

**COUNTY OF ALBEMARLE  
STAFF REPORT SUMMARY**

<p><b>Project Name:</b> SP20200014: 1680 Seminole Trail Outdoor Sales, Storage and Display</p>	<p><b>Staff:</b> Margaret Maliszewski, Chief of Planning/Resource Management</p>
<p><b>Planning Commission Public Hearing:</b> November 24, 2020</p>	<p><b>Board of Supervisors Public Hearing:</b> January 6, 2021</p>
<p><b>Owner:</b> BNE Restaurant Group IV LLC c/o W Craig Worthy</p>	<p><b>Applicant:</b> Sasha Ismail - Charlottesville Albemarle Rental Properties LLC</p>
<p><b>Acreage:</b> approximately .71 acres</p>	<p><b>Special Use Permit:</b> Section 30.6.3 - Outdoor storage, display and/or sales serving or associated with a permitted use within the Entrance Corridor Overlay</p>
<p><b>TMP:</b> 06100-00-00-120T0 <b>Location:</b> 1680 Seminole Trail</p>	<p><b>Existing Zoning and By-right use:</b> HC Highway Commercial – commercial and service; residential by special use permit (15 units/acre)</p>
<p><b>Magisterial District:</b> Rio</p>	<p><b>Conditions:</b> Yes</p>
<p><b>School District:</b> Albemarle HS, Burley MS, Agnor-Hurt ES</p>	<p><b>Requested # of Dwelling Units:</b> N/A</p>
<p><b>Proposal:</b> Establish outdoor sales/storage/display of vehicles</p>	<p><b>Comprehensive Plan Designation:</b> Core Area within Rio 29 Small Area Plan - area intended to have a mixture of uses including residential, commercial, retail, office, institutional and employment uses. Buildings with heights of 3-6 stories, built close to the street, with pedestrian access and relegated parking.</p>
<p><b>Character of Property:</b> This property contains a Hardee’s fast food restaurant building surrounded by paved parking and travelways. There is limited landscaping on site.</p>	<p><b>Use of Surrounding Properties:</b> A variety of commercial uses exist in the immediate area, including Merchant’s Auto, Enterprise Rent-a-Car, CVS pharmacy, strip shopping centers, banks and restaurants.</p>
<p><b>Factors Favorable</b></p> <ol style="list-style-type: none"> <li>The request is consistent with the Comprehensive Plan goal of preserving scenic resources, the Neighborhood Model goal of redevelopment, and Rio29 Small Area Plan goals related to landscaping.</li> <li>The ARB has reviewed the request and has recommended no objection, with conditions.</li> </ol>	<p><b>Factors Unfavorable</b></p> <ol style="list-style-type: none"> <li>The proposed use is not consistent with the Rio29 Small Area Plan goals for building height, building location and relegated parking.</li> </ol>
<p><b>Recommendation:</b> The review of requests for special use permits for outdoor sales/storage/display in Albemarle County have typically been limited to assessment and mitigation of the visual impacts of the proposed use on the Entrance Corridors, and the requests have typically been approved with conditions recommended by the ARB. The location of the current proposal – at the most prominent intersection in the Rio29 Small Area Plan - introduces a new factor into the consideration of the request. With no previous guidance from the Planning Commission or Board of Supervisors on how to rank these competing goals, staff recommends that the Planning Commission evaluate the importance of the Rio29 form and site design standards while reviewing this request for outdoor display in the Entrance Corridors, noting that the proposal would not advance the County’s adopted vision for the redevelopment of this property.</p>	

**STAFF PERSON:**  
**PLANNING COMMISSION:**  
**BOARD OF SUPERVISORS:**

**Margaret Maliszewski**  
**November 24, 2020**  
**January 6, 2021**

**PETITION:**

PROJECT: SP201900014: 1680 Seminole Trail Outdoor Sales, Storage and Display

MAGISTERIAL DISTRICT: Rio

TAX MAP/PARCEL: 06100000120T0

LOCATION: 1680 Seminole Trail

PROPOSAL: Establish outdoor sales/storage/display of vehicles on approximately .71 acres

PETITION: Outdoor storage, display and/or sales serving or associated with a permitted use within the Entrance Corridor Overlay under Section 30.6.3.a.2.b of zoning ordinance. No dwelling units proposed.

ZONING: HC Highway Commercial – commercial and service; residential by special use permit (15 units/acre); EC Entrance Corridor Overlay District – overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access.

AIA Airport Impact Area: Yes

COMPREHENSIVE PLAN: Core Area within Rio 29 Small Area Plan - area intended to have a mixture of uses including residential, commercial, retail, office, institutional and employment uses. Buildings with heights of 3-6 stories, built close to the street, with pedestrian access and relegated parking.

**CHARACTER OF THE AREA:**

The subject property is located at the southwest corner of the intersection of Rt. 29 and Rio Road. (See Attachment A for a vicinity map.) A variety of commercial uses predominate in the general vicinity. Among them are some automobile-related uses, including Merchant's Auto to the west and Enterprise Rent-a-Car to the southwest, as well as 1640 Seminole Trail (two parcels to the south), for which a Special Use Permit for outdoor sales, storage and display was approved in 2018. Other commercial uses in the area include a CVS pharmacy, restaurants, banks and strip shopping centers.

**PLANNING AND ZONING HISTORY:**

A site plan was first approved for this site in 1977. The restaurant building was constructed in 1978, prior to the establishment of the Entrance Corridors, and a site plan amendment was approved in 1979. The ARB reviewed signs for the site in 1992 and 1998, reviewed minor modifications to the building and signage in 2004, and reviewed additional signage in 2011. In 2012 the ARB approved a re-roofing for the building. Two pre-application conferences were held for the current proposal in June 2020. The ARB reviewed the current proposal on September 8, 2020 and recommended approval with conditions. (See Attachment B for the ARB action letter.)

**DETAILS OF THE APPLICANT'S PROPOSAL:**

The applicant proposes to establish outdoor sales/storage/display of vehicles in a total of 34 parking spaces located along the north, east, and a portion of the south perimeters of the site, and on the west and south sides of the existing building. (See Attachment C for the applicant's proposed plan.) The proposal also includes 9 employee/customer spaces on the south side of the site. The refrigeration structure at the west side of the building and the drive-thru structure at the south side of the building would be removed to accommodate some of the proposed parking. Dumpsters would be consolidated at the southwest corner of the site. Planting area would be expanded along the north and east sides of the site and trees and shrubs would be added. There are currently no trees or shrubs along these frontages. In conjunction with the expansion of the planting area on the north side, a portion of the retaining wall on Rio Road will be removed. Trees and shrubs would also be added around the building. The three existing pole lights, which do not conform to current standards for height and cutoff, would be removed from the site. New pole lights would be proposed as part of the required site plan amendment and would be reviewed for consistency with ordinance and guidelines requirements. The nonconforming freestanding sign would also be removed.

**SUMMARY OF THE COMMUNITY MEETING:**

A community meeting was held as part of the Places 29 Rio Community Advisory Committee meeting on August 27, 2020. County staff provided a general overview of the special use permit process and an update on the status of the ARB and Special Permit reviews. The applicant described the proposal in detail for the attendees. CAC members asked questions about traffic flow, inter-parcel connections, new landscaping/density of planting/line of sight, consistency with the Rio29 Small Area Plan, and vehicle repair uses. (See Attachment D for the CAC minutes.).

**ANALYSIS OF THE SPECIAL USE PERMIT REQUEST:**

Section 33.40 of the Zoning Ordinance states that the Planning Commission and Board of Supervisors shall reasonably consider the following factors when reviewing and acting upon an application for a special use permit:

***No substantial detriment. Whether the proposed special use will be a substantial detriment to adjacent parcels.***

The subject parcel is already developed. Although the proposal would add 11 parking spaces, paved area would not increase and some existing structures with negative visual impacts would be removed. Also, planting area would increase, so the general character of the site would be improved, rather than be a detriment.

The predominant character of the area is that of a commercial strip. Some automobile-related businesses are located nearby, including Merchant’s Auto to the west and Enterprise Rent-a-Car to the southwest, as well as 1640 Seminole Trail (two parcels to the south), for which a Special Use Permit for outdoor sales, storage and display was approved in 2018. A gas station and vehicle repair business are located on the west side of Rt. 29, a short distance south on the corridor. The Colonial Auto dealership, with outdoor sales, storage and display, is located on the west side of Rt. 29, a short distance further north on the corridor. The proposed sales, storage and display parking is compatible with those sites.

The ARB has reviewed this request and has recommended approval with conditions to limit negative visual impacts on the Entrance Corridors (ECs). With the ARB’s conditions of approval, no substantial detriment is anticipated.

***Character of the nearby area is unchanged. Whether the character of the adjacent parcels and the nearby area will be changed by the proposed special use.***

The intent of the special use permit requirement for outdoor sales, storage and display is to address the potential impacts of the activity on the ECs. Section 30.6 of the Zoning Ordinance states that the intent of the EC Overlay District is, in part, to implement the comprehensive plan's goal of preserving the county's scenic resources because they are essential to the county's character, economic vitality and quality of life. An objective of this goal is to maintain the visual integrity of the county's roadways by using design guidelines. The ARB has applied the County’s adopted design guidelines for development within the EC to the review of this request and has recommended approval with conditions. With those conditions of approval, the existing character and visual integrity of the area will be maintained.

***Harmony. Whether the proposed special use will be in harmony with the purpose and intent of this chapter, with the uses permitted by right in the district,***

One of the purposes of this chapter is “to facilitate creating a convenient, attractive and harmonious community” (Section 1.4.C). The proposed use will achieve this by satisfying the ARB’s recommended conditions of approval, as outlined in an attachment to this report. Although a special use permit is required for this use on this site due to the location within the EC overlay district, this use is considered accessory to motor vehicle sales. Motor vehicle sales is one of the commercial uses

permitted by right within the Highway Commercial zoning district. The focus of the review for the sales/storage/display use is on the impacts to the EC, not on the use itself. Consequently, the proposed use is expected to be in harmony with the other by-right uses in the district and with the intent of this chapter.

**...with the regulations provided in section 5 as applicable,**

There are no additional regulations in section 5 related to vehicle sales, storage or display.

**...and with the public health, safety and general welfare.**

The intent of the special use permit requirement for outdoor sales, storage and display is based on the need to mitigate the potential negative impact of this use on the aesthetics of the ECs. This is directly related to promoting public welfare and general quality of life. The ARB has reviewed the proposal and has recommended approval with conditions regarding appropriate lighting, landscaping and signage. In addition, the way vehicles may be stored and displayed on site is a potential aesthetic issue and a typical concern for this type of use. Elevating vehicles for display purposes is not considered appropriate, and parking vehicles in multiple, tightly packed rows is also considered to have a negative visual impact. Consequently, the ARB has recommended standard conditions of approval to address these issues. With these conditions, the visual integrity of the corridor will be maintained, thereby protecting the quality of life. Furthermore, a site plan amendment is required for this proposal. The review of that amendment will consider compliance with the relevant development review regulations that are also set forth to protect the public health, safety and general welfare. Therefore, a combination of proper site design and implementation of the recommended conditions, along with the issuance of a Certificate of Appropriateness by the ARB, would sufficiently address this objective.

**Consistency with the Comprehensive Plan. Whether the proposed special use will be consistent with the Comprehensive Plan.**

Chapter 2 of the Comprehensive Plan (Natural Resources and Cultural Assets) establishes the goals for preserving the scenic resources that are essential to the County's character, economic vitality and quality of life. The EC Overlay District is intended to support those goals by maintaining the visual integrity of the County's roadways. The ARB addresses potential adverse aesthetic impacts in the ECs by applying the County's Entrance Corridor Design Guidelines during the review of development proposals. The ARB reviewed the subject request for conformance with those guidelines on September 8, 2020, and voted 5:0 to forward a recommendation of "no objection" with conditions to the Planning Commission regarding this proposal.

The Comprehensive Plan shows this property as part of the Core Area within the Rio29 Small Area Plan (SAP). This property is a central corner parcel that is designated as Urban Core and Core within the place types of the plan. Properties within the Core are intended to have the highest intensity of development and the tallest buildings which are offset by setbacks. Buildings facing the streets in Urban Core should have first floor uses that activate the street, such as commercial or retail uses. This designation is intended to have a mixture of uses including residential, commercial, retail, office, institutional and employment in buildings with heights of 3-6 stories, built close to the street, with pedestrian access and relegated parking. The SAP states that off street surface parking is discouraged in the Urban Core but may be allowed by exception when screened and relegated to the sides and rear of buildings. The outdoor display of vehicles along Rio Road and Rt. 29 does not support these primary goals of the SAP.

## **SUMMARY AND ACTION:**

Staff has identified factors which are favorable to the request for outdoor sales/storage/display. Factors favorable include:

1. The request is consistent with the Comprehensive Plan goal of preserving scenic resources, the Neighborhood Model goal of redevelopment, and Rio29 Small Area Plan goals related to landscaping.
2. The ARB has reviewed the request as it relates to entrance corridor requirements and has recommended the following conditions:
  - a. Use of this site must be in general accord with the concept plan “Application & Conceptual Layout Plan by Collins Engineering” last revised 09/21/20, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with this plan, development and use of the site shall reflect the general size, arrangement and location of the vehicle display/storage and landscape areas. Permitted modifications may include those required by the ARB, those necessary to satisfy the conditions of this special use permit, and additional landscaping/screening approved by the Site Plan Agent.
  - b. Vehicles must be displayed or stored only in areas indicated for display or storage on the plan entitled Application & Conceptual Layout Plan by Collins Engineering” last revised 09/21/20(the Concept Plan).
  - c. Vehicles for sales/storage/display must be parked in striped parking spaces.
  - d. Vehicles must not be elevated anywhere outside of a building on site.
  - e. Final site plan approval is subject to ARB approval of the landscape plan (submitted with the site plan). Landscaping shown on the plan may be required to be in excess of the minimum requirements of the ARB guidelines and/or the Zoning Ordinance to mitigate visual impacts of the proposed use.
  - f. Final site plan approval is subject to ARB approval of the lighting plan (submitted with the site plan). Maximum height of new pole lights shall not exceed 20’. Maximum light levels shall not exceed 30 foot candles in the display lot and 20 foot candles in all other locations. Nonconforming poles and fixtures shall be removed. All fixtures must have lamps whose color temperature is between 2000 and 3000 Kelvin.
  - g. The existing freestanding sign must be removed prior to commencement of the new use. Any new freestanding sign must meet zoning ordinance and Entrance Corridor requirements.

Staff has identified the following unfavorable factors:

1. The proposed use is not consistent with the Rio29 Small Area Plan goals for building height, building location and relegated parking.

## **RECOMMENDATIONS:**

The review of requests for special use permits for outdoor sales/storage/display in Albemarle County have typically been limited to assessment and mitigation of the visual impacts of the proposed use on the Entrance Corridors, and the requests have typically been approved with conditions recommended by the ARB. The location of the current proposal – at the most prominent intersection in the Rio29 Small Area Plan - introduces a new factor into the consideration of the request. With no previous guidance from the Planning Commission or Board of Supervisors on how to rank these competing goals, staff recommends that the Planning Commission evaluate the importance of the Rio29 form and site design standards while reviewing this request for outdoor display in the Entrance Corridors, noting that the proposal would not advance the County’s adopted vision for the redevelopment of this property.

**PLANNING COMMISSION MOTIONS:**

A. Should the Planning Commission **choose to recommend approval** of this special use permit:

**Move to recommend approval of SP20200014: 1680 Seminole Trail Outdoor Sales, Storage and Display with the conditions stated in the staff report.**

B. Should the Planning Commission **choose to recommend denial** of this special use permit:

**Move to recommend denial of SP20200014: 1680 Seminole Trail Outdoor Sales, Storage and Display.** *Should a commissioner motion to recommend denial, he or she should state the reason(s) for recommending denial.*

**ATTACHMENTS:**

**Attachment A** – Vicinity Map

**Attachment B** – ARB action letter

**Attachment C** – Applicant’s proposed plan

**Attachment D** – CAC minutes