinations have already been made. The determination might not have been done

officially in writing but certainly it has been determined that it is an application properly in front of the Commission. If there was any question about the proffer accordance or Home Occupation Class A versus Class B, it would not have been in front of the Planning Commission.

Mr. Strucko asked who makes the appeal to the Board of Supervisors on this determination.

Mr. Kamptner replied that it was any party aggrieved. There would have to be a determination as to whether or not members of the Commission are aggrieved. The statute that allows appeals of all the other determinations to the Board of Zoning Appeals allows any member of a body, board or bureau of the locality to appeal. This proffer statute does not have similar language. So that is an issue they would need to look at.

Mr. Strucko said that his concern is that when they did the Turner home occupation they did not talk about much of this at all. It was after they granted the modification to the Home Occupation Class A that these matters about affordable housing were brought up. So he thought that the Commission made the decision on Turner under some ignorance about this issue.

Mr. Edgerton noted that there was a lot of ignorance because affordable housing was not even brought up.

Mr. Strucko said that was why he did not recall it. The Commission is dealing with it again with a second request in the same neighborhood. So they have set a precedent once, but they can claim ignorance on that one. The second one they can't. Now they have two residences within Belvedere with Home Occupation Class A modifications and how do they say no to a third applicant.

Mr. Cilimberg said that the Commission did not discuss it to that extent in the first consideration. The Commission asked about affordable housing, and he indicated that the policy had not been adopted. The reality was that the policy had been adopted as Belvedere was considered by the Board. That is the follow-up that Mr. Edgerton brought through an email. The Commission had some discussion the last time, but not to the extent that they have had it here.

Mr. Edgerton noted to be fair that he had backed off from his concern when he was assured at the Commission hearing that the policy had not been adopted because he could not honestly remember when it had been done. When he looked it up, he was surprised that it had been adopted several months before. Ms. Joseph brought it up, and his recollection was the same. Then Mr. Cilimberg told the Commission that the policy had not been adopted at that point, and he was sitting there trying to reconstruct the last seven years.

Mr. Strucko noted that they do have a motion and a second on the table. He asked if there were any other comments.

Mr. Franco said that he had one last question. He questioned if the Commission takes an action tonight and then a determination is made and it is appealed to the Board and determined that the units can't be used for a home occupation but only for affordable housing, what happens to the two home occupations that have been issued. He asked if the two home occupations granted would be grandfathered at that point.

Mr. Kamptner replied that it was possible that they might have a vested right at that point. Whether or not the approval of this particular waiver starts vesting rights is something they will need to look at.

Mr. Strucko asked for a role call.

The motion was approved by a vote of 4:3. (Franco, Porterfield, Morris and Loach voted aye.) (Joseph, Strucko and Edgerton voted nay.)

The Planning Commission approved HO-2009-00027, Belvedere Integrated Healing Arts Home

Occupation Class A Modification in accordance with Section 5.2 of the Zoning Ordinance with the conditions recommended by staff, as amended. The modification is for the number of vehicles trips allowed and off-site parking for the residence.

1. Client visits to the site shall be limited to the hours between 9:00 a.m. and 5:30 p.m., Monday through Friday.
2. Clients shall be scheduled with a minimum of 10 minutes between appointments.
3. The conduct of the home occupation shall generate no more than 14 total vehicle trips per day to the site (one client visit equals 2 vehicle trips).

Mr. Strucko asked if there was a second motion to get a determination

**Motion to get Determination:**

Mr. Loach asked to follow up to a comment made by Ms. Porterfield and Ms. Joseph about the next request that comes up and the determination for parking as a cumulative thing. He asked if it could occur now but when another request comes up that they make a determination because of what they have approved that they have essentially hit the limit or maximum and should not be approved.

Mr. Wade said that staff certainly will be on notice if any other home occupations come up in Belvedere. Staff looks at each home occupation modification on a case-by-case basis. They will be looking in the future when the commercial aspect of this development comes on line that some of those spaces that now may be available may be used by shoppers in the future.

Mr. Loach asked if they do look at the cumulative impact, and Mr. Wade replied yes.

Mr. Edgerton asked to make a motion to ask the Zoning Administrator for an official determination regarding the affordable housing proffer on this particular development on this issue, whether John Shepherd or Amelia McCulley, since he was prepared to ask that the determination be appealed to the Board of Supervisors.

Ms. Porterfield asked if he was talking about the Home Occupation Class A or B or the affordable housing.

Mr. Edgerton replied that he wanted a determination on affordable housing on this particular development. He thought that the Home Occupation Class A or Class B also needed to be clarified.

Mr. Morris asked if the two could be tied together.

Mr. Edgerton replied that he did not know since he was not an attorney. Those are the two questions, but he did not know how to do this.

Mr. Morris noted that those were the two questions that need to be addressed.

Mr. Edgerton asked if they can go straight to the Board and find out how they feel about both of these issues. Or do they have to go through this scurrilous route where they have to go back, get the written official determination and then say they don't like the determination.

Mr. Kamptner said that the scurrilous route is always the legally proper route. That would be his advice.

Mr. Edgerton noted that ultimately they are the decision-makers.

Mr. Franco said that he would rather weigh in on what Mr. Cilimberg said a minute ago which is that they made the determination which is why it is in front of the Commission. Therefore, they should take the determination that exists today and move that to the Board.

Mr. Edgerton said that there is no doubt as to how staff feels about it.

Mr. Franco questioned why they should waste the time.

Mr. Kamptner suggested that the Commission proceed with the motion to ask the Zoning Administrator to make the determination. He thought that they need to check the date of the other determination. He suggested that they make that motion first.

Mr. Cilimberg reiterated for clarity that was a motion for the determination of the proffer regarding affordable housing.

**Motion:** Mr. Edgerton moved and Mr. Morris seconded to request an official determination of the proffer regarding affordable housing and whether the proffer has made a commitment for affordable housing in the Belvedere Subdivision.

The motion passed by a vote of 7:0.

**In summary**, the Commission requested an official determination by the Zoning Administrator as to whether the Belvedere proffers made a commitment that the carriage house units would be affordable housing.

**Motion:** Ms. Joseph noted that she kept hearing from Mr. Kamptner that the determination has already been made. Therefore she was making a motion that either an official determination be made concerning Class B Home Occupations or the Commission be provided with a determination letter.

Mr. Kamptner agreed noting that the third option that they might want to build into it is if the 30 days has not run out yet, the Commission may want to authorize a member to file an appeal.

**Motion Amendment:** Ms. Joseph accepted that as the third portion of the motion.

**Second:** Mr. Morris seconded the motion.

The motion passed by a vote of 7:0.

**In summary**, the Commission requested an official determination by the Zoning Administrator that this Home Occupation qualifies as a Class A rather than a Class B. If an official determination has already been made, the Commission requested that a copy of the determination letter be provided to the Commission. If the determination has been made within the last 30 days that the Home Occupation qualifies as a Class A, then the Commission authorized an appeal of the determination by a member of the Planning Commission to the Board of Zoning Appeals.

#### **SDP-2009-00005 Woodson Property (AT&T CV 383)**

The request is for approval of a treetop personal wireless service facility with a steel/metal monopole that would be approximately 86 feet tall (four feet above the height of the reference tree), within a 20 x 20 foot lease area. This application is being made in accordance with section 10.2.1.(22) of the Zoning Ordinance, which allows for Tier II wireless facilities by right in the Rural Areas. The site is located on Monacan Trail Road [State Route 29 South] approximately 900 feet from the intersection of Plank Road [State Route 692] and Monacan Trail [State Route 29 South]. The property, described as Tax Map 87, Parcel 5B, is 4.217 acres in size, is located in the Samuel Miller Magisterial District and is zoned VR, Village Residential and EC, entrance corridor. The Comprehensive Plan designates the property as Rural Area in Rural Area 3. (Gerald Gatobu)

Mr. Gatobu presented a PowerPoint and summarized the staff report.

- Staff recommends approval of this personal wireless service facility at the proposed height of four (4) feet above the reference tree, with the conditions outlined by the Architectural Review Board. Four trees will be removed for the installation of the tower. There will be minimal grading except

for the critical slopes disturbance for .16 acre or 697 square feet.

- Waiver of Section 4.2 – disturbance of critical slopes – Staff recommends approval of the critical slopes waiver.

Mr. Strucko opened the public hearing and invited the applicant to come forward to address the Commission.

Katie Carmichael, representative for AT&T, presented a PowerPoint presentation and explained the request. Others present were Sherry Sharp, a consultant with AT&T with SAI, and the landowner Ms. Rebecca Woodson. The coverage in the Route 29 South area is poor in quite a number of areas. AT&T is intending to improve coverage in this area. She asked for approval of the request.

Mr. Strucko invited public comment.

David Hamilton, owner of Pandora Farm, said that generally the proposal looks to be well thought out. He wondered what the color would be and whether it was a steel pole.

Mr. Strucko replied that the pole would be java brown. There being no further public comment, the public hearing was closed and the matter before the Planning Commission

#### **Motion for SDP:**

**Motion:** Ms. Joseph moved and Mr. Loach seconded to approve SDP-2009-00005, Woodson Property (AT&T CV 383) at the proposed height of four (4) feet above the reference tree, with the conditions outlined by the Architectural Review Board.

The motion passed by a vote of 7:0.

Mr. Strucko said that SDP-2008-00005, Wood Property (AT&T CV 383) was approved.

#### **Motion for Critical Slopes Waiver Request:**

**Motion:** Ms. Joseph moved and Mr. Loach seconded to approve the critical slopes waiver request for SDP-2009-00005, Woodson Property (AT&T CV 383).

The motion passed by a vote of 7:0.

Mr. Strucko said that SDP-2008-00005, Wood Property (AT&T CV 383) was approved.

**The Planning Commission took a break at 7:30 p.m.**

**The meeting reconvened at 7:38 p.m.**

#### **SDP-2008-00185 Charlottesville High School Softball Field Lighting – Waiver**

The request is for minor site plan approval to allow a lighting system for the Charlottesville High School girls' softball field and a waiver of the lighting regulations in section 4.17.4(a) of the Albemarle County Zoning Ordinance in accordance with Section 4.17.5(a). The property, zoned R15 residential, described as Tax Map 61 Parcel 193, contains 26.75 acres and is located in the Rio Magisterial District on Melbourne Road [Private] about 800 feet from the intersection of Melbourne Road [Private] and Rio Road East [State Route 631]. The Comprehensive Plan designates this property as Institutional in Urban Area 2. (Gerald Gatobu)

Mr. Gatobu summarized the staff report and reviewed photographs. (See Staff Report)

- The reason for the lighting request is to meet the Title IX Equal Athletic Facilities which is for the girls' softball field in this case. Adjacent to the softball field there is a boy's football field. The

field will be used for girl's high school softball during the season. During the off season the field will be used by local community softball leagues that include players from Albemarle County. The lights would not be on later than 9:30 p.m. The latest starting time for softball games would be 7:00 p.m. The field could be used at least six times a week. Those are the important operating aspects of the softball field in terms of the timing of the lighting and when the lights would be turned on and off.

- The proposed lighting meets the standards for illuminating the field, but it does not meet the full cut-off criteria as required by the ordinance. Staff has identified a particular brand of soft lighting that could actually light a field of this size adequately and meet the full cut-off requirement. That is the reason behind staff's recommendation of denial.
- There have been no calls from neighbors against the proposal. One neighbor's call expressed a concern that it was a County project, but when told it was a City project she was fine with it.
- In 2004 the Planning Commission granted a waiver for sports lighting at Western Albemarle High School. The minutes of that particular meeting have been provided.
- Staff recommends denial of the request because there is an alternative that will meet the outdoor ordinance recommendations. The strict application will not prevent the City from achieving the Title IX Equal Athletic Facilities because there is an alternative that will actually meet the criteria.

Mr. Fritz noted that the last lighting waiver approved was for Musco Sports Lighting. The Commission also granted a modification for full cut-off fixtures at North Fork Business Park to allow use of the same types of lights in the area.

Mr. Strucko opened the public hearing and invited the applicant to come forward.

Tim Breitenbach, Project Manager for Facilities Management with the City, noted that in order to achieve the Title IX parity, Charlottesville High School must light the girl's field. Upon review of what is available, they believe the Musco Sports Lighting System will satisfy all of the essential criteria while the Soft Lighting System's product does not. Despite their light trespass controllability, Musco's luminaries are not classified as full cut-off. Therefore, he was present requesting the waiver. He emphasized that this request is on behalf of an educational institution and not a developer. The primary purpose of the field is for scholastic competition. The additional benefit to the community is that the City and the County gain a field for girls' league play. That role for the Charlottesville High School field has been recommended by County and City staff. The need at Charlottesville High School is the same as the County's schools where waivers for the use of the Musco Sports Lighting System have been granted. In 2004, Fairfax County commissioned a study of current state-of-the-art athletic field lighting systems. The findings of that study serve as a basis for much of the information that he presents. The study found that a number of disadvantages inherent in the Soft Lighting System are addressed by the Musco System. The Musco System is a complete system and includes the pole foundation design to satisfy wind-load requirements and to better handle the perception of glare. He asked that the Commission approve their request. Brian Daily, the Acting Director of the City's Parks and Recreation Department, is present to answer questions.

Mr. Strucko invited questions.

Mr. Morris noted concern about the close proximity to houses within Charlottesville and Albemarle County. In the Western Albemarle High School request, there were no homes close to the proposed new lighting. He asked for any thoughts on the effects this lighting was going to have on the folks in Charlottesville.

Mr. Breitenbach noted that there were some mitigating circumstances. The football field is much higher and the poles are much taller. The lights are unshielded. So the neighborhood is already exposed to that. This field is considerably lower than the football field and the pole heights will be limited to 60'. Until the tree cutting began for the Meadow Creek Parkway, there was a heavy tree shield all the way around. As displayed in staff's pictures, there was a gap in the outfield between three or four houses in the Stonehenge Subdivision. Those houses are going to see glare regardless of whether they use Soft Lights or Musco Lights since they are below the horizontal plane of the light fixture. They won't experience sufficient up light or spill lighting with either system. It can be controlled with the extent of a

full cut-off fixture. The Musco Lights cost less than the Soft Lighting. He noted that they could achieve full cut-off performance through how they aim the lighting fixtures.

Ms. Joseph asked if they can guarantee spill values not only on adjacent properties but up lighting, and Mr. Breitenbach replied yes.

Mr. Fritz noted that if any portion of the fixture was located below the bulb, there will be some reflectivity upwards. The bulb itself may be above any portion of the fixture that is shining down. They are saying that all of the lights would be directed downward. That is where the industry says full cut-off. All the light is emitted downward. Our ordinance does not call it full cut-off because there is some portion of the fixture that is then located below the bulb that reflects the light upward. It is full cut-off in that all of the light that is being emitted is downward. But it is not full cut-off because there is some reflectivity. That is where the difference is between the two standards.

Brian Daily, the Acting Director of Parks and Recreation in the City of Charlottesville, pointed out that his department manages the athletic fields at Charlottesville High School. This project proposal was part of their capital improvement program submission a couple of years ago to get at the Title IX inequity that exists at the high school. The boys' baseball field is lit and the girls' field is not. They anticipate that the girls' field would be on whenever there was a practice or a game. For community use, they don't anticipate initially that the field will be lit six nights a week. This is an important project, and they ask for approval of their request.

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

Mr. Loach noted concern with the glare in the sky from the lights. He requested that the company provide certification or documentation that they can comply as a condition of the use to meet our standards.

Mr. Breitenbach noted that the standard they would like to use is IESNA.

Mr. Kamptner asked if they are certifying that it is full cut-off luminaries under the IESNA standards.

Mr. Breitenbach replied that they will certify spill lighting, up lighting and the glare perimeters and that they will match the Soft Light's performance. They will guarantee their values.

Mr. Gatobu noted that in terms of the IESNA, their recommended lighting is 50 foot-candles on the infield and 30 foot-candles for the outfield. They meet that with the Musco lights. He noted that there will be other requests to light fields in the future and they need to be specific in terms of full cut-off or they need to redefine it.

**Motion:** Mr. Loach moved and Ms. Porterfield seconded to approve the waiver of the outdoor lighting regulations in Section 4.17.4(a) of the Albemarle County Zoning Ordinance in accordance with Section 4.17.5(a) with the recommended conditions.

1. Any lighting solution shall be approved by the agent for Albemarle County in the site plan approval. The applicant shall provide certification that the lights meet IESNA standards.
2. The field would be used Monday through Saturday and the lights may be on up to 10 p.m.

The motion passed by a vote of 6:1. (Mr. Edgerton voted nay.)

Mr. Strucko said that the motion passed to grant a waiver of the outdoor lighting regulations in Section 4.17.4(a) of the Albemarle County Zoning Ordinance in accordance with Section 4.17.5(a).

#### **Public Hearing Items:**

#### **SP-2008-00065 Tandem Friends School Classroom Trailer**

PROPOSED: Temporary classroom trailer in northeast corner of parcel  
ZONING CATEGORY/GENERAL USAGE: R-1 Residential - 1 unit/acre  
SECTION: 18.13.2.2 Private Schools  
COMPREHENSIVE PLAN LAND USE/DENSITY: Institutional - schools, universities and colleges and ancillary facilities and public facilities and utilities  
ENTRANCE CORRIDOR: No  
LOCATION: 279 Tandem Lane, approx. 350 feet west of the intersection with Mill Creek Dr.  
TAX MAP/PARCEL: 09100-00-00-002A0  
MAGISTERIAL DISTRICT: Scottsville  
(Eryn Brennan)

Ms. Brennan summarized the staff report. (See Staff Report)

- The proposal is for a special use permit to construct a temporary mobile classroom unit in the northeast corner of parcel. Tandem Friends School moved into a 19<sup>th</sup> century farm house on the site in 1972. Additional buildings and increased enrollment required four special use permits with three being approved in 1996 and one approved in 1997. The current request is an amendment to the 1997 special use permit to allow for the use of a modular unit on the site. No increase in enrollment is requested. Project details involve the request to place a 20' X 64' mobile classroom unit located approximately 30' northwest of the main school building to accommodate additional classroom space. The approximately 1,300 square foot modular unit is being donated to the school and has an occupant load of 194. The modular unit will be used solely for classroom space during regular hours of operation.
- On the aerial photo attached to the staff report it shows that the majority of the school buildings are clustered in the northeast portion of the site. The fields are located to the west and the parking area to the south. Also, included in the staff report is the zoning map. The parcel in question is zoned R-1, Residential. Private schools are permitted by special use permit in areas zoned R-1, Residential as they can provide support for by-right uses, most particularly residential. The proposed mobile classroom unit addition to a previously approved private school is consistent with the uses permitted in this district.
- The building will be located near the main building. Current Development has indicated a sidewalk will be required to be constructed from the mobile unit to the path circumscribing the main building.
- Staff has identified the following factors favorable to this application:
  1. The addition will continue to provide expanded educational opportunities to the community.
  2. There will be no detrimental impacts to surrounding properties.
- Staff has not identified any unfavorable factors to this application.
- Staff recommends approval of the special use permit with the conditions outlined in the staff report.

Mr. Strucko invited questions for staff.

Ms. Joseph noted that in the executive summary staff talks about a temporary use but there is no time limitation. She asked if there was any reason that the use was called temporary.

Ms. Brennan replied that the applicant has indicated that it is temporary.

Mr. Edgerton noted that he had the same question. He looks forward to the applicant explaining what they mean by temporary and if there is a date associated he would like to make that a condition of the approval.

Mr. Strucko opened the public hearing and invited the applicant to address the Commission.

Bill Dunson, with Tandem School, was present to answer questions related to the project. He explained that Tandem Friends School was a college preparatory school that embraces diversity focused on developing that which is special and unique within each individual. The school was formed in 1969. It

opened its doors in 1970 with 22 students serving the 9<sup>th</sup> and 10<sup>th</sup> grades in a location of a small brick building which is now used by Southern Development on Pantops Mountain Road. In 1972 the school moved to the Hill Crest Estate, which at the time was entered from Route 20 and was a rural estate. At that point, the school at 67 students was serving the 9<sup>th</sup> through 12<sup>th</sup> grades. In the spring of 1973, the school had its first commencement with 17 students graduating. Over time the school has continued to grow. In 1976, an 8<sup>th</sup> grade was added. In 1983, the school expanded to a full middle school with 6<sup>th</sup> through 8<sup>th</sup> grade. In 1987, a 5<sup>th</sup> grade was added, which brought about the expansions that staff alluded to during the 1990s. First a field house and gymnasium were added in addition to the soccer fields and field hockey field. A community hall with classroom space was added. In 1998, the final building was added, which is a math and science building.

Mr. Dunson explained that currently the school serves approximately 200 students. Over time additional educational electives have been offered, and this has put constraints on the space available. During the 2007/2008 school year, the Board of Tandem contracted with VMDO Architectures to do a space utilization study and analyze their needs versus the space available. At that time, the school identified that they needed two additional classrooms. Fortunately, they were given the opportunity of a donated modular trailer unit that made up two classrooms. This unit had previously been used at the Peabody School. That brings the school to the point of needing a special use permit to put the modular unit in place and hopefully to put it in use by the fall of this coming year.

In response to Mr. Edgerton's question, Mr. Dunson noted that this request is in response to doing a master campus plan with the idea that eventually they would hopefully add onto their existing gymnasium space. Ideally they would like to add a permanent designated performing arts space. Right now one of the constraints they have is that their community meeting hall is also their drama space. So every time they have drama class, they have to break everything down for the next class. But more importantly, they hope in the near future to add a permanent middle school building that would replace a current cinder block structure that they have on campus and also would replace the modular classroom unit. They are hoping to do that in the next three to four years depending somewhat on the economy and giving. That is their plan and why they refer to this as a temporary structure. The modular classroom unit is not something as a community that they want to keep on their campus in the long term. It is just to alleviate short-term space needs.

Mr. Strucko invited questions for the applicant.

Mr. Loach pointed out that he would reference the modular unit as a "learning cottage."

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

**Motion:** Ms. Porterfield moved and Mr. Morris seconded to approve SP-2008-00065, Tandem Friends School Classroom Trailer with the conditions as recommended by staff.

1. The development of the use shall be in conformity with the concept plan entitled, "Tandem Friends School Campus Plan Study Site Plan," prepared by VMDO Architects, and dated 12/4/08 as determined by the Director of Planning and the Zoning Administrator. To be in conformity with the plan, development shall reflect the following major elements within the development essential to the design of the development, including:
  - Building Orientation
  - Building Size
  - Location of the Buildings
  - Limits of Disturbance as shown on the plan.Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;
2. Additional buildings or increase in total enrollment/staffing may only be authorized by a new special use permit;

3. Total school enrollment and on-site staffing shall be limited to 260 persons.

The motion passed by a vote of 7:0.

Mr. Strucko said that SP-2008-00065, Tandem Friends School Classroom Trailer would go to the Board of Supervisors on April 8 with a recommendation for approval.

### **STA-2008-00002 Subdivision Fees**

Amend Sec. 14-203, Fees, of Chapter 14, Subdivision of Land, of the Albemarle County Code. This ordinance would amend Sec. 14-203 to impose new fees and to increase existing fees charged for almost all listed applications, permits, reviews, approvals, inspections and other services provided by the County in the administration of Chapter 14. The following fees would be increased: (1) preliminary plats reviewed by commission: (a) 1-9 lots: from \$720 to \$4100; (b) 10-19 lots: from \$1100 to \$4350; (c) 20 or more lots: from \$1330 to \$4650; (2) preliminary plats reviewed by agent: (a) 1-9 lots: from \$360 to \$2100; (b) 10-19 lots: from \$550 to \$2100; (c) 20 or more lots: \$670 to \$2100; (d) 2 lots under section 14-232(B)(2) or lots fronting on existing public street: from \$95 to \$490; (3) final plats reviewed by commission: (a) 1-9 lots: from \$720 to \$4200; (b) 10-19 lots: from \$1100 to \$4430; (c) 20 or more lots: \$1330 to \$4650; (4) final plats reviewed by agent: (a) 1-9 lots: from \$360 to \$1950; (b) 10-19 lots: from \$550 to \$2200; (c) 20 or more lots: \$670 to \$2450; (d) 2 lots under section 14-232(B)(2) or lots fronting on existing public street: from \$95 to \$1050; (5) reinstatement of preliminary or final plat review: from \$65 to \$1000; (6) plat for rural subdivision, family subdivision; resubdivision, or boundary line adjustment: from \$95 to \$1350; (7) easement plats: from \$95 to \$950 if no deed, to \$1500 with a deed; (8) bonding inspection for a plat: from \$50 to \$500; (9) groundwater assessment Tier 4: from \$1000 to \$1500; (10) waiver after preliminary plat approved, before final plat approved: from \$180 to \$1650; (11) waiver after final plat approved: from \$830 to \$1650; (12) relief from conditions imposed by commission prior to adoption of chapter 14: from \$180 to \$770; (13) appeal of plat to board of supervisors: from \$240 to \$540; and (14) extension of plat approval: from \$45 to \$240. The following fees would be added: (1) each review of public road plans, including revisions after approval: \$250; (2) each review of private road plans, including revisions after approval: \$400; (3) authorization for one or more private streets within subdivision: \$1350; (4) waiver of one or more street standards before preliminary plat approved: \$1050; (5) waiver of curb and/or gutter requirements before preliminary plat approved: \$1050; (6) waiver of street interconnection requirements before preliminary plat approved: \$1050; (7) final plat for subdivision without approved preliminary plat: applicable preliminary plat fee plus applicable final plat fee; (8) bond estimate request for subdivision improvements: \$500; (9) bonding inspection for bond reduction: \$500; groundwater assessment Tier 1: \$50; and (10) notices required by section 14-216 and 14-221: \$200 for first 50; \$1 for each notice beyond 50. The following fees would be changed but not necessarily increased: (1) groundwater assessment Tier 2: from \$250 plus \$25 per lot to \$330; (2) groundwater assessment Tier 3: from \$400 plus \$25 per lot to \$1300. The proposed fees and fee increases are necessary to assure that the fees cover the cost to the County to provide those services. The proposed fee increases are authorized by Virginia Code § 15.2-2241(9). The full text of the ordinance is available for examination by the public in the offices of the Clerk of the Board of Supervisors and in the Department of Community Development, County Office Building, 401 McIntire Road, Charlottesville, Virginia. (Mark Graham)

Mark Graham presented a PowerPoint presentation and summarized the executive summary. (See Executive Summary and PowerPoint Presentation) This is Community Development fees for the Subdivision Ordinance public hearing for a recommendation for the Board of Supervisors.

- In December, 2007 Community Development completed a fee study. It was the first major consideration of development fees since 1991. Staff found that a lot of the fees were significantly behind as far as keeping up with the cost of living and inflation.
- In August 2008, the Board adopted new fees for both the building regulations and Water Protection Ordinances.
- In September 2008, a Board work session was held to review proposed fees with a staff-recommended 50 percent cost recovery. Staff was directed to bring it to the Commission for consideration and to bring forward a recommendation.
- The first work session was held with the Planning Commission in October, 2008. A subsequent work session with the Planning Commission was held in January 2009 based on directions from

the Planning Commission with respect to a possibility of 100 percent cost recovery, making sure they captured the cost of notices and possible consideration of outsourcing for some of the reviews. What they got for directions from the Planning Commission was to move forward to a public hearing advertising a 75 percent cost recovery. That is what is before the Commission tonight.

- The Board's direction to staff was to adopt a resolution of intent. In going back through the minutes, the Board did not actually make a recommendation with respect to the percentage of cost recovery so obviously leaving it to the Commission to develop their own recommendation. At the January 2009 Planning Commission meeting, the direction staff got was the recommendation to advertise fees for 75 percent cost recovery which is the ordinance amendment that was included with the staff report. Cost recovery for notices is also included in that ordinance amendment.
- Within the executive summary there is an attachment that provides a fee comparison once again looking at the current fees, the fees under the consultant's recommendation (fee study), our staff recommendation (75 cost recovery which was taken to the Board) and then some comparisons of fees in similar localities to us.
- Staff's recommendation remains to set the fees at 50 percent cost recovery for a number of reasons. It is recognizing that they have a process that involves quite a bit more direction and action than anybody else in the area including the things coming to the Planning Commission that normally don't. They have also noted with the Board that they are asking for bi-annual fee adjustments that would be based on the annual merit increases. That is to make sure that they don't get into the same situation as they had with the lag from 1991. Then the final thing, which came from the Board of Supervisors, was to make sure that future ordinance changes that are brought forward would include the cost of service and a fee recommendation with those provisions.

Mr. Strucko invited questions from the Commission for Mr. Graham. There being none, he opened the public hearing and invited public comment.

Alex Toomey, resident of Albemarle County, builder and developer, pointed out that he just reviewed the proposal several hours before the meeting. What he did not understand was that there was no mention about the roll-back taxes that they pay on the lots that they create. For instance, there is an example of a two-lot neighborhood. If those lots assess for \$200,000, a piece that would be about \$7,000 in roll-back taxes that the developer would have to pay with 20 percent of that going to Community Development would cover the cost. On the 20 lot neighborhoods they are talking about the cost of \$4,000. A smaller percentage of those roll back taxes would easily cover the cost that the County incurs. The other question is that there is no talk about actually cutting costs in the County for outsourcing since he thought that the developer is the outsourcer. The developer hires Virginia engineers licensed by the Commonwealth of Virginia to stamp the plans and say the plans meet the Commonwealth's Ordinance. In the last couple of years, the County simplified the process by eliminating the final approval by the County. VDOT is now doing all final approvals for subdivision roads. So in the normal year those savings are calculated into this new proposal of what it costs.

Neil Williamson, of the Free Enterprise Forum, noted that he provided a document to the Commission outlining some of his concerns with the study that was used as well as his two key points. There is recognition of the cost of complexity of the ordinances. Just from the discussion tonight there is a significant cost of complexity in Albemarle County's ordinances. The Commission has developed those ordinances to protect the public good and to protect what they perceive. The public lean on those ordinances in order to be able to say what they know is going to happen with the land near them. He thinks that is a public benefit and as such the enforcement of those ordinances should be shared by the public and the private sector. He has had folks call him and say that the public sector should pay 100 percent because the developer pays to engineer the plans, pays to have the engineers come in for the reviews with the County engineers and then pays the interest carried on the property. He thought that there is clearly benefit to the applicant as well as to the public. The Free Enterprise Forum is supportive of the 50 percent cost sharing.

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

Ms. Porterfield asked staff to reply to Mr. Toomey's questions.

Mr. Graham replied that in respect to the roll-back taxes, he was not sure how it enters into the equation except that it is a source of revenue for the County. It is not directly related to the cost of a subdivision review. Therefore, he was not sure how to relate that to subdivision fees.

Mr. Loach asked for an explanation of the roll-back tax.

Mr. Graham explained when land is pulled out of Land Use, they pay the taxes for the previous five years.

Mr. Loach noted that they are talking about land in the Land Use Taxation Program when they talk about the roll-back taxes. He noted that most of the land in the Land Use Program has been in since 1975. So even paying the five years of back taxes, they have to realize that the County has subsidized the land owner for the better part of 20 years. So for anything over five years, they are getting a benefit from the Land Use Program. So he did not agree with the conclusions that were being suggested.

Mr. Graham noted that with respect to his other point on the outsourcing of the road approval that they have noted that there is a much lower fee for public roads that are reviewed by the County than for private roads. That is because they are discounting that part that is actually being done by VDOT rather than the County at this point.

Ms. Joseph agreed with staff that the reasonable request is 50 percent. She said that the community has decided that they have certain standards and she felt it was part of the community responsibility to help pay for the review of that.

Mr. Morris agreed. He thought that staff has put a lot of thought into this and 50 percent is where he thought it ought to be.

Ms. Porterfield pointed out having attended the Board of Supervisors meeting a couple of weeks ago when they opened up discussion on the incoming budget, she just cannot vote for something is not going to try to recoup the cost of doing business. Whether it is the cost of doing business for the developer, the developer is still going to pass a goodly portion of those costs on to whoever is going to buy the properties, which makes it the people in Albemarle County who want those areas to build out. She went along with bringing the advertising down to 75 percent instead of 100 percent because they could not get the votes. She just firmly believes, especially in this economy, they can't ask the Albemarle County taxpayers to pick up things that they may or may not be directly benefiting from. Even though she understands what they are saying, she felt that right now the cost of doing business was the cost of doing business. If they want to pick up 25 percent of that cost, then that is where they are. But, she just can't go any lower than the 75 percent.

Mr. Loach agreed with Ms. Porterfield that this is the cost of doing business particularly with the current economy. He felt that every department has to get in the mode to recover costs if and when they can. As far as the cost, if there was no development then there would be no cost incurred by the county. He felt that having their cost covered was different than having a fire department for protection. It is two entirely different things when talking about protection.

Mr. Edgerton agreed with Mr. Loach and Ms. Porterfield with one exception in that he would be willing to drop back to the 50 percent that staff is recommending for the two-lot family division. He continues to be frustrated by the amount of work that has to be done by the County and the fact that they can't seem to pay our staff enough or to hire enough staff to even handle it when they are in a more prosperous time than they currently are in. Actually, they are struggling with the current work load. He agreed with Ms. Porterfield that 75 percent is a good compromise between the 100 and 50 percent. He would recommend that they go with the 75 percent with the one exception on the two-lot family division as recommended by

staff. Theoretically that is there to protect the rural land owner that wants to keep some land in the family.

Mr. Franco noted that he was obviously new to the conversation on this side of the fence. But he did think that a lot of what occurs right now is initiated by the public. The proposal comes from the development community especially with ministerial acts and there should be a check box that it does this or it does not. A lot of the process is being driven by the public and being questioned by the public. As such he felt that the public has a shared responsibility for the cost of that review. He supports the staff recommendation of 50 percent. He agreed that the fees need to be updated from the 1991 costs, which was when it was last updated. But he truly believes that the public is a big piece of this process and they need to share that cost.

Mr. Strucko noted that previously he agreed to the 75 percent because that was the cap to advertise. He agreed with Ms. Porterfield, Mr. Loach and Mr. Edgerton. He liked Mr. Edgerton's suggestion regarding the two-lot family subdivision. It is for the very reasons that the others stated. He asked if there was a motion.

Ms. Porterfield asked under the notice section what was meant by "or delivering."

Mr. Kamptner noted that it was "and delivering."

Ms. Porterfield suggested that they get that out of there because the cost to hand-deliver 50 notices is going to be a lot more than \$200 when staff has to be sent out in a car to deliver. She suggested that it say "preparing and mailing."

Mr. Graham noted that delivering could be that the persons are here at the County. For example, there are other meetings at which staff can hand deliver the notice directly to the person at the meeting rather than mail it.

Ms. Porterfield questioned if they want it to be so open ended.

Mr. Graham noted that he read it to mean that it was staff's prerogative to choose.

Mr. Kamptner replied yes, that this is not obligating staff to hand deliver notices.

Ms. Porterfield agreed to second the motion as long as staff was not being obligated to hand deliver the notices.

Ms. Joseph noted that she thinks of the bottom line and that the economy is a reason she can support the 50 percent. She felt that they have to think of the economy in terms of people are out there trying to make a living actually doing this sort of thing and submitting site plans. So she was thinking of it in those terms, too.

Mr. Franco said that in the economy today he was not sure if the comment of being able to pass on the expense to the buyer is realistic. He thought that maybe in the days when things kept going up and up they could. But he thought that they have reached a cap where they can't continue to pass this burden on to the new resident.

**Motion:** Mr. Edgerton moved and Ms. Porterfield seconded to recommend approval of STA-2008-0002 Subdivision Fees to the Board of Supervisors with the 75 percent cost recovery as shown on the Chart known as Attachment 4, with the exception of the two-lot family division with the 50 percent cost recovery.

The motion passed by a vote of 4:3. (Strucko, Loach, Edgerton and Porterfield voted aye.) (Franco, Morris and Joseph voted nay.)

Mr. Strucko noted that STA-2008-0002 Subdivision Fees would go before the Board of Supervisors on April 8, 2009 with a recommendation for approval with the 75 percent cost recovery as shown on the

Chart known as Attachment 4, with the exception of the two-lot family division with the 50 percent cost recovery.

**Old Business:**

Mr. Strucko asked if there was any old business.

- By a vote of 4:0:3 approved the minutes of January 20, 2009, January 6, 2009, July 31, 2007, October 23, 2007 and December 11, 2007.(Porterfield, Loach and Franco abstained.)
- **The Rural Area Strategy Status Review** - The Board of Supervisors is scheduled to review on June 3 during the day meeting with the exact time to be determined.

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

**New Business:**

Mr. Strucko asked if there was any new business.

**Bellair Subdivision – Discussion on Non-conforming building site area on two lots**

**Motion:** Mr. Edgerton moved and Ms. Porterfield seconded to recommend staff to come back with a resolution of intent for adoption to amend the ordinance to clarify the criteria to be considered when reviewing a modification for amendment of building site shape.

The motion passed by a vote of 6:1. (Mr. Franco voted nay.)

The Planning Commission asked staff to come back with a resolution of intent for adoption to amend the ordinance to clarify the criteria to be considered when reviewing a modification for amendment of building site shape.

**Wind Turbines Discussion by Mr. Edgerton and Ms. Joseph**

Mr. Edgerton noted that discussions had taken place between Ms. Joseph, Mark Graham and himself on how to allow consideration of small wind turbines in Albemarle County. Ms. Joseph has done extensive research. They drafted very preliminary ordinance language that could be added to our ordinance. The Board has asked that the concepts be reviewed with them before proceeding to public hearings with an ordinance amendment.

- The Commission asked to review the concepts before the May 6 Joint Board/PC work session.

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

**Adjournment:**

With no further items, the meeting adjourned at 9:49 p.m. to the Tuesday, March 17, 2009 meeting at 6:00 p.m. at the County Office Building, Second Floor, Auditorium, 401 McIntire Road, Charlottesville, Virginia.

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V. Wayne Cilimberg, Secretary

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

**ATTACHMENT 4**  
**STA-2008-003 Subdivision Fees – Executive Summary Chart 4**

**ATTACHMENT 4**

Subdivision Type	Phase	County Cost	Current Fee	Fee Study	Staff Recommended *	75% Cost Recovery	100% Cost Recovery **	Charlottesville	Fluvanna County	Greene County	James City County	Stafford County
<b>2 Lot Family Division</b>		\$1,377	\$95	\$800	\$690	\$1,015	\$1,350	\$100	\$190	\$600	\$200	\$800
<b>5 Lot Subdivision</b>	<b>Preliminary - Admin</b>	\$2,301	\$360	\$1,550	\$1,150	\$1,575	\$2,100	NA	\$400	\$1,500	\$400 (+ \$250/reubmissson)	\$1,750
	<b>- PC</b>	\$4,322	\$720	\$3,840	\$2,200	\$3,075	\$4,100					\$6,750
	<b>Final - Admin</b>	\$1,990	\$360	\$435	\$1,000	\$1,465	\$1,950	\$100	\$100	\$750	NA	\$1,500
<b>20 Lot Subdivision</b>	<b>Preliminary - Admin</b>	\$2,464	\$670	\$1,550	\$1,150	\$1,575	\$2,100	\$1,730	\$700	\$3,000	\$1,510 (+\$250/resubmission)	\$2,500
	<b>- PC</b>	\$4,862	\$1,330	\$4,380	\$2,200	\$3,490	\$4,650					\$7,500
	<b>Final - Admin</b>	\$2,464	\$670	\$740	\$1,230	\$1,840	\$2,450	\$1,730	\$100	\$1,500	NA	\$3,500

\* Note: The staff recommended fees did not include a separate fee for notices. This could be added without changing the fees listed, but results in fees that are slightly higher than 50% of cost.