Albemarle County Planning Commission
January 21, 2003

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, January 21, 2003 at 6:00 p.m., at the County Office Building, Room 241, 401 McIntire Road, Charlottesville, Virginia. Members attending were William Rieley, Chairman; Rodney Thomas; Tracey Hopper, Vice-Chairperson; Bill Edgerton; William Finley; Jared Loewenstein and Pete Craddock.

Other officials present were Wayne Cilimberg, Director of Planning & Community Development; David Benish, Chief of Planning & Community Development; Tarpley Gillespie, Senior Planner; Juandiego Wade, Transportation Planner; Stephen Biel, Planner; Scott Clark, Planner; and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

Mr. Rieley called the meeting to order at 6:00 p.m. Being the first meeting in which Mr. Loewenstein has been back with us this new year, he would like to take the opportunity to express his personal, as well as for all of the other Commissioners, heart felt thanks for the masterful job that he has done as Chairman. He thanked Mr. Loewenstein for his many contributions to the Planning Commission during his tenure as Chairman for three terms.

Mr. Loewenstein thanked all his colleagues on the Commission for making the job as easy as they have for a long time. He commended staff for also doing an excellent job of making this fairly easy. Without their support and professionalism he could not have done it. He stated that he appreciated all of the help that he had over all of these years and looked forward to sitting on the Commission from a different perspective.

Other Matters Not Listed on the Agenda from the Public:

Mr. Rieley invited public comment on other matters not listed on the agenda. There being none, the meeting proceeded.

Review of Board of Supervisors Meeting – January 8, 2003 and January 15, 2003

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on January 8th as follows:

- The zoning text amendment for the Neighborhood Model Zoning District was deferred by the Board for further consideration until the DISC II Committee had a chance to review the comments that had been made regarding that district. It was the Board's direction at the meeting for DISC II to review the information and comments. The Board is looking for a report back at their February 5th meeting. There are two Planning Commissioners sitting with DISC II, Bill Edgerton and William Rieley. There is also one Board member that is serving as a liaison of DISC II, and that was Charles Martin for the purpose of review of these amendments.

- The Board approved ZMA-2002-012, Charlottesville Piano.

- The Board approved both of the helicopter landings for Lone Oak and John Griffin. In approving both of the special use permits, the Board added two conditions. One condition was regarding the approach for landing into those properties. The other condition would restrict any further subdivision of the property as long as the special use permit was in effect.

- The Board deferred action on the zoning text amendment for parking to their February 5th meeting. They directed staff to look at a couple of issues related to the parking provisions.

One was the whole question of how future parking should be oriented to buildings, which was basically the issue of relegated parking. Also, they wanted further consideration and research into how to provide somewhat less stringent standards for parking for smaller commercial uses that are not covered under the shopping center regulations now. They also decided that at their next meeting they would make a decision on whether they would go with the 15 percent over maximum allowance of parking for a higher 20 percent. The Board will be discussing that further.

- The Commission joined the Board in their discussion of the Crozet Masterplan Framework Plan which had a resolution approved essentially acknowledging and accepting the framework plan as a basis from which the continuing masterplan work in Crozet would be done. They specified areas in which the masterplan's final work would address issues beyond what the framework plan has done.

Mr. Cilimberg summarized the actions taken by the Board of Supervisors on January 15th as follows:

- The Board approved SP-2002-050 for Shadwell Animal Hospital with the conditions that the Planning Commission recommended.

- The Board approved SP-2002-057 for Rivanna Ridge Giant Foodstore - Outdoor Sales and Display with the conditions that the Planning Commission recommended.

- The Board approved SP-2002-058 for the Crozet Baptist Church Parsonage Amendment.

- The Board approved SP-2002-060 for the Floral Images home occupation.

Consent Agenda:

Approval of Planning Commission Minutes – November 19, 2002.

Cochran Building Site Waiver – Request for a building site waiver, pursuant to Section 4.2.5 to allow encroachment into the one hundred foot buffer of a tributary stream to a public drinking water impoundment. (Margaret Doherty)

Mr. Rieley asked to break items a and b of the consent agenda apart from item c, and asked if any Commissioner would want to pull either items a or b. There being none, he asked for a motion.

Ms. Hopper moved for the approval of items a and b on the consent agenda.

Mr. Craddock seconded the motion.

The motion carried unanimously (7:0) for approval of the November 19, 2002 Planning Commission minutes and Cochran Building Site Waiver.

SDP 02-111 Evergreen Baptist Church Major Site Plan Amendment - Request for modifications to allow one-way circulation and angled parking. (Stephen Waller)

Mr. Loewenstein reclused himself from any discussion or voting on this agenda item from the consent agenda since he was an adjacent property owner and noted that his form is still on file with the County as required by Code.

Mr. Rieley asked if any Commissioner would like to bring SDP-02-111, Evergreen Baptist Church Major Site Plan Amendment, off of the consent agenda for further discussion. There being none, he asked for a motion.

Mr. Finley moved for approval of SDP-02-111, Evergreen Baptist Church Major Site Plan Amendment.

Mr. Thomas seconded the motion.

The motion carried unanimously (6:0). (Loewenstein abstained)

Mr. Cilimbert introduced the new planner, Tarpley Gillespie, who was formerly a Planner from the City of Charlottesville. He stated that she was now a Senior Planner in their department and tonight was her first visit with the Planning Commission.

Public Hearing Items:

2232 Review County Operations Building 5th Street Extended – As per Virginia Code Section 15.2-2232, review for compliance with the Comprehensive Plan a request to locate Albemarle County government operations within the existing Wachovia Operations Facility building located at 547 Old Lynchburg Road. The 10.07-acre property, described as Tax Map 76, Parcel 54P is located on the east side of Old Lynchburg Road approximately one-quarter mile south of I-64 in the Scottsville Magisterial District. The property is zoned CO Commercial Office and is designated for Office Service in the Comprehensive Plan. The property is located within Neighborhood 5 of the designated Development Areas of the Comprehensive Plan. (Tarpley Gillespie)

Ms. Tarpley Gillespie presented the staff report. (See the attached copy of the staff report.) Late in 2002, the Albemarle County Board of Supervisors entered an agreement to purchase the Wachovia Bank Operations building at 547 Old Lynchburg Road. The County intends to use the building for Police Headquarters and administrative offices of the Fire and Rescue Department. The southern most portion of the building will be leased to Wachovia until late 2003. The County is currently studying the space needs to determine which additional departments would be the most appropriate to relocate to this site. The public use of the property requires a review for conformity with the Comprehensive Plan under Section 15.2-2232 of the State Code. There are several issues related to the transportation plan of the land use plan that they looked at. The Transportation Plan recommends that transit service should be extended in the Urban Areas. The 2001 Charlottesville Transit Service (CTS) Transit Development Plan identifies the need to extend transit service to Old Lynchburg Road. The plan includes a Five Year Operating Cost Plan which makes recommendations for phasing funding for transit improvements. The plan recommends that a new route be funded to service Old Lynchburg Road in Year Five (FY2005). Albemarle County and CTS are currently one year behind in implementing funding recommendations. Staff recommends that the County implement service to Old Lynchburg Road by FY 2005 as recommended in the Transit Development Plan. Overall, staff finds this request consistent with the Comprehensive Plan of the County of Albemarle. Staff recommends that the Planning Commission find this proposal consistent with the Comprehensive Plan, with the one recommendation that the County implement transit service to the area as recommended in the Transit Development Plan.

Mr. Rieley opened the public hearing and asked if the applicant wished to address the Commission.

Mr. Cilimberg noted that the County was the applicant in this case and did not have anything to add.

Mr. Rieley asked if anyone else from the public would like to address this issue. There being none, the matter was brought back to the Commission for discussion and possible action.

Mr. Loewenstein recommended approval of 2232 Review for the County Operations Building 5th Street Extended with the staff's recommended condition as follows: The County will implement transit service to the Old Lynchburg Road area by FY 2005 as recommended in the Transit Development Plan.

Ms. Hopper seconded the motion.

The motion carried unanimously (7:0) with the condition as previously stated.

2232 Review - Rt. 662 Relocation – As per Virginia Code Section 15.2-2232, review for compliance with the Comprehensive Plan a request to relocate State Route 662 -Bleak House Road located in Rural Area 1. Bleak House Road is the boundary for the White Hall and Rio Magisterial Districts. The proposed relocated road will begin at a point on the boundary between Tax Map 30 Parcel 10A and Tax Map 30 Parcel 10, being the southwest corner, 25 feet west of the State Route 662 centerline. The proposed road will be approximately 2,530 feet relocated to the west of the existing Bleak House Road. (Juandiego Wade)

Mr. Juandiego Wade presented the staff report. (See the attached copy of the staff report.) Review for Compliance with the Comprehensive Plan (VA Virginia Code Section 15.2-2232) Relocation of Route 662 (Bleak House Road) and abandonment of right-of-way for old alignment. Virginia Code 15.2-2232 requires the Planning Commission to review and approve the general or approximate location, and extent of a street or public area unless such feature is already shown on the adopted master plan. The proposed change in location of Route 662 is not part of the County's Comprehensive Plan or any adopted transportation plan and needs to be found in compliance with the Comprehensive Plan. Jonathan Cannon and Alice P. Cannon have requested the County's permission to relocate a portion of Bleak House Road (Route 662) that currently runs between the main house and the barn on property they own. The applicant's justification to relocate the road is to eliminate a public road that separates their home from their barn. The applicant also requests this road relocation to correct the blind curve on the road. This site was considered potentially eligible for a listing on the National Register of Historic Places. The applicant had an assessment of the site done which identified the springhouse as the only potential impact. There is no evidence that a springhouse existed other than the listing on a sketch that was not surveyed. In any event, staff has listed two conditions that will address the potential impact as they are building the road. Staff does not believe the watersupply watershed will be negatively impacted due to the proposed alignment of the new road. The relocated road will correct a dangerous curve in the road and remove a public road that separates two cultural resources. The relocated road will not negatively impact any cultural resources. Staff finds the road realignment consistent with the Comprehensive Plan and recommends approval with the three conditions listed in the staff report.

Mr. Finley asked who would do the work.

Mr. Wade stated that the applicant would work with VDOT to contract the work out. He pointed out that the applicant would pay for the work to be done.

There being no further questions for Mr. Wade, Mr. Rieley opened the public hearing and asked if the applicant would like to address the Commission.

Jonathan Cannon, property owner, concurred with the staff report and agreed with the recommendations. Basically, their goal was to correct the blind curve that was currently identified on the map. The relocation of the road would bring the house and barn on the same side of the road to make the property more suitable for agricultural use. He stated that they were interested in preserving the historical values of the property. He pointed out that Kurt Gloeckner, who did the engineering on the road, was present and would answer questions.

Mr. Rieley asked if anyone else would like to address this issue. There being none, he brought the matter back to the Commission for discussion and possible action. He commended staff on the degree of scrutiny that this project received regarding the historical significance of the property.

Mr. Loewenstein stated that this was a good project and would improve the road conditions. He stated that as a long time member of the County's Historic Preservation Committee that the right things are being done here in terms of tying the two most important elements of the historic resource together. Therefore, he supported the request. He moved for approval of 2232 Review for the Route 662 Relocation with the three conditions recommended in the staff report as follows:

1. VDOT and County Engineering approval of the road plans.
2. The applicant institute measures throughout the duration of the project to ensure that the barn is not negatively impacted by the road construction or construction-related activities.
3. If the archaeological remains of the springhouse will be impacted by the proposed construction, the applicant should record the remains prior to demolition.

Mr. Edgerton seconded the motion.

The motion for approval carried unanimously (7:0).

SP-2002-064 Free Union Country School Amendment (Sign #38) - Request to amend an existing special use permit (SP 1999-020) to allow for an increase from 90 to 120 students and staff in accordance with Section 10.2.2.5 of the Zoning Ordinance which allows for private schools. The property, described as Tax Map 29, Parcel 15D, contains 4.76 acres, and is located in the White Hall Magisterial District on the southwest side of Rt. 601 (Free Union Road), approximately 800 feet southeast from the intersection of Route 601 and Rt. 665 (Buck Mountain Road). The property is zoned RA, Rural Areas. The Comprehensive Plan designates this property as Rural Areas in Rural Area 1.

Mr. Stephen Biel presented the staff report. (See the attached copy of the staff report.)
Based on the findings contained in the staff report, staff recommends approval of the special use permit, SP-2002-064, subject to the four conditions that replace the previous conditions from SP-1999-020. He stated that the Commissioners should have received a handout of a copy of an email that he received this morning from Burton Webb, who was a resident in the general area. He pointed out that the packet included a map showing the location of Mr. Webb's house in relationship to the school's location.

Mr. Rieley asked if there were any questions for Mr. Biel. There being none, he opened the public hearing and asked if the applicant would like to address the Commission.

Jay Fennell, a teacher and representative for Free Union School, agreed with staff's recommendations. He pointed out they what they were intending to achieve by this is not to increase or expand the population, but more to compliment the existing programs. At this time the school's interior space was maxed out, particularly for graduation and the potlucks.

Mr. Finley asked if they turned the little building into a library. Does this affect this application?

Mr. Fennell stated that building was not affected by this application. He stated that they had dedicated and were in the process of renovating the white building that was located near the road.

Mr. Finley stated that it was the cabin.

Mr. Fennell stated that they expected that structure to be completed within the next three weeks.

Mr. Finley asked if they were restoring the cabin and what did they plan to use it for.

Mr. Fennell stated that the old cabin was in such terrible shape that they had to frame the structure up from the inside to preserve the historical and aesthetic impediment.

Mr. Craddock noted that in the application it says that you would like to make a final increase. He asked if this would be the last expansion request.

Mr. Fennell stated that about three years ago a consultant gave them the number of 105 students as the bare minimum of the baseline number of students that it would take to create a financial model to implement financial viability and security. Given the space, they planned to maintain the integrity of their program and not plan to put any more people in there.

Mr. Finley asked what they were doing for water since he realized that they had some contamination from their neighbor at one time.

Mr. Fennell stated that right now DEQ has a water treatment building out there. Every month they send in a water sample. He stated that basically the school has an inhouse filtration center that currently handles that. DEQ has been out mapping to find another well that is separate from the seepage.

Mr. Finley asked if the leakage was from the station.

Mr. Fennell stated that it was leakage from the old gas station.

Mr. Rieley asked if there was anyone else who would like to address this issue.

Eric Strucko, an adjacent land owner and a member of the Board of Trustees for Free Union Country School for the past three years, supported the request since he felt that Free Union School has been an anchor for the village of Free Union. He noted that it was consistent with good Rural Areas uses and that the school has been a good neighbor.

Mr. Rieley asked if anyone else wanted to speak. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and action.

Ms. Hopper stated that in Mr. Webb's email he raises a question concerning the nighttime lighting. She asked what the change in the current night-time lighting situation would be with this expansion.

Mr. Biel stated that the lighting would be reviewed at the site plan stage.

Mr. Benish stated that the lighting would be subject to down shielding and limited spillover.

Mr. Loewenstein asked if the parking requirements would be attended to at that point.

Mr. Benish stated that the parking requirements would be addressed at the site plan stage.

Mr. Finley moved for approval of SP-2002-064, Free Union Country School Amendment, with the conditions recommended by staff as follows:

The Planning Commission recommends approval of SP 2002-064, subject to the following conditions that replace the previous conditions from SP 1999-020:

1. If licensure is not required by the State Department of Welfare, this approval shall constitute a waiver of Section 5.1.6(a) of the Zoning Ordinance, set forth below:

a. No such use shall operate without any required licensure by the Virginia Department of Welfare as a childcare center. It shall be the responsibility of the owner/operator to transmit to the zoning administrator a copy of the original license and all renewals thereafter and to notify the zoning administrator of any license expiration, suspension, or revocation within three (3) days of such event. Failure to do so shall be deemed willful noncompliance with the provisions of this ordinance.
b. Periodical inspection of the premises shall be made by the Albemarle County fire official at his/her discretion. Failure to promptly admit the fire official for such inspection shall be deemed willful noncompliance with the provisions of this ordinance.
c. These provisions are supplementary and nothing stated herein shall be deemed to preclude application of the requirements of the Virginia Department of Welfare, Virginia Department of Health, Virginia State Fire Marshall, or any other local, state, or federal agency.

2. A site plan shall be required for the proposed buildings shown on the concept plan, entitled Proposed Site Plan Improvements and Additions to Free Union Country School, revised date January 7, 2003.
3. Construction of additional improvements at the site shall require amendment of the approved site plan.
4. Maximum school population (combined students and staff) shall not exceed one hundred and twenty-five (125) persons or such lesser number as may be approved by the State Department of Health and/or the Thomas Jefferson Health District, or as necessary in order to comply with the requirements of Section 32.0 of the Zoning Ordinance.

Ms. Hopper seconded the motion.

The motion carried unanimously (7:0).

Mr. Rieley stated that SP-2002-064 would go to the Board on February 5th with the recommendation for approval.

SP-02-67 Spring Hill Stream Crossing-Extension (Sign #86 & 88) - Request for special use permit to allow an extension of the deadline to begin work on an approved stream crossing until April 25, 2005 in accordance with Section 30.3.05.2.1.2 of the Zoning Ordinance which allows for water-related uses in the floodway. The property, described as Tax Map 58, Parcel 95, contains 442.656 acres, and is located in the Samuel Miller Magisterial District on Rt. 637 (Dick Woods Road), approximately 0.5 miles from the intersection of Route 637 and I-64. The property is zoned RA Rural Areas. The Comprehensive Plan designates this property as Rural Area. (Scott Clark)

AND

SP-02-68 Spring Hill Subdivision – Amendment - Request for special use permit to allow amendment of the conditions for an approved special use permit (to reduce the width of a stream buffer required by a condition of the permit) in accordance with Section 10.2.2.30 of the Zoning Ordinance which allows for requests for additional development rights. (Scott Clark)

AND

SP-02-69 Spring Hill Subdivision Extension - Request for special use permit to allow an extension of the deadline to begin work on an approved subdivision until April 25, 2004 in accordance with Section 10.2.2.30 of the Zoning Ordinance which allows for requests for additional development rights. (Scott Clark) No action taken.

Mr. Edgerton reclused himself from the discussion and vote because the applicant was a dear friend who was married to his sister.

Mr. Clark stated that in April of 2001, the Board approved SP-2000-034 to allow the creation of a single 32acre parcel from that 440 acre residue in Springhill Farm. The Board approved SP-2000-038 for a stream crossing that would access that parcel. Tax Map 80, Parcel 95 is currently largely forested and located in the watershed of the Southfork Rivanna Reservoir and is noted as a high recharge area for groundwater. There are three requests on the agenda, but staff is actually only asking for action on two of the requests for tonight. SP-02-067 is a time extension for the stream crossing. SP-02-068 is a request to amend two conditions on the permit that created the subdivision. SP-02-069 was a request for a time extension for the subdivision permit, but because the applicant has already met the condition that required the filing of a Rural Division Plat. Therefore SP-02-069 is not going to expire and is not necessary. The fee will be refunded and not action taken on it tonight. First is SP-02-067, which is a request for an extension of an expiration date for the stream crossing to April 25, 2005. Staff sees no significant change in circumstances affecting this project and gives a recommendation for approval with the conditions listed in the staff report which are the original conditions plus one additional condition that relates to the time extension. SP-02-068 is the amendment to the conditions of the permit that allowed the subdivision. There are two changes being requested here. The first one is that the original permit required a 100-foot stream buffer easement on the 102 acre parcel that was permitted. The condition was phrased in such a way that the applicant was unable to find a holder to hold those easements. The requirement would essentially just go away. The Thomas Jefferson Soil and Water Conservation District is willing to hold these easements, but has requested that the width of the buffer just on the main stone of Ivy Creek be 35 feet so that the existing open area that is used for hay production would not be lost. Staff's position is that this is a logical request, and would suggest that it is better to have the whole easement as they proposed than to have no easement whatsoever. Staff is in favor of this. Rather than just changing the width requirement to 55 feet, the Zoning Department has requested that the condition be rephrased so that the responsibility for determining if the easement is appropriate or not goes to the Water Resource Manager in consultation with the Soil and Water Conservation District. Staff has already been in communication with the Water Resource Manager. He is aware of the standards that we set and is already working towards an acceptable easement. The second request is for a condition that originally limited land clearing for residential purposes on the 102-acre parcel to the 2 acres. As stated in the justification, this condition is unworkable and unclear in that it is very difficult to determine what is a permissible agricultural or forestral clearing versus residential clearing. It is so confusing that it has caused some difficulty in communicating what exactly the restrictions are to potential buyers of the property. Therefore, he is requesting that the condition be deleted. Staff felt that the condition originally as approved by the Board was there for protecting the forest cover for forestral use, habitat and water quality and favoring those over uses such as clearing for residential development. He recognized that as this was written the entire parcel could be cleared. Rather than deleting the condition, staff's approach was to try to find a different way to minimize the impact on the parcel. Staff worked with the Zoning Department to come up with the best enforceable solution. Instead of setting a fixed acreage, since it was difficult for the Zoning inspectors to measure and verify it, they set a fixed distance from the dwelling unit and within that distance the accessory uses to a residential use would be permitted. Outside of that distance only agricultural, forestry and horticultural uses would be permitted. Staff's recommendation for SP-02-068 is for approval with the conditions as shown in the staff report. Condition 5 was rewritten to change the approach to the stream buffer easement so rather than having a fixed measurement in that condition, they just have the approval required from the Water Resources Manager. Condition 6 was rewritten to limit the area within which residential uses are permitted. He stated that he would be happy to answer any questions.

Mr. Rieley asked if there were any questions for Mr. Clark. He disclosed that he worked on the original portion of Spring Hill Subdivision in 1981, but noted that he has not worked on it in a long time. He pointed out that there was no reason why he could not be objective about this application. There being no other questions for staff, he opened the public hearing and asked if the applicant would like to address the Board.

Mr. Ethan Miller, Vice-President and owner of Gooseman's Land Corporation, noted that the first question is why this is by a special use permit. This apparently was the first special use permit under the new ordinance numbered SP-81-1. After the special use permit was approved, there was a condition that said if there was any further subdivision to be done that it would require an amendment to the special use permit. That was a condition placed on it by the Board at that time. The ordinance has changed many times since then. As he understood it, the reason that the special use permit was required in fact was because the lots were too big. A portion of the property was zoned Village Residential and it was determined that lots of over 5 acres could not exist in the VR zone. In any case, today the ordinance is quite different. There was an amendment to this special use permit in 1981 and it has not been amended since then. There are 33 lots that range from about 2 acres to 11 acres and there are no restrictions with respect to residential uses since most of them are quite wooded. Under the original plan, 29 acres were used for residential purposes. There are no restrictions on the amount of the lots. Here they are asking for an 102 acre lot that has a restriction on the residential 2 acres. If they went back to what the Board was thinking in 1981and said that they want to come back and further subdivide it, then as a consequence of what the plan was then, there would not have been a restriction on the 102 acre lot. In terms of the actual lot itself, the 102 acres, they calculated approximately 75 percent is agricultural/forestry and 25 percent is in pasture and at this point in hay production. All of the pasture is in the floodplain and protected from any use because of that. Most of it will be in the conservation area. The house site is up the hill about 150 feet in elevation higher than the floodplain. There is a by-right division that they did which is now known as the Tandem Farm Subdivision to the south. They have a potential piece in between two large lot subdivisions with a fairly well developed suburban area in Ivy. This is not an area that is amongst large farms. There are several farms within it, but this is fairly well developed. The issue here for us is that the Ivy area has developed and from our standpoint it is almost a certainly that this 102 acres will be used for estate lots. The question here is with that being the case what sense does it make to restrict this 102 acre parcel to 2 acres. Essentially from his standpoint, there was only one thing that this was going to do is going to reduce the value of the property. Now in terms of whether this property is viable for commercial forestry. It is 75 acres in forestry and clearly is not a large scale forest. The use of the property in this area is for residential and that is in fact what is there. If in fact it was necessary to come to the Commission and the Board for a special use permit essentially to conduct commercial forestry on his parcel, then they would have all of the residents opposing because of the fact that it would affect their viewshed and make them unhappy. The only experience that he had with commercial forestry was in clearing and not growing on this parcel in 1995. This large section of property was planted in Loblolly pine and the property was infested with pine beetles and the trees had to be cut down. There were three to four years of protests from the owners of the houses having to look at a reforested and replanted field. He pointed out that was the reality and that it was consistent with the use in the area. There has been an attempt to make it clearer in terms of what clearing means, but he felt that the ambiguities remain. He stated that there was no sense even if they were going to limit the residential use to a certain amount of area. There was no particular reason why it had to be next to the house. If these people wanted to have a pool or a gazebo 1,000 feet away from the house, what difference does that make. That is what might happen because the purchasers have raised these types of questions. If they want to clear a place for a pasture for my daughter's pony, is that a residential use. It is clearly not a commercial use, but is that use agricultural. He stated that he could render his opinion, but he could not say yes or no because it was argumental. You could build the same structure for your daughter's pony and that would be a residential use versus a commercial barn. How about a rose garden. Is that horticulture if she does not intend to sell the roses? If she did intend to sell the roses, then it would be horticulture. He felt that the condition was unworkable. If there were going to be a condition limiting the use, why would it be the largest lot that they subdivided? He asked that the Commission simply delete the condition.

Mr. Riley asked if anyone has questions for Mr. Miller.

Mr. Finely stated that you want that restriction lifted on which of those three lots.

Mr. Miller stated that there was only one lot.

Mr. Finley asked if there was only going to be one house.

Mr. Miller stated that it would only be one house. He stated that parcel A was before them tonight and there has been no request to subdivide the balance. He pointed out if he did make the request that he would have to come back to the Board on another day. He noted that he had the approval for this lot, but he was requesting deletion of the condition. In eighteen months, he has not gotten a single offer on the property. All he had gotten back was a lot of questions about the restrictions on the lot.

Mr. Finley stated that he could only have one house on the 102 acres, yet he was restricted to 2 acres of clearing.

Mr. Miller stated that was under the old language. He stated that he wanted the condition deleted. He stated that how it was rewritten does not focus on the clearing. It focuses on where the structures would go.

Mr. Rieley invited public comment on either of the two special use permits.

Adrian Greer, an adjacent farm owner, stated that he was confused over the one dwelling issue.

Mr. Rieley pointed out that this was related to the 102 acre parcel for which there has already been approval to subdivide. He asked for further public comment. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and action.

Mr. Finley asked if the reason the Board placed the condition on the property due to the water table.

Mr. Clark stated that water was one of the issues. The overall intent was to try to limit the extent of residential development and keep the rest of the property open and available for by-rights and some forestry, agricultural and horticultural. They felt that they had a huge block of forest that had a lot of value both to the watershed and a lot contiguous patch of woods. To allow a fragmentation of that wooded area would reduce the value of those woods quite a bit. Staff was trying to protect a lot of balance for the uses permitted in the Comprehensive.

Mr. Rieley stated that a 200 foot radius was 400 foot in diameter and was a lot more than 2 acres.

Mr. Benish noted that it was almost 3 acres.

Mr. Rieley stated that there was no restriction on the size of the building and it was measured from the edge of the building.

Mr. Finley pointed out that the objective was to not allow any drainfields or septic drainfields to prevent any further residential construction.

Mr. Benish stated that the point was that this piece of property had no rights for development. He pointed out that once the Board approves this, they would be limited to a general area which would be measurable from the building site.

Mr. Craddock asked if they would be able to build a pony lot 1000 feet from the lot.

Mr. Loewenstein stated that was not mentioned in number 6.

Mr. Hopper stated that use comes under the exception clause.

Mr. Finley asked if they could have orchards or cornfields.

Mr. Loewenstein stated that this is not prohibiting those.

Mr. Kamptner pointed out that staff prepared this language in conjunction with the Zoning Department and he would assume that they would measure from the exterior wall.

Mr. Benish stated that staff would clarify this before the item gets to the Board.

Ms. Hopper agreed with staff's suggested changes. She made a motion for approval of SP-2002-068, Spring Hill Subdivision – Amendment, with the conditions as modified from the previous approval:

1. No further division of the proposed 102-acre parcel allowed by this shall be permitted. No further division of the residue of Parcel 58-95 shall be permitted without an amendment to SP-81-01 and SP-81-55;

2. The 102-acre parcel shall be created through application for a rural division;

3. If an application for a rural division of Parcel 58-95 is not filed with the Planning Department within eighteen (18) months from the Board approval date, this permit amendment will expire;

4. Only one (1) dwelling unit shall be permitted on the 102-acre parcel;

5. A permanent riparian buffer easement, subject to the approval of the Water Resources Manager in consultation with the Thomas Jefferson Soil & Water Conservation District, shall be placed on all streams on the new 102-acre parcel. The easement shall include provisions protecting existing vegetation and a tree-planting plan to be executed where existing vegetated buffers are narrower than those called for in the easement. The plat creating the new parcel shall not be signed until this easement has been reviewed and approved by the Water Resources Manager. The easement holder shall be the Thomas Jefferson Soil & Water Conservation District.

6. No structures, septic drainfields, lawns, paved roads, or parking areas shall be established or maintained at a distance greater than 200 feet from the permitted dwelling on the parcel, except barns, farm buildings, and the stream crossing and driveway that provide access to the dwelling.

Mr. Thomas seconded the motion.

Mr. Rieley asked for a roll call vote.

Mr. Finley voted aye. He pointed out that it seems very confining, but was better than what was there.

Mr. Rieley voted aye with the caviot that he would be more comfortable if the area was larger when this goes to the Board.

Mr. Loewenstein voted aye. He shared some concerns with the Commissioners, Mr. Finley and Mr. Rieley, about the possibility of expanding that radius a little further by the time that the Board sees this.

Ms. Hopper voted aye.

Mr. Craddock voted aye.

The motion for approval for SP-02-68 carried unanimously (6:0). (Edgerton abstained)

Mr. Rieley stated that SP-02-68 would go to the Board on February 5th with the recommendation for approval with the conditions as recommended by staff.

Mr. Rieley asked for a motion on SP-02-67, Spring Hill Stream Crossing – Extension.

Mr. Loewenstein made a motion to recommend approval of SP-02-67, Spring Hill Stream Crossing-Extension with the conditions:

> The Planning Commission recommends approval of SP 02-067 with the following conditions. These conditions are the same as those approved for SP 00-034, with the addition of condition 5, which relates to the time extension.
>
> 1. The applicant shall secure the following approvals before removing vegetation or beginning work on the stream crossing:
>   a. Engineering Department approval of structural computations for the entrance and stream crossing, include structural design computations that demonstrate the bridge can safely carry the vehicles that will access the residence (including all emergency vehicles);
>   b. Fire & Rescue Department approval of the entrance design;
>   c. Engineering Department approval of computations and plans documenting changes to the floodplain. Plans must show floodplain limits and levels before and after construction. Sections 18-30.02.2 and 18-30.03.2 allow no increase in flood levels. On the plan sheet, indicate the FEMA panel and designation (Community-Panel # 510006 0215 B) and that this section of Ivy Creek is a detailed study area;
>   d. Engineering Department receipt of copies of federal and state permits for disturbance of the stream channel and any associated wetlands;
>   e. If the Engineering Department, after review of the hydraulic computations, finds that the floodplain will be changed, the applicant must obtain a map revision from FEMA;
>   f. Engineering Department approval of an erosion and sediment control plan. [17-203] A water protection (E&SC and SWM) bond must be posted and a pre-construction conference held prior to the issuance of a grading permits;
>   g. Engineering Department approval of a mitigation plan for repair and enhancement of the stream buffer. [17-322] Please include planting of trees to widen the Ivy Creek stream buffer; and
>   h. Virginia Department of Transportation approval of the entrance design, including provision of adequate sight distance.
>
> 2. In order to protect downstream habitat of the endangered James Spiny-mussel, the applicant must adhere to the following conditions recommended by the Virginia Department of Game & Inland Fisheries:
>   a. In-stream work for constructing either entrance shall not occur from May 15 to July 31 of any year;
>   b. Any cofferdams used in in-stream work for isolating the bridge construction area shall be non-erodible;
>   c. In-stream construction work shall block no more than fifty (50) percent of stream flow at any given time;
>   d. Excavated material shall be removed from the floodplain to prevent reentry of that material into Ivy Creek or its tributaries;

e. Where they have been altered by construction or vegetation removal, the original streambed and streambank contours shall be restored; and

f. Areas where vegetation has been removed for bridge construction shall be replanted with similar species (except in the area occupied by the bridge), or must be included in the tree-planting plan required as a condition of SP-2000-34.

3. The existing farm entrance shall be gated and locked upon completion of the new entrance; and

4. The applicant shall grant the County the right to periodically enter the property for the purpose of inspecting this stream crossing in order to verify no additional fill has been placed and the stream crossing remains stable.

5. The use, activity, or construction authorized by this permit shall commence by April 25, 2005.

Ms. Hopper seconded the motion.

The motion was approved (6:0). (Edgerton abstained)

Mr. Rieley stated that SP-02-67, Spring Hill Stream Crossing – Extension, would go to the Board on February 5th with the recommendation for approval.

Old Business:

Mr. Rieley asked if there was any old business to discuss.

Ms. Hopper stated that she had two items of old business. She asked staff what the status was of the Mountain Overlay District and where it is in the process.

Mr. Benish stated that the Mountain Overlay District is tentatively scheduled for a joint Planning Commission/Board public hearing on March 19th. The Board should settle on this date in early February. There will be notification to all of the property owners within the district in early enough time for them to attend an open house meeting similar to what they did last time the Mountain Protection Ordinance went through. The open house will probably be out in the front foyer where staff will be available to receive questions and explain the Ordinance to the public. That is probably going to be scheduled a week or two weeks before that public hearing. Staff has tentatively scheduled a worksession for the Commission to inform you on the Mountain Protection District. That is tentatively set for the second week in February. Mr. Kamptner will actually go over the Ordinance and Mr. Cilimberg and myself will be available to explain the background on it. The Board of Supervisors wants the Planning Commission to hold a public hearing and act jointly with the Board on the item.

Ms. Hopper pointed out that she might have a question about this issue later on, but not at this meeting. She suggested that it might be the next meeting. She stated that the other piece of old business has to do with the Peter's Mountain and Nextel. She stated that she ran into Mr. Campagna and they ended up discussing Peter's Mountain and more relevantly Nextel. She stated that there was something that he mentioned that she wanted to pass on to the Commission that was relevant to their applications. In dealing with Nextel the issue about the controversy about interference between Nextel and our emergency service communication, it appears that Nextel is working with the County on that issue and it appears that there is new information about ways to guard against interference.

New Business:

2003 Planning Commission Committee Membership

Mr. Rieley asked that if there were no objections that he would like to keep the Committee Memberships open for a couple of weeks due to some loose ends.

Adjournment:

With no further items, the meeting adjourned at 7:30 p.m.

V. Wayne Cilimberg, Secretary

(Recorded and transcribed by Sharon Taylor, Recording Secretary.)