

Mr. Rieley moved for approval of ZMA-03-11 Rio East Commercial Area with the proffers as outlined on Attachment E of the staff report.

Mr. Thomas asked if there was any more discussion.

Ms. Higgins noted that on the proffer form it referred to a copy of something that was attached, which was a copy of the Zoning Ordinance as it exists today, but that it was not attached. She pointed out that would become a part of this action too and should be attached when this was sent forward.

Mr. MacCall apologized for that oversight and noted that it would be included as part of the packet when it was sent forward to the Board.

Ms. Higgins stated that the use of the property outside of the restricted area also refers to that and on the proffer amendments when you change them that she was not sure what was changed. She pointed out that she did not have a problem approving this because it seems very specific, but she did not think that it reads very specifically.

Mr. Morris seconded the motion, which carried by a vote of (6:0). (Edgerton – Absent - No)


**Action on SP-2003-58:**

Ms. Joseph moved for approval of SP-03-58 Rio East Commercial Park as outlined by staff and subject to the following conditions:

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

Ms. Higgins seconded the motion, which carried by a vote of (6:0). (Edgerton – Absent)

Mr. Thomas stated that the motion carries for both the zoning map amendment and the special use permit and will go to the Board of Supervisors on April 14.



**SP 2003- 087 Mosby Mountain Subdivision Plat Extension (Sign #66)** - Request to extend the life of SP-01-065 a special use permit approved 5/1/02 which allows for an earthen fill and bridge/culvert crossing in the floodplain, per Sections 30.3.05.2.1 and 30.3.6.1 of the Zoning Ordinance. The property is zoned R1 (Residential with a density of 1du/acre) and FH (Flood Hazard Overlay District) and is described as Tax Map 90, Parcel 1B. The property is located in the Samuel Miller Magisterial District on Rt. 631 (Old Lynchburg Road) across from Southwood Estates Mobile Home Park. The Comprehensive Plan designates this property for Rural Area uses in Rural Area 5 and Neighborhood Density (3-6 du/acre) uses in Neighborhood 5. (Yadira Amarante)

Ms. Amarante presented the staff report. She asked to correct the title of the request because it really was an extension for a previous special use permit. This is a request to extend the validity

## Attachment D

this extension request mostly because the bridge will be in the same location as was originally approved. There have been no significant regulation changes in terms of our ordinance or policies. The characteristics of the neighborhood have remained the same. There have been no changes to the site since the two year time period. Staff is recommending approval with the original conditions.

Mr. Thomas asked if any Commissioner had any questions for staff. He stated that in the previous staff report under the unfavorable items, on page 10, it says, "The proposed use will cause a development that is inconsistent . . ."

Ms. Amarante stated that was an analysis that staff makes when looking at special use permits and rezonings to compare it to the Comprehensive Plan to see if it is something that would be recommended. This property is a property that has old zoning on it. It is R1 zoned property in the Rural Areas as identified in the Comprehensive Plan. There is only a small portion of this property that is actually within the development areas. She pointed out that she was trying to state that it was inconsistent with the Comprehensive Plan, but again it has the correct zoning on it.

Mr. Thomas asked if the applicant had any comments.

Mr. Gaylon Beights stated that he would respond to any questions the Commission may have.

Ms. Joseph asked the applicant where they were in the process.

Mr. Beights stated that the final plat was approved in February of this year. They have bonded the improvements and have begun construction. They have clearing for the entrances up to the stream crossing, and actually have a temporary stream crossing in order to get the logging out. It just took them from May, 2002 to February, 2004 to complete the final plat process.

Mr. Thomas asked if there were any other questions for the applicant. There being none, he asked if there was any one else present who would like to speak on this application. There being none, he closed the public hearing to bring the matter back before the Commission for discussion and a possible action.

Ms. Higgins stated that she had a question for staff or Mr. Kamptner. She stated that her understanding was based on the extent of the work is that described that the construction has commenced and that an extension of the special use permit is not going to be necessary.

Mr. Kamptner asked staff if the Zoning Administrator made a zoning determination on that issue.

Justin Beights stated that he had talked to John Shepherd, of the Zoning Division and he indicated that vesting rights would be more complicated than coming to the Planning Commission and requesting an extension of the special use permit. He noted that was the feedback that he had gotten and was why they were here today.

Mr. Rieley stated that it was the first time in his recollection that the Planning Commission was the easiest path to take.

Mr. Morris moved for approval of SP-2003-087 subject to the following conditions:

## Attachment D

and the applicant must provide computations supporting any such changes, as well as copies of the correspondence demonstrating FEMA approval of the revised floodplain or no changes in flood plain levels can occur.

6. In an effort to minimize environmental degradation, no soil shall be removed from the stream to compensate for any fill.

Mr. Craddock seconded the motion, which carried by a vote of 6:0. (Edgerton – Absent)

Mr. Thomas stated that the motion carries and would go to the Board of Supervisors on April 14.

**ZTA-04-01 Cluster Developments** – Amend Sections 10.2.2, By special use permit, 10.3.3.3, Special provisions, and 10.5.2, Where permitted by special use permit, of Chapter 18, Zoning, of the Albemarle County Code, all of which pertain to lands within the Rural Areas (RA) zoning district, to delete provisions allowing rural preservation developments having more than twenty development lots by special use permit. Rural preservation developments are a cluster form of development. Effective July 1, 2004, Virginia Code § 15.2-2286(A) (12) will prohibit localities from authorizing cluster developments by special use permit. Rural preservation developments having twenty or fewer development lots will continue to be allowed by right within the Rural Areas (RA) zoning district. The complete ordinance is available for examination by the public in the Department of Planning & Community Development, Room 218, Second Floor, County Office Building. (Joan McDowell)

Ms. McDowell summarized the staff report. The State passed a law that as of July 1 of this year that all cluster developments, which includes Rural Preservation Developments, will be by right. The County is currently very involved in reviewing the Comprehensive Plan, and part of that Comprehensive Plan addresses Rural Preservation Developments. Staff anticipates changing the ordinance after the Comprehensive Plan is adopted in relation to Rural Preservation Developments. Currently the County allows Rural Preservation Developments by right if they are under 20 lots, but if they are over 20 lots they are by special use permit. This change would bring the County into compliance with the State Code and it also would not allow Rural Preservation Developments at least temporarily until they were ready with ordinance changes for over 20 lot Rural Preservation Developments. The staff report addresses how many Rural Preservation Developments have been approved with less than 20 lots and for over 20 lots. Staff does not anticipate a huge difference in the way subdivisions are done in the rural areas while this portion of the ordinance would be removed. If there were any questions, she would be happy to answer them.

Ms. Joseph asked what the time line was on the rural areas amendments.

Ms. McDowell stated that a lot of the time line depends on the Commission. The next work session is scheduled for next week on April 6, which will hopefully be our last work session. If a decision is made next week, then this zoning text amendment can proceed to public hearing and on to the Board of Supervisors.

Mr. Cilimberg stated that one suggestion might be to recommend to the Board of Supervisors that the changes not take effect until the last possible date. That way they would not be creating an unnecessary change prior to the date that the State requires that the change be made.

Mr. Thomas asked if the date of the change is July 1, and Ms. McDowell stated that was correct.