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Mr. Strickland said they addressed all the staff comments at the Planning Commission level. If a deferral will allow him to address the Board's concerns about what staff wrote up in those comments, he welcomes that opportunity.

Mr. Bowerman asked if staff would be able to come up with a positive recommendation on this request. Mr. Cilimberg said staff's recommendation was for denial based on the use in that particular location, in conjunction with the ARB's recommendation regarding the entrance corridor. They may choose to go back to the ARB, present more information, and see if the ARB would have a different opinion. He said the basic use in that location was staff's concern.

Mr. Bowerman said it is possible that if the Board approved this request, the applicant would go to the ARB and never get a decision from them.

Mr. Rooker said that generally the ARB does not make use decisions. Mr. Cilimberg said they do make a recommendation. They rarely recommend not approving a use, usually recommending conditions they feel will address the question. He does not know whether the applicant could go back to them and present further information to change that recommendation.

Mr. Davis said the ARB does have a roll in the ordinance regarding the outside storage use. That is the one area where they do have a prescribed duty to make a recommendation.

Mr. Rooker said he has no problem if they want a deferral, but to what date should this be deferred?

Mr. Dorrier suggested deferring it without setting a date. Mr. Davis said the process moves along better if there is a firm date. The Board can defer it to a date certain, and if it is not ready, it can be further deferred.

Mr. Rooker said he would move deferral. Mr. Bowerman said there is motion on the floor. Mr. Davis said the motion had not been seconded. Mr. Boyd then withdrew the motion he had begun.

Mr. Rooker then offered motion to defer SP-2003-085 to July 14, 2004. The motion was seconded by Mr. Bowerman. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Bowerman, Mr. Boyd and Mr. Dorrier.
NAYS: None.

(Note: The following two items were heard concurrently.)

Agenda Item No. 11. ZMA-2003-11. Rio East Commercial Area (Signs 10 & 11). Public hearing on a request to amend proffers of ZMA-1996-004 to allow veterinary hospital by special use permit. TM 61, Ps 124A part of & 124B part of, contains approx .8456 acs. Znd PD-MC. Loc on Rio E Ct (private) approx .1 miles from intersec of Rio East Ct & Rt 631 (Rio Rd E). (The Comp Plan designates this property as Office Service in Neighborhood 2.) Rio Dist. (Notice of this public hearing was advertised in the Daily Progress on March 29 and April 5, 2004.)

Agenda Item No. 12. SP-2003-58. Rio East Commercial Park (Veterinary Hospital) (Sign #35, 39). Public hearing on a request to allow veterinary office & hospital in accord w/Sec 25A.2.2.1 of the Zoning Ord. TM 61, Ps 124A part of & 124B part of, contains approx .8456 acs. Znd PD-MC. Loc on Rio E Ct (private), approx .1 miles from intersec of Rio E Ct & Rt 631 (Rio Rd E). Rio Dist. (Notice of this public hearing was advertised in the Daily Progress on March 29 and April 5, 2004.)

Mr. Cilimberg summarized the staff's report which is on file in the Clerk's Office and made a part of the permanent records of the Board of Supervisors. He said this is a request for a veterinary office and hospital within the Rio East Office Park, with relegated parking. Staff found no unfavorable factors to the request, and recommended approval of the ZMA with proffers, and approval of the special use permit with three conditions. He said the Commission, at its meeting on March 30, 2004, by a vote of 6:0, recommended approval of ZMA-2003-011 subject to proffers dated 3/25/04 and signed by D. J. Wagner, Trustee, and approval of SP-2003-058 subject to four conditions.

With no questions for staff, Mr. Dorrier asked the applicant to speak.

Mr. Gordon Giuliano was present. He said he was present to answer questions.

Mr. Dorrier opened the public hearing. With no one from the public rising to speak, the public hearing was closed, and the matter placed before the Board.

Motion was immediately offered by Mr. Bowerman, to approve ZMA-2003-011, subject to the proffers dated 3/25/04 signed by D. J. Wagner, Trustee (set out in full below). The motion was seconded by Ms. Thomas.

Roll was called, and the motion carried by the following recorded vote:

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AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Bowerman, Mr. Boyd and Mr. Wyant.
NAYS: None.

(Note: The proffers, as approved, are set out in full below.)

PROFFER FORM

Date: 04/14/2004
ZMA # 2003-011
Tax Map and Parcel Number(s) 61-124A and 61-124B
5.608 Acres to be rezoned from PDMC to PDMC

Pursuant to Section 33.3 of the Albemarle County Zoning Ordinance, the owner, or its duly authorized agent, hereby voluntarily proffers the conditions listed below which shall be applied to the property, if rezoned. These conditions are proffered as a part of the requested rezoning and it is agreed that: (1) the rezoning itself gives rise to the need for the conditions; and (2) such conditions have a reasonable relation to the rezoning request.

The original proffers of ZMA-1996-004 still apply to all of the remaining parcels within the PD-MC, Planned Development Mixed Commercial zoning district. For the lands subject to this zoning map amendment, the original proffers are amended to state as follows:

1. Use of the property designated as the Restricted Area on the Sketch Plan hereto (hereinafter the "Restricted Area") shall include only:
 - a. All uses permitted under Section 23.2.1 of the Albemarle County Zoning Ordinance as it exists on April 14, 2004, a copy of which is attached, shall be permitted by right.
 - b. Uses permitted under Section 23.2.2 of the Albemarle County Zoning Ordinance as it exists on April 14, 2004, a copy of which is attached, shall be permitted only by special use permit.
2. Use of the property outside the Restricted Area shall include only:
 - a. All uses permitted under Section 23.2.1 of the Albemarle County Zoning Ordinance as it exists on April 14, 2004, a copy of which is attached, shall be permitted by right.
 - b. Barber and beauty shops as permitted under Section 22.2.1.b2 and office and business machine sales and services as permitted under Section 24.2.1.29 of the Albemarle County Zoning Ordinance as those sections exist on April 14, 2004, copies of which are attached, shall be permitted by right provided such uses, when combined with those permitted under Section 23.2.1.6 of the Albemarle County Zoning Ordinance as it exists on April 14, 2004, a copy of which is attached, do not occupy more than twenty (20) percent of the floor area of buildings on the site.
 - c. Uses permitted under Section 23.2.2 of the Albemarle County Zoning Ordinance as it exists on April 14, 2004, a copy of which is attached, shall be permitted only by special use permit.
 - d. Uses permitted under Section 24.2.2.4 of the Albemarle County Zoning Ordinance (Veterinary office and hospital) as it exists on April 14, 2004, a copy of which is attached, shall be permitted only by special use permit.

(Signed)
 D. J. Wagner, Trustee
Rio East Land Trust D. J. Wagner, Trustee 3-25-2004
 Signatures of All Owners Printed Name of All Owners Date

Motion was then offered by Mr. Bowerman, seconded by Ms. Thomas, to approve SP-2003-058, subject to the four conditions recommended by the Planning Commission. Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Bowerman, Mr. Boyd and Mr. Wyant.
NAYS: None.

(Note: The conditions of approval are set out in full below.)

1. A site plan shall be submitted for approval that shall be in general accord with the sketch plan prepared by Keeney & Co, Architects dated 3/12/04;
2. Any enlargement or expansion of the veterinary office and hospital use will require an amendment to this Special Use Permit (SP-2003-058);
3. No overnight boarding use other than for those animals under medical care shall take place at the veterinary hospital; and

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- 4. Granted a waiver of Section 5.1.11(b) of the Zoning Ordinance requires that a soundproofed building shall be located no closer than two hundred (200) feet to any agricultural or residential lot line.

(Note: The following three items will be heard concurrently.)

Agenda Item No. 13. PUBLIC HEARING on the Board of Supervisors' periodic review of the Eastham Agricultural & Forestal District & to consider amending section 3-212, Eastham Agricultural & Forestal District, of Division 2, Districts, of Article II, Districts of Statewide Significance, of Chapter 3, Agricultural & Forestal Districts, of the Albemarle County Code. The proposed ordinance would identify TMP 63-41A2 as being in the district, would continue the district & set the next district review date deadline of April 14, 2014. (Notice of this public hearing was advertised in the Daily Progress on March 29 and April 5, 2004.)

Agenda Item No. 14. PUBLIC HEARING on the Board of Supervisors' periodic review of the North Fork Moorman's River Agricultural & Forestal District & to consider amending section 3-223, North Fork Moorman's River Agricultural & Forestal District, of Division 2, Districts, of Article II, Districts of Statewide Significance, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code. The proposed ordinance would continue the district, set the next district review date deadline of April 14, 2014. (Notice of this public hearing was advertised in the Daily Progress on March 29 and April 5, 2004.)

Agenda Item No. 15. PUBLIC HEARING on the Board of Supervisors' periodic review of the Pasture Fence Mountain Agricultural and Forestal District & to consider amending section 3-225, Pasture Fence Mountain Agricultural and Forestal District, of Division 2, Districts, of Article II, Districts of Statewide Significance, of Chapter 3, Agricultural & Forestal Districts, of the Albemarle County Code. The proposed ordinance would remove TMP 13-4 from the district, would continue the district & set the next district review date deadline of April 14, 2014. (Notice of this public hearing was advertised in the Daily Progress on March 29 and April 5, 2004.)

Mr. Cilimberg summarized the staff's report which is on file in the Clerk's Office and made a part of the permanent records of the Board of Supervisors. He said staff had recommended continuance of all three districts. In the Pasture Fence Mountain District, Ronald P., Brenda S. and Jared P. Morris have requested withdrawal of Parcel 4 on Tax Map 13 from the district. It is a 77 acre parcel, and since this district was formed, it has changed ownership. Staff was told that they do not want the restrictions on their property under an A/F district, even though they have no particular plans for the property.

Ms. Thomas asked if staff does anything to encourage people to join ag/forestry districts.

Mr. Wyant said the Ag/Forest Advisory Committee has discussed making adjoining property owners aware of the district. Mr. Cilimberg said staff tries to make these people aware, but has only limited time and resources to do that.

Mr. Dorrier opened the public hearings. With no one present to speak, the public hearings were closed and the matter placed before the Board. Mr. Dorrier asked if all three can be considered at the same time. Mr. Davis said "yes", there is a draft ordinance which the Board should adopt if these districts are to be reenacted.

Motion was offered by Ms. Thomas to adopt An Ordinance to Amend and Reordain Article II, Districts of Statewide Significance, of Chapter 3, Agricultural and Forestal Districts, of the Code of the County of Albemarle, Virginia, by amending Section 3-212, Eastham Agricultural and Forestal District, by amending Section 3-223, North Fork Moorman's River Agricultural and Forestal District, and by amending Section 3-225, Pasture Fence Mountain Agricultural and Forestal District. The motion was seconded by Mr. Wyant.

Roll was called, and the motion carried by the following recorded vote:

AYES: Mr. Rooker, Ms. Thomas, Mr. Wyant, Mr. Bowerman, Mr. Boyd and Mr. Wyant.
NAYS: None.

(Note: The ordinance as adopted is set out in full below.)

ORDINANCE NO. 04-3(2)

AN ORDINANCE TO AMEND AND REORDAIN ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, OF CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Article II, Districts of Statewide Significance, of Chapter 3, Agricultural and Forestal Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending: