

PLANNING COMMISSION MINUTES

July 9, 2012

MEMBERS PRESENT

Mr. Wilson
Mr. Griffith
Mr. Jones
Mr. Jennings
Mrs. Evans
Mr. Laramore

MEMBERS ABSENT

Mr. Searce

STAFF

Renee Blair
Clarke Whitfield
Christy Taylor
Emily Scolpini

The meeting was called to order by Vice-Chairman Griffith at 3:00 p.m.

I. ITEMS FOR PUBLIC HEARING

1. *Rezoning Application PLRZ20120000175, filed by Richard Holbrook, requesting to rezone from TO-C Transitional Office Commercial with an HP-O Historic Preservation Overlay District designation to TO-C Transitional Office Commercial District, 1045 Main Street, otherwise known as Grid 1720, Block 012, Parcels 000004 & 000005 of the City of Danville, Virginia, Zoning District Map. The applicant is requesting to remove the HP-O Historic Preservation Overlay District designation from this property.*

Ms. Blair read the staff report. Twenty-nine (29) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. Four (4) respondents were unopposed; three (3) respondents were opposed.

Open the Public Hearing.

Present on behalf of the request was Mr. Richard Holbrook. Mr. Holbrook stated I left a packet on each one of your desks. If you would like a minute to look over it that would be fine.

Mr. Griffith stated if you would like to go ahead that would be fine.

Mr. Holbrook stated my wife and I make up R&J Rental Properties. Basically what I am requesting is to rezone 1045 Main Street and that is the Stratford Professional Center. That is the name of the building. This building was deemed as Renee said earlier, to be a non-contributing factor or a non-contributing building to the Historical Society, District. It my purpose to keep everything well maintained and aesthetically pleasing, but there comes a point in time when some things have to be modernized to maintain and keep up with standards. If this was on Millionaire's Row right next to one of those Victorian houses or one of those mansions, I would be all in favor of it. I am a Class A contractor in the state of Virginia and I love architecture. This right here is very appealing to me (speaking about the council chambers). I love it. I go sightseeing to see architecture all over the world, cathedrals, everything. This is not one of those properties.

Mr. Holbrook read the Design Guidelines for the Historic Overlay District Article 3R.

Mr. Holbrook stated it has not really much architectural excellence. It has no cultural significance. Economic vitality, it will not be economical at all if it goes vacant. Tourist appeal, it has no value. Visual quality, that is what I am trying to do, maintain the visual quality of my building. Historic importance to the City, it has none. It is not a contributing property. My wife and I have worked hard to get where we are. We have built R&J Rental Properties to where we have thirty-three

tenants. If I can't keep these properties well maintained and modernized, they are going to go vacant. The bank is not going to be happy with me at all. We all want the same thing. Certain things as far as maintaining these properties I think supersede the historical value. This is a three quarter million dollar piece of property. Why would I do anything detrimental to the lease ability of that property? If this building falls below modern upkeep level this thriving medical facility which is fully occupied, it is fully rented and they all pay taxes to the City of Danville, will become vacant, rundown ruins. Some properties by nature are required to become modernized: medical buildings, hotels, restaurants, shopping malls. Look at the Downtowner Motor Lodge. It used to be a thriving hotel. Without modernization it is what it is now, being torn down. Not everybody goes over to the V&J Restaurant. It is run down. It still has good food. Tourists are not going to stop there. I have a heart doctor in that building. If you have a heart problem do you want to go to your regular physician with a stethoscope or do you want to go over there and have x-rays, cardiograms, and things like that? You want to go into a modern facility, clean, well maintained, up kept, no bugs, well lit all of the way to practices and use. Facilities want the same things as those stents do. They are not going to stay there if I can't keep them well maintained. Since I bought that property, which has been about two years ago, I have already invested about \$75,000-\$80,000 in it. We've painted, scraped, cleaned, glazed windows, painted the whole outside property. Right now I need to go back and redo the western wall. It will not hold paint. To try and chip off all of that old wood and so forth you just have to keep painting. That is the only way to keep it on there. You just have to keep going over and over it. It is very costly, which we are willing to do that. I am willing to keep the wood. That is not a problem. Somewhere along the lines the City has let a self-governing, self-interest group control itself. You've got the CAR, which are people to document and to let you do what you can according to this architectural review board. Basically it is a self-interest group. What they want is what they get. You need to have a non-biased group of people to say this is good for the community and this is not good for the community. Just because you live in that area, you can't dictate what they do with their property. Everybody would be driving pink Volkswagens if that was the case. Basically you need to keep up with the times in a modern facility. That is what I am trying to do. I am not going to let this property go run down. I don't know who is going to own it when I die, but I have no plans right now to get rid of it. I am self-employed contractor. This is my 401(k). This is my retirement. This is what I do so I will be able to live a retirement life. I've got to keep that property up so I will have the income. I have got to keep that property up so I can pay the bank. As I said right now I am looking at a \$700,000 investment in that piece of property. The reason we are standing here to be rezoned is because I put in fifteen vinyl replacement windows on the western side of the property. Since I have owned the property in the two years, I keep replacing the furnaces, the air conditioning units. They keep going out. It is really hot on that side. You can't keep paint on that side. None of the windows were operable whatsoever. Now they are all operable. It is not a safety hazard. There is only one way out of that building and that is the front door. You can make a U shape, but if it was a fire, it is actually a hazard. Now we can open those windows. They can get cross ventilation. They could jump out of a window in case of a fire. One of the reasons they didn't want me to put the windows in is because there were no grids in the windows. Right here on Main Street, Millionaire's Row, there are windows with lighted glass and no grids. It doesn't make any sense to me. If you look at those pictures you can see that it is a modern facility. The parking in front which is cracked up, they made them put pavers there some years ago. It is all cracked up. We had an elderly gentleman fall about two months ago. I have his name and address if you want to talk to him. We wanted to pave that. CAR wouldn't let me pave it. We did come to an agreement. They are going to let me put concrete down that will meet color and cut some grooves in it. I think that is ok. I don't mind doing that. All I want to do is to be able to have a wheelchair go in and out in a safe manner, a walker to go across this stuff, and so forth. There is give and take with every situation and I don't mind doing my part to keep that building in accordance with what everybody wants, but it needs to be to today's standards. Everyone here probably has a cell phone. Everyone one of you arrived by car and not by horse and buggy. There

are certain things that have to be modernized. I think this is one of them and I would appreciate your consideration in looking at it. I will be glad to answer any questions.

Mr. Jennings asked regarding the cracked up area is that a sidewalk or is that a parking area?

Mr. Holbrook responded right in front of the building this part that is cracked up was handicap parking for the building. It is right in front of the building. They have requested for years even before I owned the building to pave that area. CAR would not give them permission to pave it or concrete it. They made them put down these pavers. These pavers are all broken up and cracked now. I went to CAR a couple months ago to see if I could pave it. That is when we came to an agreement to pour concrete. I do have permission to go ahead and concrete this area and right on the other side, the driveway going in there is another paving area. In this same picture you can look at the Stratford House. That building has one hundred thirty vinyl replacement windows. I am right across the street. I have done no more than what they have done. I don't know why they wouldn't let me and let somebody else. I also have documentation where there is other properties throughout the district that have vinyl replacement windows. That is not what we are here to discuss, I just wanted to give you a little background.

Mr. Jennings asked is that the parking area? What area is that? Is that the area right in front of the building?

Mr. Holbrook responded yes, sir.

Mr. Jennings asked and it faces Main Street?

Mr. Holbrook responded yes, sir. This part right here is a sidewalk (pointing to the picture) going down and it is right on the street.

Mr. Laramore asked you said the problem that you have is that you replaced fifteen vinyl replacement windows?

Mr. Holbrook responded yes, sir.

Mr. Laramore asked and they were all on this side?

Mr. Holbrook responded yes, sir. They face Stratford Medical Center.

Mr. Laramore asked are they different? I rode by there.

Mr. Holbrook responded they are almost identical to what is across the street.

Mr. Laramore asked on the other side of the building, are they the same windows?

Mr. Holbrook responded the other side of the building are wood windows and they are all painted shut. A couple of them even have boards across them, which have been nailed up over a period of years. The reason for the boards is to keep the light out of the x-ray rooms and so forth that is in the cardiology clinic. Dr. Chauhan is in half of that upstairs and then Dr. Lazarus on the other side. When I rented the other side of that upper portion to Dr. Lazarus that was one of the concerns; the heat coming in those windows and not being able to raise and lower them. They were all painted shut from years and years of paint.

Mr. Laramore asked so their problem is not that you replaced the windows, but that you replaced them with vinyl, something that they didn't approve?

Mr. Holbrook responded that is correct. Their opinion is that they want me to go back and put wood windows back in.

Mr. Laramore asked was the overall look of the windows changed?

Mr. Holbrook responded no, sir. I have pictures that I can show. You can hardly tell the difference.

Mr. Laramore stated it looked the same to me as I went by.

Mr. Holbrook approached the members to discuss the photographs of the windows that were replaced.

Mr. Griffith stated you said that the windows didn't have grids in them, but the pictures that you show on here all of them do have grids.

Mr. Holbrook stated they want them to be external grids. They want them to be a true divided light. I am saying that when you come down Main Street there are some with no grids, there are some with grids. These windows have grids. I went back with grids, but I put them in between the glass.

Mr. Griffith stated that is the way they come. That is the standard.

Mr. Holbrook stated that is not a true divided light, which would be separate panes of glass.

Mr. Griffith asked the appearance is the same though?

Mr. Holbrook responded yes, sir. The appearance is the same.

Mr. Jones asked are there any other plans for the outside of the building that could be a problem for the Historical Society?

Mr. Holbrook responded the brick is there. I am not planning on changing any of the wood work. The only other thing is if they want to get on top of the roof and tell me not to put another rubber roof on. I don't have any plans to do anything except for the parking, which they have already given me permission to do. They wanted concrete instead of asphalt. I don't mind doing that. That was a give and take type thing. Give them what they wanted, give me what I wanted. It was a mutual consensus. I am in with keeping everything else. I don't mind to keep painting the building. I would rather put aluminum trim on it, but I don't mind to keep painting it.

Mr. Jones asked but you do understand where they are coming from in fact that after you leave somebody could tear this down and put up anything if we grant this, right?

Mr. Holbrook responded I don't know why anyone would take a thriving \$10,000 a month income, tear it down, and put something else. I have got \$700,000 dollars invested. Why would anybody tear it down? Unless Walgreens came in and tore it down. I can't foresee what is going to happen twenty-five years from now. It is like Exxon right up the street on the corner of Holbrook. In the Historical District we had no Exxon's. I consider the Architectural Review board kind of bias and hypocritical. They want everything to look good from the street, but they don't mind central air.

They don't mind restrooms. We are all standing in a historical building and we all have air conditioning. That is not the way it was built. We don't have to go outside to an outhouse. It has to be give and take along with a modern facility to keep up with the times. That is the way I look at things. I don't want to do anything detrimental to this building that would kick a tenant out. I don't want it to become another Downtowner Motor Lodge. I want it to be a thriving part of the community. I have got thirty-three tenants. This is just one building. If you look at another building that I've got up on Westover Drive, it used to be a cinderblock building. I talked to Renee, we expanded the front, put a 6' porch all of the way across the front, put another roof on it, made it aesthetically pleasing to the community. Every one of them is rented out now, well I take that back, within the last two months I've gotten two vacancies; but they usually rent pretty quickly. It is just a strip center right up there at Pino's.

Mr. Wilson stated I am troubled by a couple of things. If I understand this correctly, we are not really discussing the issue of whether something is modern or not. It seems to me that the issue on the table is that you made changes to a facility within the Historic District knowing what the rules were for changes in the Historic District; and now if I understand this right, the way we are going to deal with that and all that money that was put into those windows is that we are going to take that overlay off so that it now qualifies for you to leave the vinyl windows. I guess I am kind of wondering why and I have seen this happen a few times in my time here on this Planning Commission is that work gets done, then it goes in violation, then the way it is handled is to come back to us and ask for an exception to that. I don't think anybody wants to be heavy handed or anything here; but when you put the vinyl windows in did you know that you were out of compliance at that point?

Mr. Holbrook responded in the City of Danville you don't have to have a permit except for in the historical area to put in vinyl replacement windows.

Mr. Wilson stated but you did put them in a historic area though.

Mr. Holbrook stated I didn't think about that as being a problem. I didn't think I was going to have to have a permit for vinyl replacement windows. I didn't think that governed that part.

Mr. Wilson asked was it possible to as a building owner in the Historic District, whose responsibility it is to make sure that we are compliant with the Codes, because now we are really being asked to switch something that could have a long term effect for other businesses, set precedence, all kinds of things. I know that, I guess they still make the Jefferson double hung windows, divided light, and so I think that there are options out there that could have been chosen. I just wonder if that conversation ever took place rather than just having to come back in behind.

Mr. Holbrook stated we never had that conversation. Most of the things that are requirements like paving stone is cost prohibitive. That is the reason we are in the same thing that we are in now.

Mr. Wilson stated I understand that, but we are dealing with a very specific issue and that is whether to take a zoning off of something in order to make the windows that were put in as an owner and all of that due diligence that was supposed to have been done ahead of time, to make that now compliant. I am assuming that if this doesn't get approved you have to remove all of those windows and go with the proper type of window.

Mr. Holbrook stated we are going to ask for a variance and we will still go through the proper channels. We will go to court. It is in the opinion of the court that they will not make me do that. It is already a Supreme Court ruling on another issue on Main Street on non-contributing properties.

The Norton case with the front door and I've got that documentation as well. Again if you want to go to that part, we are only dealing with to make it historical or not. We are not even considering the windows that have been done. We are not considering that. I was just giving you some background about the windows. What we are looking at is that this is not a contributing building and to foresee what is going to happen five years, it probably will not be a contributing building then either. That is what Renee was saying in her records. If you look at just that part, there is no reason not to lift it.

Mr. Laramore stated I think from a City standpoint, one of the things is that the building could be damaged to an extent that it couldn't be replaced. It could be that five years from now there is a vacant lot there, so we do have a lot to consider with what your problem is and with what Bruce said the larger picture is.

Mr. Holbrook stated I just replaced about every light fixture in there, so the building will not burn down. I would go into a room and flip on a light switch and they were sparking. After a couple of complaints of that, we just started replacing them all in conjunction with the City Utilities Department.

Present in opposition to the request was Mrs. Susan Stilwell. Mrs. Stilwell stated I am a member of the Commission of Architectural Review. Mr. Holbrook purchased this property in 2010. At that time I am sure that he must have been notified that it was a property located in an overlay district, the Old Westend which was created in 1971. The CAR has saved the Langhorne house and many other properties in this neighborhood. It is not one property that is important. It is the context and the integrity and the setting of the entire Old Westend that is important. If you buy a piece of property at Burton Condos, at Windimere Villas, and Burnum Woods or in the Old Westend there are rules. If you want to purchase something in those neighborhoods you have to comply with the rules that are in place. I was not a member of the CAR when the papers were suggested for the parking. He needed a handicap space, because on that lot the driveway goes way downhill. It is difficult. It was suggested I know that pavers be put in. Unfortunately the previous owner did a very cheap job. There was no foundation and you know if you put concrete pavers down with no preparation underneath they are going to break, freeze, and crack under the weight of the car. Mr. Holbrook came and asked us if we would do asphalt or concrete. We suggested colored concrete, buff color that matched the mortar of the building, scored to look like 4'x4' pieces of stone. That would be much more pleasing on that block of Main Street verses more black top there, which is hot and looks very commercial. This property in five years will be considered contributing to the Historic District. You only have to be fifty years old. Dr. John Neal built this medical facility in 1967. He used the finest materials he could find. He put in fantastic real wood windows that were architecturally appropriate to the design of the building. The vinyl replacement windows, if you understand architecture you can tell the difference. They are not true divided light. If you buy a building in the Historic District you have to be willing to maintain the building according to the architectural rules. Many of us have owned homes in the Historic District and other commercial buildings in the Historic District. You can buy wood windows. We do allow storm windows. For Mr. Holbrook to say that it is important for those windows to open for fire exits, seems like to me that he has a dysfunctional building if cardiac patients have to come out of windows to get out of a building. I don't think that is a very valid excuse for putting in vinyl replacement windows. CAR suffered with this. I mean we spent a great deal of time. Our vote was split because it was difficult. We could not set the precedence for allowing one property owner take out real windows and put in replacement windows. What would we say to the next person? If you allow one property to opt out and to be removed from a National Registered Historic District, you are truly opening Pandora's Box. Thank you, any questions?

Mrs. Evans asked if he had put in the windows, I know Pela makes a window that is true divided light. It is a replacement window but it is wood inside and vinyl outside and it is true divided light. Would that have been acceptable to the CAR?

Mrs. Stilwell responded if he would have come to CAR prior to removing, he destroyed the original windows. They were torn all to pieces he said. We asked him what happened to the windows and he said that they were all torn up. I don't know what CAR would have done. We understand weatherization. We understand climate control. We understand the cost of utilities these days, and so we do allow people to use storm windows. There are many companies. If you look at the Ferrell building on Main Street, those windows were built in 1885 that are on the front of that building. Rehab Builders actually has a part of their company that restores. They have a window restoration team. You can restore historic windows from 1885. That is pretty amazing. These are the rules and if you buy a property in a neighborhood that has rules you have to comply. You can't expect that you get to break the rules. If you do we won't have a Historic District.

Mr. Laramore asked so you wouldn't allow them? She asked the question about the wood on the inside.

Mrs. Stilwell responded we do not allow artificial materials. We do allow hardy board, like concrete board in certain instances instead of wood especially on facades that get a lot of weather exposure. We try to work with every single applicant that comes in there. We are like you. We don't get paid. We try to come up with names of contractors, people to help. We are trying to protect and in order to protect the Old Westend we have to protect all of it.

Mr. Jones asked what do you think about the windows that he put in?

Mrs. Stilwell responded I think they are horrendous. I think they are awful. They look like Barbie house windows to me.

Mr. Jones stated I am just looking at the picture of the one that he pointed out that had not been changed. I don't know if I can see much difference.

Mrs. Stilwell stated if you were on the street you could see the difference that it is a vinyl replacement window and not a true divided light window.

Mr. Jones asked do you understand his argument though, that he feels like to keep tenants in there he has got to keep this up?

Mrs. Stilwell responded I am in the real estate business. I understand about keeping tenants. I have owned a lot of rental property. I've done a lot of historic rehab in Danville, Durango, and in Telluride, Colorado. It costs money to maintain a property and to keep it up to date, so that you can keep tenants. I have been in the real estate business for thirty-four years. I mainly deal with historic property. I am very familiar. It is very expensive, but if it is done right the rents are higher also.

Mrs. Evans stated I don't know if you were on the CAR at the time the Stratford House was done.

Mrs. Stilwell stated I was not. They are not replacement. That is new construction. I was not a member of CAR. I really was not aware that it had been done. That whole wing was new construction. I know there are people that break the rules and they go to court. We feel like it is important to keep this district, which Ms. Mary Daniel who just died fought to create to save Main Street in 1971. It is important. It brings great economic value to our community. There are tourists

from all over the world who walk Main Street almost on a regular basis. They want to see real architecture. You can go to Disney Land and see fake architecture. I just think it is very important and we are very dedicated to protecting this area.

Mr. Jennings asked are you familiar with the difference in the cost of what he has done and what you are requiring?

Mrs. Stilwell responded I am not positive because I have never priced vinyl replacement windows. Probably a real hand built, I mean totally built from scratch, Danville Lumber used to build them. They had a window factory. In fact, Danville Lumber built all of the windows in the Tennessee Valley Authority, all of the windows in Williamsburg, and all of the windows in old Salem. We miss them because we were getting windows built locally here for a lot less money than if you have to go out of town. I would guess a wood window true divided light could run \$500-\$1,000 dollars.

Mr. Jennings asked per window as he has in here? Each of these windows would cost \$500-\$1,000 dollars? We didn't ask him what it cost per window to put these in.

Mrs. Stilwell asked do you get to break the rules because it costs more money to abide by them? I don't think so.

Mr. Laramore stated I was under the impression that maybe since Stratford House was right there the line ended there.

Mrs. Stilwell stated no, it goes all of the way to the Montague house.

Mr. Laramore stated so, they would have gone before the CAR.

Mrs. Stilwell stated they should have gone before the Commission but I was not serving on the Commission at that time. I don't know.

Mr. Griffith asked you don't allow any artificial materials even though they may be superior to what the original materials were?

Mrs. Stilwell responded no.

Mr. Griffith stated so basically you put up something that would not last as long and that would not be as good as what you could.

Mrs. Stilwell stated you can't buy vinyl that lasts as long as real wood. You strip the windows down. You heat gun them. I have done it many times. I did it on my stone house on West Main, heat gunned every window to the bare wood, linseed oil, primed, and two coats of paint. I lived in that house for twenty years and those windows looked like they were brand new when I left.

Mr. Griffith stated I mean I was just asking a question.

Mrs. Stilwell stated you just got to know what you are doing. We offer that type of advice when people come to the CAR. We are very helpful. We go out sometimes to the property to meet with them and make suggestions. It is expensive to maintain historic property, but we do it as a gift to ourselves and to the State of Virginia.

Present in opposition to the request was Mrs. Sarah Latham. Mrs. Latham stated I am President of the Danville Historical Society and I am also a member of the Commission of Architectural Review. First, I would like to make a couple of corrections for the record. The Historical Society and the Commission of Architectural Review are not one in the same. The overlay district and the commission that oversees it has absolutely nothing to do with Danville Historical Society. The Historical Society was instrumental back in the early 70's in promoting the creation of the overlay district and in fact the first President of the Historical Society was the first Chair of the Commission of Architectural Review; however that is where the connection ends. The Commission of Architectural Review is an advisory commission of the City of Danville. The members of the commission are appointed by the City Council as are you. We have to swear an oath. We serve for five years and our job on the commission is to uphold the ordinances, the laws of the City of Danville. These are the laws of the City of Danville passed in the early 70's. That is the CAR. It is not a self-interest group that has just decided to come together and create havoc for people that own properties in the Historic District. Next, I will say as long as we are talking about windows, vinyl windows with grids inside look nothing like true divided light windows and you can very much tell the difference. Mr. Holbrook was told at the meeting that putting in new wood true divided light windows is a very expensive prospect. My husband and I live in a house in the Historic District that was constructed in 1903. We had our windows repaired. All of the windows in our house with the exception of a new addition that we added are the original windows. They still work fine. The new ones we added were modeled on the old ones and are wood framed. They are not required to be because they are not in public view, but we value the historic character of the house and we did what was right for the house as well as the district. More recently we purchased the servant's quarters from the YMCA. There were two wood true divided light windows. Those are from the later 19th century. We found out that those windows would cost over \$1,000 dollars apiece to have built new. We found someone in town who took them out, restored them, and made them operable for a total cost of \$300 dollars for both windows. I mentioned this to Mr. Holbrook at the same time I asked him what happened to the original windows, because you can remove original windows without destroying them. Unfortunately he said that each and every window that had been removed was destroyed in the process. There is no choice now if he is going to abide by the laws of this City but to replace with brand new true divided light wood framed windows. However, the issue before us has absolutely nothing to do with these windows as Mr. Wilson pointed out. The issue before the board is whether or not a property within the overlay district should be allowed to opt out. Now if you will indulge me I have a statement to make on behalf of the Danville Historical Society, then I would like to read into the record a letter from Sonya Ingram, field representative from Preservation Virginia. This is a statement made by Preservation Virginia Public Policy Committee.

Mrs. Latham read a statement on behalf of the Danville Historical Society and a statement made by the Preservation Virginia Public Policy Committee submitted by Sonya Ingram, Field Representative from Preservation Virginia.

Mr. Jennings asked do all of the buildings in that area meet the requirements of the CAR?

Mrs. Latham responded no, all of the buildings do not. Many of the buildings that would not meet the ordinances were constructed prior to the overlay district; however at the time the overlay district was created in 1971, those buildings were included within the boundaries and that made even the non-contributing buildings subject to the laws of the City of Danville in the overlay district.

Mr. Jennings asked but all of the new constructions do meet the requirements?

Mrs. Latham responded any new construction that had been in the Old Westend Historic District would have to go before the Commission of Architectural Review.

Mr. Jennings asked and that includes this area, I guess you would say from North into across Main Street?

Mrs. Latham responded Renee can tell you the boundaries of the Old Westend Historic District.

Ms. Blair stated on Main Street they begin on the opposite side of the post office and continue on to the intersection of Mount Vernon Avenue. It also spreads out to Green, Pine, Sutherlin, Jefferson, and Holbrook Avenue.

Mrs. Latham stated it is not just Main.

Mr. Griffith asked does it go out South Main Street?

Ms. Blair responded no, it ends at the hospital. There is a cut off that does include the front portion of the hospital that fronts on West Main, but it doesn't include South Main.

Mrs. Stilwell stated it goes to Governor Montague's house.

Mrs. Latham stated it goes all the up onto West Main Street up to where the historic marker is for Governor Montague.

Mr. Griffith stated right, but I was asking specifically about South Main Street.

Mrs. Latham stated no.

Mr. Griffith stated I know the boundaries on West Main. They are marked.

Mrs. Latham stated 1045 is basically right smack in the heart of the Historic District on Main Street.

Mr. Jennings stated I noticed that there are a bunch of new doctor's buildings in that area as well. I was just wondering if they all met.

Mrs. Latham stated there have not been any newly constructed office buildings within the Historic District that I am aware of.

Mr. Jennings stated I guess I mean new since the 1970's.

Mrs. Latham stated 1971 is when the district was created and when the City passed the ordinances applying to what was allowed and not allowed in the district; so one can only assume that anything constructed after that would have gone before the CAR. However there are many scoff laws and some people have gone ahead and done things without getting permission and sometimes the City itself has not pursued its own ordinances, which is an issue that the members of the CAR have brought up at meetings. Sometimes the City has not pursued violations that should be pursued. CAR does not have the authority to issue warrants only the City can do that. As regards to the Norton house that was mentioned by the way and the windows that did go to the Virginia Supreme Court, that is most assuredly a contributing structure not a non-contributing structure. That was one of the houses built by the Schoolfield's who founded Dan River.

Present in opposition to the request was Mr. CB Mattox. Mr. Mattox stated I have lived in Danville now for twenty-six years. I have owned thirteen houses here in Danville all of them in the Historical District. I knew the rules when I moved here and I have always tried to follow them. I have generally been able to turn profit on every building I have sold. If I make an investment I want to make sure that the materials that I put into the building are good quality and will last as long as the previous materials have. To some extent I think vinyl siding and vinyl replacement windows people that sell those are one step above what the general perception of a used car salesman would be. I do want to mention that there was a house that has been taken out of the Historical District on Gray Street just off of Holbrook Avenue. I believe that was about three or four years ago. The last time I drove by that house it really looked like it had been slumped down. The people insisted that they were going to improve the house so beautifully and all they needed to do was to be out of the Historical District to do what they wanted to do with that house and now it looks like a mess. I think the Historical District needs to be kept intact. Taking this property out of it would amount to spot zoning, which is an illegal procedure. I think you should definitely keep this in the Historic District.

Mr. Jones asked the houses that you have owned, have they all been single family dwellings?

Mr. Mattox responded no, they have been a mixture. They have been single family, duplexes, and currently I own one that is a four apartment building. When I purchased that apartment building it did have seven units in it and we down zoned it and made the apartments larger; because quite frankly I wouldn't want to rent something that I wouldn't live in myself. As a matter of fact I did live in the apartment building when I was doing some work on my own house.

Present in opposition to the request was Ms. Caroline Lawson. Ms. Lawson stated I have lived in Danville for nearly four years. I own a historic house and I understand the rules and regulations apply to me; because I am privileged to live here. I am sorry that Mr. Holbrook tore out his windows because my house was built in 1857 and the windows seem to be stronger than when they were first put in. I would like to draw your attention to the fact that Mr. Holbrook has already given you an indication that if you remove this building from the historic district overlay, he is going to put aluminum siding on the building and he is also going to put on a rubber roof. Please bear in mind that by removing the building from this historic overlay you are opening the floodgates.

Present in opposition to the request was Mr. David Corp. Mr. Corp stated my wife and I currently live in the Burton Condominiums, but we just recently, just recently as a week and a half ago, purchased a home on Holbrook Avenue in the historic district. One of the reasons that we felt confident to do this was because of the meetings that we have recently attended where the City is inventorying and going to revitalize the Old Westend as well as the homes in the Tobacco Warehouse District. Allison Platt and Amanda Adams have been engaged by the City to inventory this area and to give direction for a revitalization of the Old Westend. As I said this is one of the reasons that we felt confident is purchasing an historic home on Holbrook Avenue. We feel that this is important for the future of this City. We came to the city from Buffalo, New York a city that had also fallen on hard times. We came to Danville based on its website. It seemed like a city that could get out of its own way and could move forward. I think we have all seen recent attempts at doing that, preserving historic structures while making them acceptable for modern standards and modern in the case of the Dan River Research building medical practices.

Close the Public Hearing.

Mr. Laramore asked under our alternatives in recommending tabling Special Use Permit 175 as requested, is that correct?

Ms. Blair responded that was not requested. I apologize.

Mr. Laramore asked is it a Special Use Permit or is it a Rezoning?

Ms. Blair responded this is a rezoning. That is an error.

Mr. Wilson stated I just want to make sure that I understand that. All of these list Special Use Permit.

Ms. Blair stated they are to be rezoned.

Mr. Wilson asked so it is a rezoning request?

Ms. Blair responded correct. It is a rezoning request and the number is 175. There is no current request for tabling.

Mrs. Evans asked would it be considered spot zoning if we removed the overlay?

Mr. Whitfield responded typically spot zoning has to deal with a different use for the property as opposed to the overlay district situation. I am not familiar with a situation where removing an overlay would be spot zoning; but say this was a completely a commercial section or a commercial residential section and the request was to rezone to commercial for that one place, that would be illegal spot zoning. That is something I will look into prior to the Council meeting.

Mrs. Evans asked but it is not anything that you consider spot if you just remove the overlay for one building?

Mr. Whitfield responded it is not something that I am familiar with. That is something that I need to look at.

Mr. Wilson asked what position does this put the City in if we were to remove the overlay for this one? From the City's perspective, what does this mean? It is concerns that if the property were removed then a new modern structure would be erected. Is this the extent of the concerns here?

Ms. Blair responded yes, with the Historic Preservation Overlay District removed that does remove the controls, the architecture controls from the Commission of Architectural Review. That can open the door in the future for various changes, demolition, things of that nature could take place without any purview of the Commission of Architectural Review.

Mr. Wilson asked are there other processes that regulate those things?

Ms. Blair responded it would simply be the zoning of that particular property. It would be the zoning alone just like Riverside Drive or Piney Forest Road. It would be the zoning itself, that would be the only controls.

Mr. Jones asked you mentioned conditions by the Planning Commission. What kind of conditions can we put on the possibility of a rezoning? Can you put any?

Mr. Whitfield responded in a rezoning you can't place any conditions on it. Now the applicant can come forward and they can agree to certain conditions. If this were a special use permit you could

impose conditions. All you can do is approve conditions that maybe the staff and the applicant have negotiated together.

Mr. Wilson stated but that has not been the request. The request is to just to remove it if I understood it correctly. If we don't do that, he will take legal action.

Mr. Whitfield stated Council still has to act.

Mr. Griffith stated we are just making a recommendation.

Mr. Wilson stated I understand.

Mr. Whitfield stated you would have to ask the applicant.

Mr. Griffith asked it is a rezoning application, but the zoning would not change. This is still going to be Transitional Office Commercial?

Mr. Whitfield responded that is correct.

Mr. Griffith asked it is still a commercial property, so all of the zoning requirements that apply to that would still apply to this piece of property?

Mr. Whitfield responded that is correct.

Mr. Griffith asked the only thing that it would do is remove the historic overlay?

Mr. Whitfield responded right. That is what he is requesting.

Mr. Jennings asked I think Mr. Holbrook said that he did not need a building permit to make these changes in the windows. Is that right?

Mr. Holbrook responded in the City of Danville I do not need a building permit to put in vinyl replacement windows. I have put in hundreds of them. I didn't really think that was affected at the time. That is the reason we didn't go through that. That is the reason I am in the predicament now, because I didn't know those rules or whatever. We put those in. Since this is in the historical overlay then we do need a building permit, is that correct?

Ms. Blair responded that is correct.

Mr. Holbrook stated but if it would have been outside of the historical overlay, you do not need a building permit in the City of Danville for vinyl replacement windows.

Mr. Jennings stated that was going to be my next question. At any time does the City have the responsibility to make sure that a building meets the architectural review requirements when they approve a permit to build?

Mr. Whitfield responded quite frankly Mr. Jennings, we just presume that when somebody purchases a building that they will know whatever it is, whether it be in a historical district, whether it be in a residential subdivision, whether it be on Riverside Drive; so really I would say that if there is anybody that has the responsibility of telling the person purchasing a building would be the real estate agent. They are supposed to know the rules as well.

Mr. Holbrook stated there was no real estate agent. I bought this property, it was going to foreclosure. The landlord before me was not keeping the building up. It was in foreclosure or getting ready to go to foreclosure. I bought it directly from the bank. I didn't get guidelines for the historical stuff until after the fact that we got involved with Renee and she printed that off for me. That was already after I had put the windows in that I got the guidelines that I quoted earlier. Right after I bought it I started doing repairs, so the building does remain stable and it doesn't burn down. Like I said I have already put \$75,000 dollars' worth of repairs in it.

Mr. Jones stated you mentioned that staff can enter negotiations with the owner as far as working out conditions and things like that. Has there been an attempt by either owner or staff to come up with some agreement to handle this situation?

Ms. Blair responded no, we have not had discussions about any proffered conditions.

Mr. Jones asked do you think that those discussions are possible in the future?

Ms. Blair responded staff is always willing to work with the applicant if the applicant has proffered conditions that they would like to submit.

Mr. Wilson stated but the bottom line is that current law would not approve those windows.

Mr. Whitfield and Ms. Blair stated correct.

Mr. Wilson stated so even if there were negotiations, they would be within the law that currently stands.

Mr. Griffith asked if he would have received the Certificate of Appropriateness the windows could have been installed. Is that correct?

Ms. Blair responded that is correct.

Mr. Griffith stated so it is possible that they could have been approved and put in if a certificate was issued.

Ms. Blair stated if they had been approved and they would not be in violation.

Mr. Jones stated we really have only two choices: either grant his approval that takes him out of this district or to deny.

Mr. Whitfield stated that is correct. You are recommending either that Council deny the request or approve the request. That is correct.

Mr. Wilson asked can we make a comment?

Mr. Griffith responded yes, sir.

Mr. Wilson stated one of my comments and maybe it is just my pastor nature working here; but it is a little troubling to me that people come to the platform and get really, it is a little strange, a little bit of name calling going on between the parties involved. It is kind of a tension of characterizing people in kind of negative lights because of issue. I am not sure that overall works well for the

nature of our City and some of the things that we would like to accomplish here. It is something of a reaction here, but I do think these things can be worked out. There are laws here.

Mr. Griffith asked does the City offer incentives for people to make buildings more energy efficient?

Ms. Blair responded there are certain programs available through the Housing and Development Department.

Mr. Griffith asked one of which includes putting in replacement windows?

Ms. Blair responded it could, yes.

Mr. Griffith stated on one hand we are rewarding people and on the other hand we are doing something else.

Ms. Blair stated but those are only available in specific areas that have been targeted and designated by Council.

Mr. Griffith stated right, I am just saying on one hand the City is offering people incentives to do these things and then on the other we are telling them not to do it. We are sending a mixed message, I think.

Mr. Jones asked cases like this and I don't know if there has been one like this, but there have been times when people have gone to City Council concerning questions by this group. What has been the reaction by Council over the years?

Mr. Whitfield responded I can tell you that in my eight years of being City Attorney I don't recall anybody coming to Council with regards to concerns about the overlay, so I wouldn't know.

Mr. Jennings stated I thought there was one case with regards to someone wanting to change the roof on a building. Mrs. Stilwell do you know anything about that? It was a long time ago.

Mr. Whitfield stated now there have been appeals, but not since I have been City Attorney.

Mrs. Evans made a motion to recommend denial of Rezoning Application PLRZ20120000175. Mr. Wilson seconded the motion. The motion was approved by a 4-2 vote (Mr. Jones and Mr. Griffith voted in opposition).

- 2. Special Use Permit Application PLSUP20120000204, filed by Sheila Isom, requesting a Special Use Permit to operate an adult day care center in accordance with Article 3M, Section C, Item 6 of the Code of the City of Danville, Virginia, 1986, as amended, at 147 Deer Run Road, otherwise known as Grid 1815, Block 004, Parcel 000015 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate adult day care center at this location.***

Miss Scolpini read the staff report. Fifteen (15) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. Two (2) respondents were not opposed; zero (0) respondents were opposed.

Open the Public Hearing.

Present on behalf of the request was Ms. Shelia Isom. Ms. Isom stated I am a minister. I have been in the ministry for twelve years. We are non-profit incorporated. I am also a registered nurse and I am wanting to do something for our community in extension from our ministry. This past August my mother passed away with Alzheimer's and she had suffered with that for fifteen years. My dad is ninety and we were blessed to keep them both home during her illness. When she passed I think the seed fell into my heart that our community was in desperate need of a facility that would reach out to our senior community. After a lot of research and planning, I discovered that we are in a sandwich generation where people or elders are living longer. They are in between a situation where a lot of people think when they get old they need to go to nursing homes or assisted living; but in fact many of them are not ready for that. They do need an area where they can be safely provided for and have skilled professionals that are going to be there. What we are proposing is a daycare rather than assisted living or a nursing facility. They would just come for a maximum of twelve hours per day, whatever the family would want them to do. As we were looking for the location for the center, we wanted it to be in the center of the community where people would have easy access and a place that would thought would be appropriate and we did find this building; which we feel that it is. The Planning Report states no more than twenty clients, but we are not going to take more than ten at the beginning; because we just want to get our feet wet and get in there. Most of our staff will be nurses and some volunteers that will have to go through first aid training, CPR training, and also classes on senior care. There is a difference between medical and health care. In an adult daycare center ours is leaning more on the healthcare side, which means that it is more of a cognitive holistic approach that we want to give the family and these clients. In that meaning that the clients would have to come in and be able to feed themselves, go to the restroom on their own with some assistance, but mostly to have a social place for them with cognitive stimulation as well as physical. We did attend a mandatory class back in March for State Licensing in Virginia. They do state that being non-profit we are not required to have a license per say, but coming from the medical profession I want to do it as close to Code as we can. We will eventually be applying for our State License after we get opened and running.

Mr. Jones asked do you have any problems with these other conditions as stated by staff?

Ms. Isom responded as far as the building, yes. When I attended the mandatory class in March, they went over all of the requirements for State Licensing. There was nothing spoken in those classes according to having a full shower in for a daycare or a sprinkler system in the building; so when we were pursuing a location we weren't thinking about those areas. It wasn't in all of those classes that we attended back in March. That is the problem that we do have with this building; however Mr. Dyer is here that is the owner of the building and can give you more architectural information. It is a building that is easy access. It is all on one level. We are not going to be cooking in the facility at all. We are going to be catering our meals in. Basically the building is just going to be used for activity. We are keeping our clients to probably about ten and we will have about three to four full time staff and four to five volunteers on any given day.

Mrs. Evans asked so the class you took didn't say anything about a shower?

Ms. Isom responded no, mam.

Mrs. Evans stated that kind of threw me.

Ms. Isom stated we have three in the building. There is three handicap bathrooms. They are fairly large. Since it is not a center that is going to keep them overnight and that we are leaning more toward health than if you have medical problems with a patient. Those are pretty much substantial to be able to deal with any accidental problems that we may have throughout the day. There are

other areas in our community that do house mentally retarded clients and their facilities are not anywhere near the standard of this building. When we were looking for a location, I didn't want a house per say, I did want a center where we could grow from there. I am visionary, so hopefully we can grow out of this building into one of Mr. Dyer's bigger buildings to house more people to bring this service to our community.

Mr. Wilson asked is it being required to install a sprinkler system, handicap accessible shower?

Ms. Isom responded Mr. Dyer can answer that.

Mr. Dyer stated anything related to the building and the actual requirements, I have more information and I will come and speak.

Mr. Griffith stated Mr. Dyer would be better to answer your question.

Mr. Laramore asked non-profit organizations are not required to be licensed by the State for operations, but they may do so voluntarily? I take it profits have to be licensed.

Ms. Blair responded that is correct, as an adult daycare facility. They will still have to obtain a business license, but not have to register and obtain a license from Social Services.

Mr. Laramore asked because it is non-profit? It wouldn't fall under the State's guidelines?

Ms. Blair responded that is the way the State has written that for Social Services. I can't tell you the reasoning behind it.

Mr. Laramore asked that is coming from the State?

Ms. Blair responded yes.

Mr. Laramore stated I just wanted to make sure that I was reading it correctly.

Ms. Isom stated I do want to be State Licensed because I think that gives the center more credibility and if I were to put my dad there, I would certainly want it to be up to Code; and I don't want to do anything less than the excellence of it.

Mr. Wilson stated just a kind of comment observation, as you did see from the last situation we dealt with, one of the things I have noticed being on the Planning Commission is the number of people that have really great ideas, their heart is in the right place, they are venturing out; but then with all of the requirements and things that come along it gets more complicated to actually pull off. Is it starting to get more complicated with the sprinkler system? I don't want to go through the technical there, but are you prepared to be able to take on the full financial responsibilities that could get overwhelming?

Ms. Isom responded it is a little bit overwhelming already. We have applied for some local grants in the area and Mr. Wright is one of our Board members and he is also helping us with some grants. Being non-profit we can do that. We will have a fee for the clients that come in, but initially getting something started you want to do it for the community. You want to do something that is needed not just something that is a great idea. In the research that we have done, we did a needs assessment and everything we got back from the community was "when are you going to open it?" "We need it really bad." It is overwhelming when you are trying to start something because it is a

need verses just a great idea. I am committed to it. At the beginning you don't want to do anything that is not going to be safe for any of the clients. That is not our purpose. We are trying to get up and get going and then we will get the funds in to be able to carry it.

Mrs. Evans asked may I ask what Board you are referring to?

Ms. Isom responded our adult daycare has already established a Board of Directors and we have had our first Board meeting, and so we wanted to continue to pursue.

Mr. Wilson asked is this an extension of your churches work?

Ms. Isom responded it is an extension of my ministry, Shelia Isom Ministries. It is a non-profit, tax exempt corporation. We are doing that up and under that as an extension, yes sir.

Present on behalf of the request was Mr. Gus Dyer. Mr. Dyer stated I am the owner of the property at 147 Deer Run Road. What has happened is, even though the real estate agent didn't know the Code had changed in the last six months, and so when the Code changed there were some additional requirements that had not been required previous to this. In fact, you all just recommend the granting of a special use permit at the old Big Daddy's, which does not have sprinkler systems. It does not have showers or anything like that. That was under the 2006 Code. We are now operating under the 2009 Code. The 2012 Code is coming along. I don't know why it doesn't correspond with the years that we are dealing with. There is a section in the Virginia Code that will possibly allow us to operate this facility without the sprinkler system and without the shower being required. I didn't even know about this until Friday a week ago. Since last week was the 4th of July, I am having a hard time getting in touch with a lot of folks, but I have actually engaged an architect who is going to provide us with the data that will show that basically the sprinkler system is redundant in this building and does not lower the safety level by not having it. I want to assure you that if we aren't able to get that done we are not going to use this building for a use that doesn't meet Code. Because Ms. Isom has already gone this far, we figured we would come to the Planning Commission and go before Council to make this application while we are still awaiting the Building Official's ruling as to whether we can actually get a CO or not. I would like to ask that if you are going to grant this motion if the stipulations, that it be the stipulation that we can obtain a CO and not necessarily that we provide the services that are listed, which is the shower and the sprinkler system. Ms. Isom is starting this business pretty much from scratch. She cannot commit to a long term lease. She can commit to a one year lease. I cannot afford to spend \$20,000 dollars on this building for \$1800 a month for twelve months. As far as the appropriateness for the building for this type of use, I think it is not only acceptable, I think it is probably a preferred location. Deer Run Road is located off of Piney Forest Road, so it is a quiet side street. There is not a lot of traffic out in front of the building itself, but it is very accessible to the majority of the people in the City of Danville. There are several other medical facilities, counseling facilities that are located on Deer Run Road. I don't think there will be a problem with any of the neighbors. If you have any questions, I will be glad to answer them.

Mrs. Evans asked why do you think a sprinkler system is not needed?

Mr. Dyer responded a sprinkler system provides security against fire at a different level than just being able to exit the building. There are smoke detectors. There is easy access in and out of the building. It is a fairly small building. It is a little over 2000 square feet. It is not going to be a situation where you are going to be on the 10th floor of a multi-story building and it is going to take you fifteen minutes to get out. Like I said, this is all based on meeting State requirements. The architect is going to evaluate the building and determine whether the sprinkler system is redundant

or not. If he does not determine or if Jerry Rigney does not agree that the sprinkler system is redundant, then we are not going to pursue this any farther. There is a clause in the Virginia State Code that will possibly allow us to provide some documentation that the sprinkler system would not be necessary.

Mr. Jones asked could it be done and yet the Fire Marshall say "I want a sprinkler system?"

Mr. Dyer responded Jerry Rigney is actually the one that will make that call as to whether the sprinkler system is going to be required or not. Like I say, this is something that has just been put in the new Code. Every other adult daycare facility, there aren't many in Danville, but all the ones that are don't have sprinkler systems. Apparently if it is good enough for those folks and you agreed to let them operate, we hope that you will take that into consideration.

Mr. Laramore stated but they've changed the rules since.

Mr. Dyer stated right, but there is a clause. There are some escape clauses. It is not set in stone. We will have to provide some extra documentation that will be reviewed by Jerry Rigney and his Building Inspector and he will determine ultimately whether we can get a CO or not.

Mr. Wilson asked why can't that get cleared up before we have to make a decision?

Mr. Dyer responded I didn't even know about these conditions until Friday a week ago. I was given an opportunity to contact an architect to see if he can come up with the data that we need. I have contacted him last Friday. He has told me that he will let me know something early this week. We had already made the application to go before the Planning Commission and City Council; and we just felt like to expedite things. You're not going to make a decision here that is going to allow us to do something that Jerry Rigney does not want us to do. Basically what we are asking is for you to look at the site where this building is located and determine if you think this is an appropriate location for this type of use. The issues that we have to deal with Jerry Rigney as far as meeting the Building Code really aren't **drained** with the decision you all have to make. They are a total separate issue. Approval of this is not going to have any effect on whether we get a CO or not.

Mr. Griffith asked if Mr. Rigney says that they need a sprinkler system and a shower, then they don't get the CO?

Mr. Whitfield responded that is correct.

Mr. Griffith asked and one of our conditions is that they have to have a new Certificate of Occupancy?

Mr. Whitfield responded that is correct.

Mr. Jennings asked one of our conditions is what did you say?

Mr. Griffith responded we can make a recommendation to Council, but if it is determined between now and the time council reviews this that they do not have to have these items, they can still get a Certificate of Occupancy. The conditions that we have don't say anything about a shower.

Mr. Dyer stated it is similar to a rezoning request. You all can rezone a piece of property that would allow a certain building, but if the building itself does not meet Building Code that doesn't grant them the right to use it or build that building. It is just that you are approving this site as an

appropriate site. All adult daycare facilities require a special use permit, because of the sensitive nature and where they are located. I would just like to point out that this is a probably a preferred location for this type of facility.

Mr. Griffith read staff's recommendations.

Mr. Dyer stated the building itself is fairly new. It was built in 1999 or 2000 and so it does meet all of the handicap accessibility requirements.

Mr. Griffith stated I am trying to help you here. The conditions listed do not include those. It says that you have to have a Certificate of Occupancy. That is the point we are trying to make. If it is determined that you don't need those items, you can get a CO. if it says that you have to have them, then you don't get it.

Mr. Dyer stated and the special use permit would have no impact.

Mrs. Evans stated if you don't get a Certificate of Occupancy, then you select another site and come to us again.

Mr. Dyer stated or you can approve the special use permit and perhaps Ms. Isom can obtain some grant money that would allow us to make the investment that would bring the building up to Code as far as the sprinkler system and the shower. Right now, like I say, on \$1800 a month I can't invest \$20,000 dollars on a one year lease.

Mr. Jones asked so you don't have a problem with us recommending this with the conditions by staff?

Mr. Dyer responded if that condition is that we obtain the Certificate of Occupancy not that we have to put in a sprinkler system and shower.

Mr. Whitfield stated it says to obtain a Certificate of Occupancy to operate an adult daycare facility along with no cooking and the number of clients.

Mr. Jones asked and there are other adult daycare facilities in the City without sprinklers, without showers?

Ms. Blair responded there are. Yes, this was part of the 2009 Building Code that came into effect in March.

Close the Public Hearing.

Mr. Wilson made a motion to recommend approval of Special Use Permit Application PLSUP20120000204 with conditions per staff. Mr. Jennings seconded the motion. The motion was approved by a 6-0 vote.

- 3. Request to amend Chapter 41 entitled "Zoning Ordinance" of the Code of the City of Danville, Virginia, 1986 as amended, more specifically Article 15 entitled "Definitions", Section B entitled "Definitions", to amend the definition of family to reflect changes in State organizations, and to define temporary family health care structures, amend Article 2 entitled "General Regulations", Section P entitled "Accessory Structures and Uses" by adding regulations on temporary family health care structures, to amend Article 3.B:*

entitled T-R Threshold Residential District”, Section C. entitled “Uses Permitted by Special Use Permit”, Article 3.C: entitled S-R Suburban Residential District”, Section C. entitled “Uses Permitted by Special Use Permit”, and Article 3.E: entitled OT-R Old Town Residential District”, Section C. entitled “Uses Permitted by Special Use Permit”, to allow for detached accessory structures or uses without a primary building being located on the parcel.

Ms. Blair read the staff report.

Open the Public Hearing.

No one was present on behalf of the request.

Close the Public Hearing.

Mrs. Evans asked under the *residential facility with no more than eight individuals with mental illness residing with resident counselor or other staff persons as a residential occupancy by single family*, I think there are houses in the City that have mentally ill persons, with no one there. It is just a group of people living there with no one. How does this address that?

Ms. Blair responded we would need to look at each case by case. If you believe those exist, we will look at them and start an investigation. If it does not have a residential counselor then we will need to address that individually.

Mrs. Evans asked do they need to be registered with the Department of Social Services prior to opening such a facility?

Ms. Blair responded yes. They will need to be licensed by the Department of Behavioral Health and Developmental Services.

Mrs. Evans asked so before someone moves a group of individuals into a home, they should already have this license?

Ms. Blair responded correct.

Mrs. Evans asked and if they don't, can you address the individual?

Ms. Blair responded that is correct. There is within the new legislation sign off sheets that are being added to the process for licensing, so there will be a zoning approval that is required. That is fairly new. That will help us with the process.

Mrs. Evans asked will the other ones that already in existence be grandfathered?

Mr. Whitfield responded they will probably be legally non-conforming structures, but as far as the other issue that you are talking about, that is a completely separate issue than the zoning. If it is a bunch of people living in a house together as you described without a caregiver, that may not be a zoning issue as much as an issue with Social Services.

Mrs. Evans asked if someone owns this house and that is the situation and now the house is on the market, if someone else buys it is it still legal non-conforming?

Mr. Whitfield responded as long as the use is continued within two years it would still continue to be legally non-conforming.

Mr. Laramore made a motion to recommend approval as submitted. Mr. Jones seconded the motion. The motion was approved by a 6-0 vote.

II. MINUTES

Mr. Jennings made a motion to approve the June 11, 2012 minutes. Mr. Jones seconded the motion. The motion was approved by a 6-0 vote.

III. OTHER BUSINESS

Ms. Blair stated there are no Council items to report, but I did want to mention that this will be Miss Emily Scolpini's last Planning Commission meeting. She is accepting a position as Housing and Development Planning Specialist. We want to thank her for her services and time. We wish her much luck in the future.

Mr. Griffith stated I would like to add to that, thank you. We appreciate the work that you've done. At least you will be staying in Danville.

Miss Scolpini stated yes, I will still be in the same department.

Mr. Griffith stated well that is good.

Mr. Jones stated many of you know that the two trees that fell on West Main Street were in my front yard and I just want to commend the City for how fast they got on the job. Public Works, the electric department, Comcast was even there before they could do anything, but they did a wonderful job of cleaning that out, dealing with traffic, and getting me back electricity. I just want to thank the City.

With no further business, the meeting adjourned at 4:43 p.m.

APPROVED