Albemarle County Planning Commission
March 2, 2004

The Albemarle County Planning Commission held a meeting and a public hearing on Tuesday, March 2, 2004 at 6:00 p.m., at the County Office Building, Room 241, Second Floor, 401 McIntire Road, Charlottesville, Virginia. Members attending were Rodney Thomas, Chairman, Bill Edgerton, Calvin Morris, Jo Higgins and Pete Craddock, Vice-Chairman. Absent was William Rieley. Mr. Edgerton arrived at 6:15 p.m.

Other officials present were David Benish, Chief of Planning & Community Development; Margaret Doherty, Principal Planner; Scott Clark, Senior Planner and Greg Kamptner, Assistant County Attorney.

Call to Order and Establish Quorum:

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

Other Matters Not Listed on the Agenda from the Public:

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

Consent Agenda:

SDP-02-110 North Fork Town Center – Critical Slopes - Request for approval of a critical slopes waiver which will allow the approval of a final site plan for a 70,000 gross square foot office building on 33.26 acres zoned PD-IP, Planned Development Industrial Park (Stephen Waller) - (Tax Map 032, Parcel 6A)

Approval of Planning Commission Minutes – December 9, 2003 and December 16, 2003

Mr. Thomas asked if any Commissioner would like to pull any item from the consent agenda for discussion. There being none, he asked for a motion.

Ms. Higgins moved to pull item b) Approval of Planning Commission minutes from the consent agenda since three Commission members were not here at that time to be able to approve those minutes.

Mr. Morris seconded the motion.

The motion carried unanimously (5:0). (Rieley, Edgerton – Absent)

Mr. Craddock moved to approve the consent agenda as submitted with the exception of b).

Mr. Morris seconded the motion.

The motion carried by a vote of (4:0). (Rieley, Edgerton - Absent)

Items Requesting Deferral:

ZMA-2003-11 Rio East Commercial Area (Sign #10, 11) - Request to amend the proffers of ZMA-1996-004, to allow a veterinary hospital by special use permit. The property, described as Tax Map 61, Parcels 124A part of & 124B part of, contains approximately .8456 acres, and is zoned PDMC - Planned Development Mixed Commercial. The proposal is located on Rio East Ct (private), approximately .1 miles from the intersection of Rio East Ct and Rt. 631 (Rio Road East), in the Rio Magisterial District. The Comprehensive Plan designates this property as Office

Service in Neighborhood 2. (Francis MacCall) ***APPLICANT REQUESTS DEFERRAL TO MARCH 30, 2004.***

Mr. Thomas stated that the applicant requests deferral to March 30, 2004. He opened up the public hearing to see if there were anyone present who would like to speak concerning this application. There being none, he closed the public hearing to bring the matter back before the Commission for action.

Ms. Higgins moved to approve the applicant's request for deferral of SP-2003-11, Rio East Commercial Area, to March 30, 2004.

Mr. Morris seconded the motion.

The motion carried by a vote of (5:0). (Rieley, Edgerton - Absent)

Mr. Thomas stated that SP-2003-11 was deferred to March 30, 2004.

SP-2003-58 Rio East Commercial Park (Veterinary Hospital) (Sign #35, 39) - Request for special use permit to allow a veterinary office and hospital in accordance with Section 25A.2.2.1 of the Zoning Ordinance which allows for uses by special use permit in the C-1, CO, and HC districts, which a veterinary office and hospital is one of those uses. The property, described as Tax Map 61, Parcels 124A part of & 124B part of, contains approximately .8456 acres, and is zoned PDMC - Planned Development Mixed Commercial. The proposal is located on Rio East Ct (private), approximately .1 miles from the intersection of Rio East Ct and Rt. 631 (Rio Road East), in the Rio Magisterial District. The Comprehensive Plan designates this property as Office Service in Neighborhood 2. (Francis MacCall) ***APPLICANT REQUESTS DEFERRAL TO MARCH 30, 2004.***

Mr. Thomas stated that the applicant requests deferral to March 30, 2004. He opened up the public hearing to see if there was anyone present who would like to speak concerning this application. There being none, he closed the public hearing to bring the matter back before the Commission for action.

Ms. Higgins moved to approve the applicant's request for deferral of SP-2003-58, Rio East Commercial Park, to March 30, 2004.

Mr. Morris seconded the motion.

The motion carried by a vote of (5:0). (Rieley, Edgerton - Absent)

Mr. Thomas stated that SP-2003-58 was deferred to March 30, 2004.

SP 2003-083 Southside Church of God Amendment (Sign #57) - Request for special use permit to amend SP-1982-070 to allow the expansion of the church in accordance with Section 13.2.2.10 of the Zoning Ordinance, which allows for Churches. The property, described as Tax Map 90, Parcel 35B, contains 3.929 acres, and is zoned R-1, Residential. The proposal is located on Rt. 742 (Avon Street Extended), approximately .75 miles from the intersection of Mill Creek Drive and Avon Street Extended, in the Scottsville Magisterial District. The Comprehensive Plan designates this property as Urban Density (6.01-34 du/ac) in Neighborhood 4. (Francis MacCall) ***APPLICANT REQUESTS DEFERRAL TO MARCH 16, 2003.***

Mr. Thomas stated that the applicant requests deferral to March 16, 2004. He opened up the public hearing to see if there was anyone present who would like to speak concerning this application. There being none, he closed the public hearing to bring the matter back before the Commission for action.

Ms. Higgins moved to approve the applicant's request for deferral of SP-2003-83, Southside Church of God Amendment, to March 16, 2004.

Mr. Morris seconded the motion.

The motion carried by a vote of (5:0). (Rieley, Edgerton - Absent)

Mr. Thomas stated that SP-2003-83 was deferred to March 16, 2004.

ZMA-03-12 Stillfried Lane Townhouses (Sign #21, 51) - Request to rezone 6.53 acres from R-1, Residential to PRD, Planned Residential District to allow up to 25 dwelling units. The property, described as Tax Map 60, Parcels 32, 33, and 34, is located in the Jack Jouett Magisterial District on Stillfried Lane off Rt. 250W (Ivy Road) behind the Kluge Children's Rehab Center. The Comprehensive Plan designates this property as Office Service in Neighborhood 6. (Michael Barnes) ***APPLICANT REQUESTS DEFERRAL TO APRIL 6, 2004.***

Mr. Thomas stated that the applicant requests deferral to April 6, 2004. He opened up the public hearing to see if there was anyone present who would like to speak concerning this application. There being none, he closed the public hearing to bring the matter back before the Commission for action.

Ms. Higgins moved to approve the applicant's request for deferral of ZMA-03-12, Stillfried Lane Townhouses, to April 6, 2004.

Mr. Morris seconded the motion.

The motion carried by a vote of (5:0). (Rieley, Edgerton - Absent)

Mr. Thomas stated that ZMA-03-12 was deferred to April 6, 2004.

Public Hearing Items:

SP-2003-082 Old Dominion Equine Associates (Sign #27 & 30) - Request for special use permit to allow an equine veterinary practice in accordance with Section 10.2.2.18 of the Zoning Ordinance which allows for veterinary services and animal hospitals. The property, described as Tax Map 50, Parcels 20C and 20D, contains 1.704 acres, and is zoned RA, Rural Areas and EC Entrance Corridor. The proposal is located on Route 231 at the intersection of Route 640, in the Rivanna Magisterial District. The Comprehensive Plan designates this property as Rural Areas in Rural Area 2. (Scott Clark)

Mr. Clark summarized the staff report. This is a special use permit request to allow an equine veterinary practice in accordance with Section 10.2.2.18 of the Zoning Ordinance, which allows for veterinary services and animal hospitals. This use would include an office (located in the building formerly occupied by the Cash's Corner store) and a horse barn. Attachment C is the concept plan for this use. The applicant would be adding parking area and a horse barn on the site. The applicant is also requesting a waiver of Section 5.1.11 of the Zoning Ordinance, which includes supplementary regulations for noise related to veterinary uses. The office portion of the use will be located in the store building. Staff had expected that this building would have been removed. Currently this building is not considered historic, but will be in 15 or 16 years. An equine veterinary use is considered compatible with the Rural Areas zoning district. It is also located in an Entrance Corridor Overlay District. The ARB reviewed the concept plan for this proposal and expressed no objections to it. However, there are a few conditions that were not met on the concept plan that will need to be met on the site plan, which are included as conditions at the end of the staff report. The next major issue is the noise. The Zoning Ordinance has several regulations that are applied to veterinary offices, which are contained in Section 5.1.11. Those regulations are largely designed to reduce conflicts between confined

animals, such as dogs, and near by residential uses. Those regulations do not seem to apply to a horse veterinarian that will have occasional on-site visits in a rural area. Therefore, staff supports the applicant's waiver request. Under the health, safety and welfare category there are two concerns. One was the sight distance for the entrances along Route 640. The new entrance does not have sufficient sight distance, and staff recommends the condition that the applicant obtain the approval of VDOT. The condition provides flexibility for the applicant to either obtain sight easements from neighboring properties or alter the vegetation along the road in order to get sufficient sight distance for the actual travel speeds on the road through a VDOT traffic study. The applicants have already initiated the traffic study. The second concern deals with the older store building, which is being converted to an office use. While staff supports the structure's adaptive use, the Building Official wanted to make sure it was suitable for the proposed use. The Building Official has done a site inspection and determined that it is. Therefore, staff recommends approval of the waiver from Section 5.1.11 and the special use permit request subject to the five conditions listed in the staff report.

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

Jeffrey Beshear, representative of Old Dominion Equine, stated that they had been looking for a place to set up an office for a long time. This area was where they do the majority of their work. When they noticed that this property was not being used, they thought it might be a good location for their use. The property could not be turned into another store due to issues with the septic. According to the Health Department, those septic problems would not apply to this business because of the limited number of people coming to the site. This use would fit in with the neighborhood because they do not have plans to be a true hospital with constant patient traffic. It would be more of place for them to come in and out of during the day. Possibly once or twice, a week a horse may come in that is from far enough away that they cannot go to them. He pointed out that they have been through the ARB and answered most of their questions on the concept plan. The ARB felt that this use would greatly improve the area. He stated that after they were done with the plan that it would really look like a small farm.

Mr. Thomas asked if the Commissioners have any questions for the applicant.

Mr. Morris asked if they have talked with their potential future neighbors.

Mr. Beshear stated that they have talked with some of the neighbors, but first wanted to make sure that they made it through the ARB review. They have done work for most of the people in that area. They plan to go around and talk with all of the neighbors after they get through the basic administrative items.

Mr. Thomas asked if there was anyone in the audience that would like to speak on this application.

David Best stated that he owned a farm on St. John's Road that was right around the corner from the applicant's property. He stated that he was in favor of this request because the store has been an eyesore for a long time. The proposed plan for Old Dominion would support the rural character of the area, clean the site up and make it something of value to the neighborhood. He requested that the Commission look favorably upon this application.

George Forschler, owner of Misty Ridge Farm, stated that as a neighbor that he wanted to speak in favor of the application. The property has been vacated for a long time and they have been worried about the security of the area. There is a phone on that site that at times draws a lot of undesirables, etc. He stated that he reviewed the plans and it would be a real improvement and an asset to the community, particularly since it was horse related. The traffic problem should be solved when they move the exit and entrance onto Route 640. Therefore, he supported the applicant's request.

Manfred Nettick stated that he was the owner of Ashanti Farm, which was a quarter mile north of Route 640. He pointed out that Cash's Corner was always the thorn in their eyes. The veterinary office would be a great improvement for this site for the local horse owners and the entire neighborhood. Therefore, he was in favor of this application.

Mr. Edgerton arrived at 6:15 p.m.

Judy Sommer, owner of Kesmont Farm that was located directly across the street from Cash's Corner Store, stated that she had no objections to an equine vet use, but that she did have a few questions. She asked what were the five conditions that staff recommended for the property and if there was an underground gas tank on the property. If there was an underground tank, she asked if there was a plan to remove it in an environmentally acceptable way.

Mr. Thomas asked that she note all of her questions, and then the Commission would have the applicant or staff respond.

Ms. Sommer stated that the public pay telephone has been a nuisance. Many people stop there to use the telephone at all times of the night, and therefore she would love to get it out of there. Regarding security, she asked if there will be lights on all night. Since the site plan shows a lighted sign, she asked if the sign or any other security lighting would be on 24 hours a day. She objected to having the proposed site lit up like a Christmas tree since it was across the road from her farm. She asked if there would be an alarm security system. She pointed out that there could be a potential problem with false alarms. She asked if the gate would be closed at night so that people cannot drive in and park there. There is a large parking area with 10 parking spaces. She asked if trucks or trailers would be parked in those spaces overnight on a regular basis. She asked if drugs would be stored in the building that would be an attractive nuisance that might cause a security problem. She asked if the drugs used for horses would be similar to those kept in pharmacies, which could create a policing problem in the neighborhood. She asked if there will be a living space in the building. She asked if there would be a caretaker overnight for the animals. She asked if there would be a surgical suite so that horses could be brought in for surgery and stay more than overnight. She pointed out that the property is in the Southwest Mountain Rural Historic District. She voiced no opposition to the proposed use, but would be interested in knowing the answers to these questions.

Mr. Thomas pointed out that the conditions were listed in the staff report, which was located on the table in the hall.

Mr. Thomas asked if there was anyone else present to speak concerning this application. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action. He suggested that they move towards the point of answering some of the questions that Ms. Sommer brought up. He asked staff to try to answer some of the questions.

Mr. Clark stated that he could answer a few of the questions. He stated that the first condition was to ensure that the site was constructed in accordance with this plan. The second, third and fourth conditions were to satisfy the requirements of the Architectural Review Board regarding the landscaping and parking areas and the outer lighting appropriate to the rural environment. The lighting will be reviewed further when they get to the site plan stage. The final condition is requiring the applicants to meet the sight distance regulations imposed by VDOT. He pointed out that he was leaving that for the applicant and VDOT to work out. He pointed out that he did not know if there was an underground storage tank on the property. The applicant wants to remove the public telephone if their request is approved. From the discussions with the applicant, his understanding was that the gate would be closed to keep the horses in. The only other question that he could address was that the applicant has indicated that there will not be any surgery on the site. He pointed out that it was true that this property was located in the Southwest Mountain

Rural District, but because this building was built in the 1960's it is not yet considered as a contributing structure to the district. He deferred the rest of the questions to the applicant.

Mr. Craddock requested that the applicant come back up to answer the remaining questions.

Mr. Beshear stated that an EPA Study had been done and the gas tank had been removed. He pointed out that they had been through that information with the bank. The bank had information that showed that there was no residual contamination and that everything seemed to be approved for that. He agreed that their plan was to remove the phone. As far as the light goes, their plan shows that they will have very limited lighting. There would possibly be porch lights over the doors, which would be very similar to a residence. There would be a small light over the barn, which would not be enough to illuminate the parking lot unnecessarily. The light would be just enough in case someone needs to get into the building. He stated that they wanted enough light so that if the neighbors saw anybody prowling around that they could call them. He pointed out that they have not decided about the alarm system, but would assume that at one point there would be an alarm system for the building for the equipment that would call someone and not beep loudly. The gate would be closed whenever they were not there. Therefore, from 8:00 a.m. to 5:00 p.m. the gate would be open and then closed after that. The gate would be used for the double purpose of ensuring that they have a whole fence around the property in case a horse got out of the barn. The fence would also keep people from loitering or coming up to the building. Regarding the question concerning the horse and trailer, he would assume that if somebody needs to stay overnight that the truck and trailer would stay there. However, they have no plans to keep horses for more than a night at a time. He pointed out that would probably be such a rare occurrence and that he would doubt that it would be any problem. Having been at a clinic before where they had trailers in and out, he felt that most of the people came in for a night at the most and then left the next day. That is the type of cases that they plan to bring in. There is another hospital in town where they refer their long-term cases. He pointed out that also answered the surgery question in that they have no intention of having surgery on the property. Regarding the question about the drugs, he stated that they have a limited supply of drugs that any human being would want to use, but most of those are carried in their trucks. What would be considered controlled drugs would be locked up at night in a type of safe or locked up in their trucks, but that there would be some drugs on the property because of the nature of their work. Their pharmacy was not that substantial because there were only two practitioners. Therefore, they keep almost everything with them and have a limited restocking supply at the office. There are no current plans for a living space on the property. Both of the partners have homes outside of this property. Because of the limited number of horses coming in, they do not feel that they would need a caretaker. Therefore, if a horse stayed overnight one of the practitioners would come over in the evening to check on them. There would not be somebody staying on the property full time in the evening. He stated that was all of the questions that she had.

Action on the Special Use Permit:
Mr. Craddock moved for approval of SP-2003-082, Old Dominion Equine Associates, subject to the conditions as recommended in the staff report.

1. The site shall be developed in general accord with the conceptual plan titled Old Dominion Equine Associates Concept Plan, revised 2/16/04, and prepared by Muncaster Engineering.
2. The applicants shall provide a preliminary landscape plan that reflects the surrounding rural landscape to the satisfaction of the Architectural Review Board.
3. The applicants shall provide landscaping along all parking areas to the satisfaction of the Architectural Review Board.
4. Any outdoor lighting shall be designed to be appropriate to the rural environment to the satisfaction of the Architectural Review Board.
5. The applicants shall grant sight-distance easements on Route 640 to the satisfaction of the Virginia Department of Transportation.

Ms. Higgins seconded the motion.

The motion carried by a vote of (6:0). (Rieley - Absent)

Action on the Waiver:
Mr. Morris moved for approval of the waiver from section 5.1.11 of the Zoning Ordinance for SP-2003-082, Old Dominion Equine Associates.

Mr. Craddock seconded the motion.

The motion carried by a vote of (6:0). (Rieley - Absent)

Mr. Thomas stated that SP-2003-082, Old Dominion Associates, would go to the Board of Supervisors with a recommendation for approval and would be heard on April 21.

SP 2003-084 Dennis Enterprises - Rio Road (Sign # 55) - Request for special use permit to allow a car dealership in accordance with Sections 22.2.2.8 and 30.6.3.2.b of the Zoning Ordinance which allows for motor vehicle sales and any portion of outdoor storage, display and/or sales, which would be visible from an Entrance Corridor Street. The property, described as Tax Map 45, Parcels 100, 101 and 101B, contains 2.54 acres, and is zoned C-1, Commercial and EC, Entrance Corridor. The site is located on Rt. 631 (West Rio Road), approximately 250 feet east of the intersection of Rio Road and Berkmar Drive on the north side of the street, in the Rio Magisterial District. The Comprehensive Plan designates this property as Regional Service in Neighborhood 1 (Margaret Doherty)

Ms. Doherty summarized the staff report. She stated that the applicant was requesting two special use permits. One was for car sales in the C-1, Commercial District. The other special use permit was for outdoor sales and display in the Entrance Corridor. She pointed out that Mr. Strickland was about to put up a rendering of the concept plan. The ARB has reviewed the display application and has provided advisory comments. The ARB cannot support the use or the impacts of the display of the vehicles on the Entrance Corridor. She pointed out that the ARB's comments were included in the staff report, which turns into 20 conditions that they recommend should the project go forward. Generally, the ARB was concerned with this type of use in this area and the impacts that the use would have on the Entrance Corridor. Regarding the car sales in the C-1 District, staff believes that this use is not appropriate in this area. It will change the character of the neighborhood by introducing a use, which is primarily found on a major artery, like Route 29, which is characterized by heavy traffic, late operating hours and large lighted parking lots into this neighborhood of commercial and residential uses, which provides a transition from Route 29 to the neighborhoods to the west. This portion of West Rio Road consists mostly of a mix of office service and retail uses generally of a smaller scale. There are existing residential uses located in the area. As part of the upcoming Northern Urban Area Master Plan, the residential uses that exist there may be encouraged to remain and the plan may be encouraging a mix of uses. Staff will want to allow for possibly a mix in this neighborhood. Staff does not recommend introducing a high intensity use like a car dealership into the area by approving a special use permit now before the neighborhood planning effort is underway. She stated that was staff's recommendation and if the Commission had any questions that she would be happy to answer them.

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

Kelly Strickland, of Rivanna Engineering, stated that he was present to represent the applicant, Dennis Minetos, who is also present in the audience. He pointed out that Katurah Roel was also present and had worked with them on developing this concept plan. He stated that he would like to talk with the Commission about their request. First of all, he pointed out that he asked Ms. Doherty to bring a copy of the Land Use Plan, which was located on the board behind Mr.

Thomas. The pink area that runs along Route 29 north from where the river crosses down across Rio Road to where Berkmar intersects Route 29 is designated Regional Service in the Land Use Plan. That is the largest land use area designated for Regional Service in Albemarle County. There is another piece that is relatively large on Pantops that starts down near the river and goes up Route 250 to Giant Shopping Center. He stated that they feel that an auto dealership would definitely tie into a Regional Service. He stated that there were not very many people on the ARB and the Planning Commission who would be very happy about picking a spot in Albemarle County for an auto dealership. However, the fact is that was a business that needs to be in the County and everybody needs to be able to use that kind of a service. This is a place, which is in the Comprehensive Plan, that they feel has been designated for a regional use such as this. There was a comment in the staff report about a transitional zoning plan. He pointed out that the transitional zoning in the Comprehensive Plan was designated in the green area on the west side of Berkmar Drive specifically because the western by-pass being proposed through that area. One of the things mentioned in the Comp Plan was about long-term anticipated improvements being anticipated as part of a transitional zoning. Therefore, they feel that the zoning recommendation on this land use map is for Regional Service. Underneath Regional Service the different uses that are allowed and talked about in the Comprehensive Plan are regional malls, commercial sales of regional scale, medical centers, mixed use, hotel, motel, conference facilities, retail and lots of things that are in existence in that area. Underneath the Regional Service land use guidelines in table one in the Comp Plan; it talks about gross floor area and the square footage being 250,000 square feet minimum as just one example of a Regional Service. Outdoor display storage is to be screened, which they were trying to do within their plan. The purpose and intent for regional service was for comparison-shopping of specialized goods and services, typical primary uses, major department store, auto dealer, mobile home sales, motel, hotel, and hospital. Therefore, they feel that this is a Regional Service that they are asking for under one of the special use permits for the auto dealership in this location. Some of the things specifically mentioned in the Comprehensive Plan under Neighborhood 1 are Shopper's World Shopping Center, which has 150,000 square feet; Rio Hills Shopping Center, which has 300,000 square feet; Sam's Wholesale Club, which has 115,000 square feet; and Walmart, which has 115,000 square feet. Across the road from this there is a Phillip's Building Supply, Cavalier Daily and a lot of other uses which definitely would fall within the Regional category that were obviously on larger sites than they were looking at here. He stated that they feel that this is an appropriate use on the site. Specifically looking at the concept plan that they have developed, he pointed out that the frontage on Rio Road is 150 feet and then they were coming back 150 feet to the back of the building. As the site slopes away from Rio Road coming into the front display area there was a 6 to 8 foot drop. Therefore, all of the display vehicles would be behind the landscaping. In addition, there would be a retaining wall that would wrap around the fronts and the sides of the vehicles that are shown on the plan. All of that would be to effectively hide the vehicles from Rio Road while making it convenient for shoppers to be able to shop in the front of the store. The site drops 50 feet from the front to the back of the site. They were taking advantage of this by putting the service areas on the lower level. The front and upper level would be used for vehicle sales and display with the lower level used for service. There is no intent at all on doing any kind of rentals on this site. The applicant wants to do a 3 million dollar architectural building on this site and make it look very nice and attractive from the front in order to do high-end auto sales. It is not a large site. What they were showing here is basically two layers of display and one row of access for parking in the front of the showroom area. It is not at all in the same character as Colonial Auto Center around the corner where there were as many as eight rows of parking and 2 to 3 access isles going through. They were trying to keep this display condensed and to the front. So really, what they were looking at is that front 150 by 150-foot area, which was approximately one-half of an acre up on Rio Road. They have every intention of trying to make this site as attractive as possible. He pointed out that the entrance would be shared with Photoworks. Therefore, they would be coming in on the lower end of the site. This would actually effectively hide the vehicles more because it lets them get down underneath the road more. The slope going down the travel way on the East side was approximately 10 percent in grade. He pointed out that they were making up the difference between those levels by sloping 2:1, which the ARB did not like. He stated that the vehicles and everything behind the building were going to be effectively

hidden through the screening and the landscaping that they were showing. The applicant is absolutely willing to meet all of those Architectural Review Board conditions with the exception of the 2:1 slope, which they would be willing to work on. However, they feel that the 2:1 slope helps hide the display area in the back better by creating a bowel effectively and landscaping that would allow it to be more hidden. The other ARB issue that they are not happy with is a single row of parking in front of the building with no display in front. They do not feel that is an appropriate way to sell cars on the site as a Regional Service. They are requesting to have a display area in front of the store, but they are perfectly willing to meet architectural requirements, recommendations and suggestions that will allow the applicant to run a business that has shopping and display up in the front of the site within the 150 X 150 foot area and service and storage in the back of the site.

Mr. Thomas asked if there were any questions for the applicant.

Mr. Craddock pointed out that there was one question in here about loading and unloading. He asked where the applicant would do that.

Mr. Strickland stated that they purposely ignored that issue as well as a lot of others. When they went through the Eckerd rezoning last year they ran into technical engineering details that they felt needed to be worked out more in the final site plan stage. He noted that they were very comfortable loading and unloading vehicles on that middle level in that travel way, which could be accommodated with radiuses as necessary. He pointed out that smaller trucks could be used. The applicant has even talked about not bringing any big trucks into this site and perhaps unloading on his other site or elsewhere. There are ways that they can get around those types of issues such as loading and unloading. He pointed out that the shared entrance was well over 30 feet on the property line and he did not think there would be any problem with pulling in and out. The adjacent property owner actually has 20 feet of asphalt on his side of the property line going down to a lower level to Photoworks. He stated that he did not think that there would be a problem with trucks getting in and out of the site since their travel way would be similar to Photoworks.

Mr. Morris questioned if the shared entrance going on to the proposed property was going to be expanded from one-way traffic to two-way traffic. He understood that there was plenty of room to get into Photowork's parking spaces, but asked about getting into the applicant's property.

Mr. Strickland pointed out that this plan showed the entrance coming over a full 20 feet off the property line, which was centered, on that entrance. Therefore, that is an issue, which he felt that they could work out pretty easily as far as making the entrance wide enough to get in and out of the property through there.

Mr. Morris asked the applicant to address the concern about the commercial setbacks and also explore into some detail their storm water management plan.

Mr. Strickland stated that the commercial setbacks on this property are 30 feet for the building and 10 feet for the parking. They are showing a setback of 10 feet on the parking. But, the setback on the building was proposed to be a set back a little further primarily to get down on the level that they are trying to reach and because they were sharing the entrance with Photoworks. He pointed out that they were trying to tie the entrance coming down with the two T's going off with one going into Photoworks and the other one going on to this site. It is feasible to pull the building a little bit further forward, but they would rather not do that because they would like to keep two rows of display parking in the front of the site. If the Planning Commission feels like that was the only option available, which was absolutely necessary, in that the building be pulled forward, then the applicant would consider that. However, it was quite important for the applicant to be able to run this business and be able to sell the cars the way he would like to on this front lot, which was to keep the setback where it is to allow two rows of display parking and a single row of parking. The regional storm water management pond is available on the Colonial Auto

Center site. The storm water pond has been sized and designed to accommodate this site along with some more sites up hill and even across Berkmar Drive. Therefore, they were quite comfortable in contributing to the pro-rata share that would be required by this site into that facility.

Ms. Joseph stated that the ARB had requested that the applicant preserve the large shade tree. She asked if they could do that.

Mr. Strickland stated that they would, but that the condition was that it was strongly encouraged if it could be worked out.

Ms. Joseph pointed out that it was conditioned so if not that an alternative acceptable to the ARB be provided.

Mr. Strickland stated that was an issue that they definitely feel that they can work with the ARB on. He apologized for not showing the tree on the site plan, but pointed out that it was sitting in the middle of the building. The tree was a 36-inch diameter Oak tree, which was one of the only trees left on the upper level of the site. They would love to preserve the tree, but from a commercial point of view, it was not really feasible. If they tried to stay off the drip line of the tree that it would be an incredibly difficult site to negotiate. He pointed out that the tree was not in good health and if they got near the tree, they would be damaging the tree. He stated that they would like to work with the ARB on an alternative that would be acceptable.

Mr. Edgerton asked if the sizing of the storm water detention facility anticipated that all of this site would be asphalt. He asked if the facility had already been sized without taking into consideration all of this proposed asphalt.

Mr. Strickland stated that they did not personally do the sizing, but the County came back with the comment that the pond was sized to accommodate this development on this site. If not, they would be happy to make any modifications or adjustments on the site.

Mr. Thomas asked if the Commissioners had any other questions for the applicant. There being none, he asked if there was anyone else present to speak concerning this application. There being none, he closed the public hearing to bring the matter back to the Commission for discussion and possible action.

Mr. Edgerton asked for clarification from staff on what was the actual zoning of the property.

Ms. Doherty stated that the property was zoned C-1, Commercial.

Mr. Edgerton pointed out that Mr. Strickland was suggesting that the property was zoned Regional Service because of the nature of the business that they hoped to put there. He stated that this use was not allowed under the existing zoning.

Ms. Doherty pointed out that it was only allowed by special use permit approval. To correct a setback issue, she pointed out that there is a 20-foot rear parking setback adjacent to tax map 45, parcel 173. She pointed out that there was a 20 foot undisturbed buffer, which the Planning Commission could waive. In addition, there is also a 20-foot parking setback and there is no waiver procedure for that. The comment here was that it would actually alter the concept plan, which she wanted to clarify. She pointed out that the Board of Zoning Appeals was the only one that could alter the parking setback under a variance request. She asked to make one other correction in what they heard regarding the regional storm water issues. The comments from Glen Brooks, which relate to the regional storm water management facility, says that the pro-rata share cost to that facility will need to be paid before site plan approval. This may address only some of the storm water management requirements for the site as the basin was designed only to address the ten-year storm flow in compliance with the Zoning Ordinance at the time that the

basin was constructed. Since the adoption of the Water Protection Ordinance, the additional requirement regarding the two-year storm and for water quality have been added. Therefore, these need to be addressed on-site.

Ms. Higgins stated that in a case like that if it was not addressed in the site plan approval process, then they won't be approved.

Ms. Doherty stated that it was a feasibility issue, which was why they plan to have that.

Mr. Craddock stated that when you are on Rio Road looking across the site you would not be able to see that first two or three rows of cars because you would be looking at the second story windows and the roof of the building.

Ms. Doherty pointed out that she could not answer that because she had not seen profiles of the site. She stated that they only had the spot elevations on the plan, which is included on page 13. There is a spot elevation in the sidewalk on Rio Road of 530, and the display parking is 526, which is only 4 feet. She stated that you would probably not see the grill on the headlights, but you would be able to see the tops of the cars.

Ms. Higgins pointed out that the closer the cars were to the retaining wall the less you would be able to see them.

Ms. Joseph pointed out that the further away from the road that the cars were located, the less you would be able to see them.

Mr. Thomas pointed out that there would also be some landscaping provided along the road, which would help with the screening of the cars. He asked if there were any other questions.

Mr. Morris requested that the applicant come forward again.

Mr. Strickland stated that he just wanted to make one point that Regional Service was not a zoning category, but was a land use designation, which was part of the Comp Plan and not part of the Zoning Ordinance.

Mr. Thomas asked Mr. Kamptner to explain what the difference was between the Regional designation and the zoning and how it would affect this application.

Mr. Kamptner stated that if the designation of the auto dealership is a special use within the C-1 zoning, it informs you that the use is generally compatible with the other C-1 uses. But, the use has particular characteristics that warrant case-by-case determination to address particular impacts. That is where the conditions come in. To the extent that you are evaluating the special use permit, the Comprehensive Plan is relevant because the special use permit decision is a legislative decision and the Comprehensive Plan is one of the factors that are considered in evaluating whether or not a special use permit should be granted. The zoning envisions that auto dealerships are allowed in the C-1 district, but it recognizes that they have impacts that may or may not justify the approval of the dealership in a specific location. The Comp Plan designation also guides your decision to the extent that it deals with and speaks to the land uses, and what the goals are for particular areas and for the district itself.

Ms. Higgins stated that one thing that Mr. Kamptner outlined was that special consideration for this use under C-1 zoning might be necessary because there might be other impacts. Under the recommended action, there really are not any specific conditions that address what typically those nuisance issues might be. Those were things that a car dealership like this could impact when adjacent to a residential area. She stated that she did not know if the resolution of outstanding zoning and engineering issues really has to do with things that can't be altered and must be approved as they work through the detailed engineering design. Condition #1 stated that

the redesign should be in accordance with the recommendations of the Architectural Review Board. She pointed out that for the majority of the conditions that the applicant seemed to indicate that they could comply with them, except for the larger one that has to do with two rows of display parking and one row of customer parking. Therefore, she pointed out that condition as a stand alone if they approved that and it reads as it says that it would put the applicant between a rock and a hard place because they could not necessarily meet all of the conditions of the ARB as she understands it. She pointed out that if the outdoor display was removed from the front of the building, then they would not need the special use permit for outdoor display.

Mr. Thomas asked what the pleasure of the Commission was.

Ms. Joseph stated that they have tried very to make this use fit into this neighborhood, but she felt that they should work a little harder on this and look at some of the things that the ARB requested. She requested that the applicant provide some sections so that they could see how the proposed use related to the roads. Then they would be able to see if they could really see down this hill and be able to see the cars and what was happening on the site. Without the sections, it is very hard to tell right now. She pointed out that there would be a building here that might make it less visible. She pointed out that one of the reasons that this use was not allowed in the C-1 district was because of the amount of lighting, the pre-ponderous of cars, the balloons on the cars and the amount of activity on the site. She noted that the applicant had tried to use the terrain in this, but that she would like to see some more screening in there, reduce the parking in front and move the building closer to Berkmar as requested by the ARB. There would need to be a lot of conditions dealing with the lighting, etc. on this site because it could over power the rest of the roadway there.

Mr. Thomas asked if the Commission would prefer to see some additional information on the elevations of the property before making a decision on this application.

Mr. Morris stated that he would like to see some elevations and also additional information on the storm water management with today's regulations.

Ms. Higgins agreed with the concept of getting sections through the site, but felt that the ARB does a good job of reviewing projects on the Entrance Corridor and that the applicant would have to receive a Certificate of Appropriateness regarding those issues from them.

Mr. Edgerton stated that he was very concerned with the drainage and would be more sympathetic if they were not trying to squeeze every square inch of parking on this site. He felt that with the topography of the site and the way it would be working with that large amount of asphalt that it would be dumping a tremendous amount of water that does not make it into the storm drain into that trailer park in the back. He stated that he was not going to be able to support this with the intensity of use that was being proposed. He suggested that the Commission not ignore staff's or the ARB's concerns. If they don't want this roadway to be part of the entrance Corridor, then that issue should be taken up appropriately.

Mr. Craddock stated that he was concerned about the cars being located right up at the road, but that with the topography the applicant has the potential with the grade of making the cars less obtrusive than in a normal situation. He pointed out that the Daily Progress, which was across the street, was fairly graded down so that you don't see the cars from Rio Road. He stated that he could vote either way in this matter, but if they took a vote today that he could vote for it. He supported the idea of the applicant bringing back additional information.

Mr. Thomas stated that he wanted to respect the ARB because they had put a lot of work into this site. He felt that they should respect Rio Road and the Entrance Corridor. Over the next few years, that neighborhood was going to change drastically and the apartments and trailer park could be redeveloped. He felt that this use would not hurt the residential areas. He supported the idea of having one row of parking on the front with more screening provided if it was possible.

Mr. Morris stated that he liked about the whole idea of the employment opportunities for the people.

Ms. Joseph asked if they had time to defer this request in order to obtain additional information to help the Commission make this decision.

Mr. Thomas pointed out the impact of the use was the major concern.

Mr. Kamptner asked that staff calculate the running time of the special use permits.

Ms. Doherty stated that the applicant was going to provide sections to the ARB in their next round if this was successful.

Mr. Benish stated that this request was scheduled to go before the Board of Supervisors on April 21. He pointed out that gives them the rest of the month if necessary to reschedule the item and come back to the Commission with additional information before the Board reviews it.

Mr. Kamptner suggested that they ask the applicant to request a deferral because there was plenty of time between now and the Board meeting so that the Commission could look at it without delaying the Board's review.

Mr. Thomas asked the applicant to come back up and address the Commission. He stated that the Commission would like to look at the profile. He stated that the Commission feels that it is a nice application, but would like to look at the impact from the profile standpoint.

Mr. Strickland stated that they did not put a model together, but they did complete some elevations of the building and a rough section through the site without landscaping, which was not finished. He pointed out that they would be happy to do that. He stated that they had every intention if they were able to get approval to go back to the ARB and go through the sections and profiles. Regarding the appearance factor, they understand that the line of sight from Rio Road is very important and that they feel strongly that what is going to be visible is going to be that first 150 feet in two directions. He stated that they were confident that they could prepare a section or put a model together, or whatever it takes, to make that look just right.

Ms. Joseph asked that they submit three sections down through the middle of the site to show them what is happening with the terrain and the parking from the front of the site.

Mr. Strickland stated that they would be happy to provide that information to the Commission. He stated that the owner had told him that he does intend for this to be a high-end auto dealership and he has no intention of having balloons, signage and that kind of thing. If that is important to the Commission in order to allow this use, it would be fine to allow that condition to go forward. He requested a deferral.

Mr. Craddock suggested a deferral of one week if the applicant can provide the information.

Ms. Higgins made a motion to accept the applicant's request for deferral of SP-2003-084, Dennis Enterprises – Rio Road, to March 9.

Mr. Morris seconded the motion.

The motion carried by a vote of (6:0). (Rieley – Absent)

Mr. Thomas stated that SP-2003-084, Dennis Enterprises - Rio Road, was deferred to the March 9th Planning Commission meeting in order that the applicant can provide additional information that includes several profiles of the site and a conceptual storm water management plan.

Old Business:

Mr. Thomas asked if there was any old business. There being none, the meeting proceeded.

New Business:

Mr. Thomas asked if there was any new business. There being none, the meeting proceeded.

Adjournment:

With no further items, the meeting adjourned at 7:40 p.m. to the March 9 meeting.

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V. Wayne Cilimberg, Secretary

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