

COUNTY OF ALBEMARLE

TRANSMITTAL TO THE BOARD OF SUPERVISORS

SUMMARY OF PLANNING COMMISSION ACTION

AGENDA TITLE: SP201600001 Kapp Driveway	AGENDA DATE: October 5, 2016
SUBJECT/PROPOSAL/REQUEST: Grading in the floodplain for two culvert stream crossings for road access	STAFF CONTACT(S): Scott Clark, David Benish
	PRESENTER (S): Scott Clark

BACKGROUND:

At its meeting on August 23, 2016, the Planning Commission voted 2:4 (Dotson absent) to approve (with conditions) only one of the two requested stream crossings (the "Proposed Tributary Crossing") for the Kapp property near North Garden; the motion failed. The Commission then voted 3:3 to approve both proposed crossings with conditions—that motion also failed.

DISCUSSION:

Attachments A, B, and C contain the action letter, staff report, and minutes from the August 23rd Planning Commission meeting.

Staff recommended approval of the request with conditions because, with the recommended conditions, the proposed crossings would provide only limited access to land for rural residential development. Also, the conditions would require erosion-control measures and new plantings that would mitigate the impacts of the construction of the proposed crossings.

Those Planning Commissioners opposed to the proposal were concerned about additional development in the Rural Areas and about new impacts to the streams in addition to impacts of the existing crossing.

Since the Planning Commission meeting, Ms. Mallek has raised a question about how many stream crossings would be permitted on the subject property under the Water Protection Ordinance. There are no existing crossings on the subject property. The landowners' dwellings, which are located on a different, adjacent parcel, are accessed by an existing floodplain crossing that is not located on their own property.

Under the Water Protection Ordinance, County Code § 17-604(C)(7) presumes that one stream crossing meeting the performance standards in County Code § 17-604(c) is adequate to serve the owner's lot or lots existing on May 7, 2008 (the date the regulation was adopted) and all lots created therefrom on and after that date. This has been interpreted to mean that one crossing on that owner's property is permitted. Therefore, the existing crossing that provides access to the applicants' property, which is not located on the owner's property, does not count as their one permitted crossing, and one new crossing may be permitted on the owner's property.

County Code § 17-604(D) also permits the establishment of more than one stream crossing on a property. Such a request would be made to the program administrator of the Water Protection Ordinance (the County Engineer). However, as the second requested crossing in this case also requires Board approval of a special use permit, staff would interpret a Board action to approve two crossings on this site as direction to permit the second crossing under County Code § 17-604(D). If the Board does not approve a second crossing under this permit request, the second crossing would also not be approved under the Water Protection Ordinance.

RECOMMENDATIONS:

The Planning Commission did not make a recommendation on this project. Staff continues to recommend that the Board adopt the attached Resolution (Attachment A) to approve SP201600001 with the conditions attached thereto.

ATTACHMENTS:

- A - Resolution
- B - Planning Commission action letter
- C - Planning Commission staff report
- D - Planning Commission minutes