Albemarle County Planning Commission
April 8, 2003

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, April 8, 2003 at 6:00 p.m. at the County Office Building, 401 McIntire Road, Charlottesville, Virginia. Members attending were Jared Loewenstein; Rodney Thomas; Pete Craddock; Tracey Hopper, Vice-Chairperson; Bill Edgerton; William Finley and William Rieley, Chairman.

Other officials present were David Benish, Chief of Planning & Community Development; Larry Davis, County Attorney; and Margaret Doherty, Principal Planner.

Call to Order and Establish Quorum

Mr. Rieley called the meeting to order at 6:05 p.m.

Other Matters Not Listed on the Agenda from the Public

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

Review of Board of Supervisors Meeting – April 2, 2003.

Mr. Benish reviewed the Board of Supervisors actions of April 2, 2003.

- The Board held a work session on the Six-Year Secondary Road Plan and set a public hearing for that on May 7th. They are going to public hearing with essentially the same list proposed by the Planning Commission. They have altered the unpaved road component of it since they don't want to rush into the Rural Rustic Road Programs. They were maintaining the priority of unpaved roads based on last year's priority. Over the next year staff will work on a couple of Rural Rustic Roads to see how that program works.

- The Board reviewed a proposal for the Mountain Overlay Protection Committee Composition. Staff provided the Board an outline of a committee with its representation being similar to the prior committee that was established a number of years ago in terms of areas of representation. The time frame would be for the committee to be appointed and completed at the time that staff has completed its work with the Planning Commission on the Rural Areas Section of the Comprehensive Plan, which would be at the end of this summer. The charge of that committee is to focus in on working towards an acceptable, approvable ordinance with Mountain Protection being the general mission with that. The Board supported staff's recommendation for committee appointment, timetable and staffing. Membership is to also include representative from the Historical Preservation Committee.

- SP-02-072, Arlin D. Martin, was approved as the Commission recommended, by a vote of 5:0, subject to 8 conditions. The conditions did not include the requirement for upgrading the road as recommended by the Engineering Department. The conditions did require the construction of a turn and taper lane through VDOT's regulations at the entrance onto Route 250.

- The Board held the two joint meetings with the Planning Commission on the Rural Areas Review and on the Crozet Master Plan implementation.

Consent Agenda

SDP-02-084 South Pantops Office Critical Slopes Waiver – Request for preliminary plan approval to construct one 12,200 S.F. and one 6,000 S.F. office building and associated parking.

(Yadira Amarante)

SUB-03-017 Indian Springs (Herring) Preliminary Plat – Request for authorization to allow a private road. (Yadira Amarante)

Mr. Rieley asked if any Commissioner would like to pull any item off of the consent agenda for discussion.

Mr. Edgerton asked to pull both items from the consent agenda in order to have some questions answered.

Mr. Rieley stated that both SDP-02-084 and SUB-03-017 were pulled off of the consent agenda for further clarification.

Mr. Edgerton stated that the only reason SDP-02-84 was before the Commission was for the critical slope waiver. He pointed out that when he drove by the property that it appeared that all of the grading has already been done. He questioned if there was any reason they should be having a hearing on this.

Bob Cantrell, representative for C.W. Hurt, stated that the completed grading work was the result of the fill dirt that was placed on that slope when the Giant commercial project was done. He noted that area had been filled back in and graded out. He pointed out that the critical slope waiver that they were discussing this evening was to the rear and to the west of that location, and that they have not done any grading within that area.

Mr. Thomas asked if it was the area that went down towards Dennis Enterprises.

Mr. Cantrell pointed out that the area that they were requesting approval on tonight was the area that borders the Spooner property.

Mr. Craddock stated that on the front was a storm water basin that they filled in, and Mr. Cantrell agreed.

Mr. Benish stated that staff could go out and check the site, but he was under the impression that portion had not been done.

Mr. Edgerton stated that from looking at the map where the critical slopes are shown that it appeared that they had finished this grading. He noted that he would appreciate staff looking into this matter.

Mr. Rieley asked if staff has anything to add for the staff report that the Commission has already received.

Mr. Benish stated that he did not have anything to add.

Mr. Rieley stated that they would allow the applicant to provide any information that he would like to add.

Mr. Cantrell stated that the applicant is requesting the preliminary plan approval for two office buildings of 12,200 S.F. and 6,000 S.F. and associated parking. He noted that location was used as a sediment basin for the construction of the Rivanna Ridge Shops. He referred to Attachment C from Timothy Miller, President of Rivanna Engineering & Surveying, PLC, who made some comments that would help enlightened some of these issues. The total acreage disturbed would be no greater than one acre. He asked that the Commission move for acceptance based on that minimal area that will have to be graded. He pointed out that the fill dirt that results from this would be placed over on Dennis Enterprises. He stated that they would do their best to stabilize

the area with trees and proper vegetation. He pointed out that the ARB has already given their approval, and that the Engineering Department does not have any problems with this proposal.

Mr. Thomas asked if there was any joint effort being proposed between your client and the Spooner property.

Mr. Cantrell stated that he was not aware of any project that Dr. Hurt has with the Spooner property. He pointed out that Dr. Hurt was waiting for approval for an expansion of the rear of Dennis Enterprises for a parking lot. Hopefully, if they receive approval for this site they can take some of the dirt and fill in Dennis' property and make the whole area look better.

Mr. Rieley asked if anyone else would like to speak to this application. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Ms. Hopper moved for the approval of SDP-02-84, South Pantops Office, for the critical slope waiver.

Mr. Loewenstein seconded the motion.

The motion carried (6:1). (Edgerton – No)

Mr. Rieley stated that SDP-02-084, South Pantops Office Critical Slopes Waiver, was approved. He stated that the second item was SUB-03-017, Indian Springs (Herring) Preliminary. He asked if staff had anything to add.

Mr. Benish stated that he would answer any questions that the Commission might want.

Mr. Rieley asked if there was anyone present for the applicant that would like to address this issue. He asked if anyone else would like to address this issue. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and action.

Mr. Edgerton stated that he had a question on the last Attachment D, where it shows the existing gravel road that they are proposing to use as access to the 25 plus acreage residue. There appears to be several buildings on that property and he wondered if they could have some understanding on what those buildings were. The buildings appear to be substantial in size.

Mr. Rieley stated that he was not sure if staff would be able to help them because he did not have advance notice to ask the staff planner about that issue.

Mr. Rieley asked where the time stood for this project. He asked if they had the opportunity to defer this matter.

Mr. Benish stated that he did not bring the files because he was not aware of any questions that were going to be raised on it. He stated that he did not recall on this one and would have to go back to the office to get the file.

Ms. Doherty stated that there might be a clue to this on page 2 of the staff report. Under criteria # 1, the private road will be adequate to carry the traffic volume. Ms. Amarante says that the existing driveway will be adequate to carry the traffic volume expected to be generated by the two existing single-family dwelling units on the properties. The other buildings there would have to be something other than dwelling units. She stated that staff would expect that the buildings were outbuildings, which was what she summarized from the staff report.

Mr. Benish noted that the large buildings could possibly be used for agricultural purposes.

Mr. Edgerton stated that the other concern that he had was that it appeared that the proposed building site on that same parcel is located in such a way that if they use that existing road they would have to cross a stream. He noted that it had been pointed out that they were avoiding one stream buffer, but that it appears that a stream buffer was missing on the stream up on the hill.

Ms. Doherty pointed out that building site was only for demonstration purposes since you have to show that a building site exists on the parcel. You don't have to abandon existing buildings and use the building site or build within the building site. She expected that the road was to serve the existing buildings and the building site was to show that the lot has a building site.

Mr. Rieley asked where the time stood for this project. He asked if they had the opportunity to defer this matter.

Mr. Benish asked that the Commission defer action in order for staff to pull the file and get some additional information and then they can decide whether they need to reschedule for a week.

Mr. Rieley stated that the Commission would table this issue until later in the meeting.

SP-02-63 CVS Pharmacy, Store #1554 Drive-In Window (Sign #35) – Request for special use permit to allow a drive-in window to serve a retail pharmacy in accordance with Section 22.2.2.10 of the Zoning Ordinance which allows for drive-in windows serving or associated with permitted uses. The property, described as Tax Map 32 Parcels 41A and 41D1, contains1.85 acres, and is located in the Rivanna Magisterial District on US Route 29 North across the street from the Timberwood Parkway intersection. The property is zoned C-1 Commercial. The Comprehensive Plan designates this property as Regional Service in the Hollymead Community.

Ms. Doherty stated that this was a request to develop this site as a CVS Pharmacy with a drive-in window. The pharmacy is a use allowed in the district, but the drive-in window requires a special use permit. Requests for special permits are assessed for conformity with the Zoning Ordinance provisions related to impacts on adjacent uses in the district and the recommendations set forth in the Comprehensive Plan. This would include the Land Use recommendations, the Neighborhood Model and the Design Guidelines for the Entrance Corridor. The drive-in window use will likely have limited impact on adjacent uses. Specifically, there may be a conflict within an adjacent travel way to the north and the one-way only drive-in lane. The Engineering Department was satisfied that this impact was minimal enough to be approved as proposed. Therefore, staff feels that the special use provisions of the Zoning Ordinance are met. Regarding the Land Use recommendations of the Comprehensive Plan, a public road is shown adjacent to this site known as Timberwood Boulevard and is an extension of that. The improvements necessary to serve this site from that road are shown on the site plan. Staff has a proposed a change to condition # 2, which was passed out to the Commission tonight. It addresses the requirement of the applicant to build or bond these improvements prior to getting a CO. This Comprehensive Plan's objective has been met in staff's opinion. The drive-in request was also reviewed for compliance with the twelve principles of the Neighborhood Model. This is a small site, and; therefore, not all of the principles are applicable. However, staff was concerned that the proposal includes more parking between the building and Route 29 than the adjacent property to the North and more than staff was recommending along Route 29 on Timberwood Boulevard in the Hollymead Town Center. Staff provided a context map that showed the existing retail buildings to the north of this site, which have a double row of parking in front of Route 29. The retail pads for the outbuildings proposed at Hollymead Town Center show no parking on Route 29 in front of their buildings. It is the same for the buildings proposed along Timberwood Boulevard. This conflict that the applicant finds himself in is a result of the drive-in window use of which the special use permit is the request for and that CVS has a standard building prototype which they like to use. This forces more of the parking to be located between the building and the adjacent streets. Staff worked with the applicant to locate the building as close to both streets as possible and provide enough landscaping to screen the parking. The site plan has been improved since the original submittal such that parking has been relegated to the greatest extent possible while accommodating the

drive-in and the prototype building. If a drive-in window use for a CVS pharmacy use is an appropriate use on this location or on this parcel, then the applicant having worked with staff has achieved all that could be done to meet the objectives of the Comprehensive Plan. The ARB reviewed the proposal for conformity with the Entrance Corridor Design Guidelines and expressed no objections to the special use permit request and recommended some conditions, which have been included. Finally, while staff has concerns regarding the site layout that the drive-in window use dictates, the ARB expressed no objections to the design. The Planning Commission did not comment on the design at the work session or provide comment for staff. The stacking requirements of the new parking provisions also affect the design. Therefore, staff finds that the request for a drive-in window generally complies with the provisions of the Zoning Ordinance and the Comp Plan and recommends approval with the conditions as proposed. She noted that condition # 2 had been modified. The applicant has provided the most recent landscape plan to the Commission that went to the ARB.

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

Kurt Cooper, of Kimberly Horn and Associates, stated that he represented CVS Pharmacy and the developer of the site. He asked to begin with saying the Planning staff has been exceptional to work with. He pointed out that they have worked diligently with staff to prepare a site plan that addresses the intent of your Comprehensive Plan and meets the needs for CVS Pharmacy on this site. They have been to the County ARB several times and have incorporated their comments. The ARB has expressed no objections to this request. Some of the revisions that were incorporated through the ARB process include an entire row of parking that was initially designed for the front of this site. It has now been removed from the front and placed in the rear. Correspondingly, the building has been moved 15 foot closer to Route 29. The site now works very well with the existing cross-access to Seminole Commons and the pharmacy drive-through. In addition to moving a row of parking to the rear, they have taken several other steps to ensure that the parking does not dominate this site or the building. This includes revising the grading plan and creating a berm between parking rows 2 and 3. You can see by creating that berm and heavily landscaping it, that it creates a second tier of perimeter landscape. He noted that this was quite different from a tree being placed every 9 spaces or so. They have taken a great deal of effort to continue to soften that parking. The building itself and the elevation of the building at approximately 8 feet above Route 29 would also help to soften the parking. A cross-section has been included in your packet, which shows the building and the parking. It also shows a relationship to a car on Route 29. The berm is heavily landscaped and additionally softens that viewshed from Route 29. While the interior layout might be prototypical, the exterior is certainly not prototypical and has been changed substantially in response to the ARB. He passed out a computer-generated picture of the building proposed for this site. In addition, the parking lot itself is designed as a short row of compact parking to continue to soften its impact. While a portion of the parking that they moved to the rear that they felt was appropriate for employee parking. It is critical for a retail use of this nature to have a single controlled front door to serve the store with adequate parking in close proximity. With respect to the staff report, they were grateful for the staff's assistance and their willingness to recommend approval of this special permit. They were in agreement with recommended conditions 1, 3 and 4 and would offer that condition 2 may not be necessary in that the Hollymead Town Center along Timberwood Boulevard has already proffered road improvements. However, if the Commission feels that it is necessary that they accept condition 2, they may offer slight changes in the wording. He pointed out that he thought some of that has already been accomplished by Ms. Doherty. They will, as part of this site be required to construct an entrance from Route 29, to adjust the traffic signal at this location and to construct a left-turn lane from Route 29 to the site. There are off-site improvements required. As you know, they are before the Commission tonight for approval of the special use permit, which was the primary reason for the relocation of this store. They truly believe that the new location would better serve the community. They respectfully request the approval from the Commission and would be happy to answer any questions.

Mr. Rieley asked if there were any questions for Mr. Cooper. He asked if there was anyone else from the public who would like to address this application. There being none, he closed the public hearing to bring the matter before the Commission for discussion and action.

Mr. Loewenstein stated that they were just talking about the drive-in window, which was the reason for the special use permit.

Mr. Rieley stated that as staff pointed out correctly, it is a drive-through window that influences other aspects of the site design.

Ms. Hopper asked if staff or the applicant wrote the proposed condition # 2.

Ms. Doherty stated that the proposed condition was written by Jack Kelsey and her and was a revision to her staff report.

Mr. Rieley stated as he outlined in an email to Ms. Doherty, that he was concerned that staff's position had changed on this application as a result of what seems to be a misunderstanding of the Commission's perspective on this. He pointed out that he went back and reviewed the minutes to satisfy himself that was the case. The initial staff report on this made several good points. He stated that it says in part that it was staff's opinion that the principles of pedestrian orientation, buildings and spaces of human scale and relegated parking could be met and must be met especially in an Entrance Corridor District. Further it is the special use permit requirement for the drive-in window and the applicant's insistence on a standard building prototype that is forcing a site plan that does not meet these principles. It goes on to say that the building and site design is generally not at a human scale. There is no relationship between the building and the street. There are no proposed pedestrian connections to the public rights-of-way. Staff is concerned that a decision on this site will set a precedent on future decisions most noticeable on the outparcels proposed to be located adjacent on Route 29 North at the Hollymead Town Center. He pointed out that staff put the question to the Commission whether they agree that this site layout as proposed could not be recommended for approval. The conversation at that meeting then went on to discuss a wide range of issues relative to the Hollymead Town Center itself and did not address this issue specifically. He stated that his feeling was that the conversation definitely was that the Commission wanted more information on a number of things since they expected to look at these things more carefully within that context. Speaking for himself, he did not intend that their discussion that night and the action that they took to be interpreted as not agreeing with what he thought was a very convincing description about this particular situation. He felt that those comments that were in the original staff report are just as pertinent today as to when they were made.

Mr. Edgerton stated that he agreed with almost all of what Mr. Rieley had said. He stated that he too was very surprised with the staff report suggesting that they had no reaction. He noted that he went back and looked at the minutes and he thought that they definitely had a reaction. He stated that he felt very strongly that they would be setting a dangerous precedent. He pointed out that there were two issues here being that the drive-through window is mandating that they ignore the Comprehensive Plan and the use of a standard building prototype that only benefits the developer and not the County. That again mandates that they ignore the Neighborhood Model's principles of scale and then they end up with a parking lot surrounding a box. He stated that he did not believe that the benefit to the community of having a drive-through window is great enough to ignore all of what they were trying to do on the Entrance Corridor. He pointed out that he was not going to be able to support this and was surprised that staff did not hear the Commission's previous concerns.

Mr. Thomas stated that they could not incorporate all twelve steps of the Neighborhood Model into every project. He asked what other way would the person develop this piece of property. He noted that they have a drive-through window, which was their business. He pointed out that they have shielded Route 29 with the buffers. He stated that he could support the project as it was

now. Again, he did not think that all twelve principles could be applied to every single plan that comes before the Commission. He felt that the developers have to pick the principles best suited for their projects.

Mr. Craddock asked if they would close one of the entrances onto Timberwood Boulevard as the road was built.

Ms. Doherty stated that the entrance shown to be used initially was temporary. After Timberwood Boulevard is built they will use the entrance furthest to the west and close the eastern entrance.

Mr. Craddock asked if initially they would only have one entrance.

Ms. Doherty stated that would have two entrances because they have a right in only that they share with Seminole Commons at Forest Lakes.

Mr. Finley stated that he thought this was a simple request and could therefore support it.

Mr. Loewenstein stated that he could support this request as it stands except for one concern that has to do with the drive-in stacking areas. As staff pointed out in the report, there is some significant potential for conflict with other traffic because of the stacking situation. He stated that he was not sure if that has been thoroughly discussed. He felt that this was an unusual situation. He stated that the drive-in window is moving a lot of this in the direction that it is going, but that he would find it hard to imagine that they might not end up with a request for another use with a drive-in window. He stated that he would like to see this done as well as it can be with respect to possible traffic conflicts. Other than that, he pointed out that he was not troubled by this request.

Mr. Rieley stated that along those lines he would like to suggest something that seemed to be the primary issue. He stated that it was demonstrated in the drawing on the board. That is that the alignment of buildings along this corridor be given a more urban street front. He felt that was important and did not think it was that hard to obtain. If they pass this special use permit for the drive-in window, then they will have lost the only handle that they have to improve this site plan. He noted that Mr. Cooper said that they have an unique building with a design that satisfies the ARB, but his feeling was that they need an unique site plan that fits the specific requirements of this Town Center. He felt that the site plan should be customized in the same way that the building has been customized. He noted that he did not feel that it was an impossible or even a difficult task. He stated that the only reason that they were discussing this at this stage of the game is a result of a misunderstanding that occurred at a previous work session.

Ms. Hopper moved for the denial of SP-02-63, CVS Pharmacy Store # 1554 Drive-In Window.

Mr. Edgerton seconded the motion.

Mr. Rieley asked if there was any discussion.

Mr. Thomas stated that if the applicant moves forward and lines up with Seminole Commons, then that would really create a stacking problem with the drive-through window.

Mr. Rieley pointed out that would depend on where the drive-through window was located. He stated that if they took the standard layout as a given, then they do have problems.

Mr. Loewenstein asked where they stood on the timeframe of this request. He recognized that there was a pending motion and second, but he questioned if there might be another way to work this out.

Ms. Doherty stated that on October 14th they accepted this.

Ms. Jo Higgins asked if there was an opportunity for any rebuttal.

Mr. Rieley stated that there was none.

Mr. Benish stated that they had State comments as late as February regarding road issues.

Mr. Rieley asked when the request was sent to the State.

Ms. Doherty stated that it was sent to the State on February 13th.

Mr. Rieley stated that it appeared that the application was made in the middle of October and even with subtracting the time between December and February, they were still well over the 90 days.

Mr. Larry Davis, County Attorney, stated that the application could only be deferred if the applicant wishes to consent.

Ms. Doherty stated that this issue was deferred previously.

Mr. Rieley noted that there was a deferral in the middle of this at the applicant's request and they should subtract that time out.

Ms. Doherty pointed out that the request was deferred on January 30th.

Mr. Rieley stated that in that case, it was still over 90 days because that was within the VDOT review period. The only way that this can be deferred is with the consent and request of the applicant. He stated that they have a motion on the floor. He asked what the pleasure was of the Commission.

Mr. Loewenstein stated that his question was whether or not there might be some other way to solve this. It seems that there are several issues that are pretty outstanding at this point. He stated that they could get resolution of those if the applicant voluntarily took a deferral to work some of those out. He felt that it might not take endless time to get back to the Commission since it has already been through the process more than once. He suggested that they try to give the applicant and staff some suggestions as to how to proceed if they can do that. Obviously, they need the applicant's request for a deferral. Otherwise, they have a motion for denial before the Commission.

Mr. Rieley stated that they have a motion on the floor. Before he calls for a vote on this issue, he asked the applicant if they wished to request a deferral.

Jo Higgins stated that at this time they would not like to have a deferral because the particular issues that have been pointed out have been covered in number 4 of the condition in the recommended approval.

Mr. Rieley pointed out that this was not an opportunity to continue the debate. It is an opportunity to request a deferral or not and you have made your point. He stated that the applicant has declined to request a deferral. He asked for a roll call vote on the motion and second for a denial.

The motion for denial failed on a 3:4 vote. (Loewenstein, Thomas, Finley, Craddock – No)

Mr. Rieley asked if there was a motion for approval.

Mr. Thomas moved for approval of SP-02-63, CVS Pharmacy, Store #1554 Drive-In Window with the conditions as modified by staff.

1. The site shall be developed in general accord with the attached plans, entitled CVS/ Pharmacy Site Plan, dated March 3, 2003, CVS Pharmacy Landscape Section, dated February, 2003, and CVS Pharmacy Landscape Perspective, dated February, 2003.

2. Prior to the issuance of a certificate of occupancy the applicant shall either post a one-year term bond subject to the approval of the County Attorney and the Director of the Department of Engineering and Public Works for an amount sufficient to cover the cost of full frontage improvements along the Timberwood Boulevard extension, to include the construction of a 100' taper and 100' turn lane, the permanent entrance, street trees, and a 5 foot wide concrete sidewalk or complete these required improvements. The bond may be extended annually, based upon the County Engineer's approval of a completion schedule for the proposed Timberwood Boulevard extension and the frontage improvements and upon adjusting the amount of the bond to cover the then current estimate of the amount necessary to complete the improvements, as shown on the CVS/Pharmacy Site Plan, dated March 3, 2003.

3. Architectural Review Board issuance of a Certificate of Appropriateness, and review and approval of a revised landscaping plan to include the following:

a. Provide alternative groundcover, shrubs that are suited for embankments, and replacement trees along the 2:1 slope area to the rear of the site. A blank slope with only groundcover is not appropriate;

b. Revise the buffer shrub planting heights from 24" to 36" at time of planting; and

c. Add one shade tree in each parking island east of the building, at the ends of the parking row fronting the building. Shade trees with 15 to 20 foot maximum heights are appropriate. Revise the parking as required for adequate island width in those two areas.

4. Applicant is responsible for installation and maintenance of control devices such as by-pass lanes, signage, and pavement markings as indicated on the site plan.

Mr. Finley seconded the motion.

The motion for approval carried with a 4:3 vote. (Edgerton, Rieley, Hopper – No)

Mr. Rieley stated that SP-02-63 is recommended for approval.

Old Business

Mr. Rieley asked that they go back to discuss SUB-02-017, Indian Springs (Herring) Preliminary Plat.

Mr. Benish stated that they were 55 days into the review of this request taking out the State review for this. He pointed out that it was between 54 to 56 days. Therefore, he was not sure if they had enough time to defer the request for a week and meet the 60-day review period.

Mr. Rieley asked if there was anything in the file that relates to the use.

Mr. Benish stated that there was nothing that he could identify specifically of what those buildings were. He noted that what Ms. Doherty indicated was probably a pretty good clue. One thing that he knew her staff looks at pretty carefully is traffic generation. He stated that he felt pretty confident that there were two residences.

Ms. Doherty stated that the request was specifically for a two-lot subdivision. Private road requirements are by lots and not by dwelling units. You are allowed to have up to two dwelling

units on a parcel if you have the division rights and the acreage. How that works is that when you apply for a building permit the Permit Department checks your private road status and it only goes up if you increase the lots.

Mr. Rieley noted that it was interesting that it did not go up if you increase the number of dwelling units.

Ms. Doherty stated that was correct unless you have a private covenant.

Mr. Edgerton asked if he understood staff correctly that it does not matter if the actual future building site that was shown here had to cross streams and critical slopes to get to it.

Ms. Doherty stated that if you built a road that had to be approved by the County and you tried to cross the stream, then you would have to go through the special permit process. For a driveway to serve a single unit, unless you are going through the E & S process, staff would not even know about it. She suggested that they look at the plat to see if there was any division rights being given to this parcel because she did not know if they could put another unit on this parcel. Again, they were just showing the building site to meet that Zoning requirement. She stated that the note on the plat stated that only one dwelling unit per lot was permitted. There is no reason to believe that they will be using that building site at all.

Mr. Davis stated that seemed to be consistent with Attachment C that says that there will be no increased use of those lots from the existing usage.

Mr. Loewenstein moved for approval of SUB-03-017, Indian Springs (Herring) Preliminary Plat, with the recommended conditions of approval.

1. The private road shall be the sole means of access to the Residue and Tax Map 18, Parcel 33A.
2. The subdivider shall submit a maintenance agreement that satisfies the requirements of section 14-313.
3. The final plat shall contain the statement required by section 14-303(N).
4. The surveyor shall certify on the plat that the existing and/or proposed right-of-way is of adequate width and horizontal and vertical alignment to accommodate a travelway passable by ordinary passenger vehicles in all but temporary extreme weather conditions, together with area adequate for maintenance of such travelway. Such certification may be accomplished by the following wording on the plat: "This private road will provide reasonable access by motor vehicle as required by § 14-514 of the Albemarle County Code." [14-514 (table A)]

Mr. Thomas seconded the motion.

The motion carried (6:1) with the recommended conditions. (Edgerton – No)

New Business

Mr. Rieley stated that he had an email with Mr. Cilimberg regarding impending legislation relative to cluster development and its impact on our Rural Preservation Development Ordinance in July 2004 when that becomes by right. He felt that has enormous implications for us even though it is a long way out. He stated that they have seen a number of Rural Preservation Developments recently in which we have asked for fairly specific changes to tailor the Rural Preservation Development with a specific site. That will no longer be an option for the Planning Commission. He felt it was incumbent on all of the Commissioners to begin thinking about what the nature and shape should be for that ordinance and what by right really means in that case. Mr. Cilimberg said that this would be coming to the Commission in June as a follow-up on the Rural Areas Study. That will give the Commission a little more than a year to work on it. He felt that it was a complicated issue and just wanted to pass that information along.

Adjournment

With no further business, the meeting adjourned at 7:08 p.m. to the next meeting on April 15th.

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V. Wayne Cilimberg, Secretary

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