

**PLANNING COMMISSION MINUTES  
NOVEMBER 9, 2015**

**MEMBERS PRESENT**

**Mr. Wilson  
Mr. Dodson  
Mr. Bolton  
Mrs. Evans  
Mr. Searce  
Mr. Jones  
Mr. Garrison**

**MEMBERS ABSENT**

**STAFF**

**Tracie Lancaster  
Ken Gillie  
Anna Levi  
Clarke Whitfield**

The meeting was called to order by Chairman Searce at 3:00 p.m.

**I. ITEMS FOR PUBLIC HEARING**

1. *Special Use Permit Application PLSUP20150000290, filed by Julie Brown, requesting a Special Use Permit for indoor commercial recreation in accordance with Article 3M, Section C, Item 4 of the Code of the City of Danville, Virginia 1986, as amended at 209 Trade Street, otherwise known as Grid 1713, Block 003, Parcel 000008, of the City of Danville, Virginia Zoning District Map. The applicant is proposing to propose to provide a space for event rental.*

Ms. Levi read the staff report. 7 notices were sent to surrounding property owners within 300 feet of the subject property.

Mr. Searce opened the Public Hearing.

Mr. Searce closed the Public Hearing.

Mrs. Evans stated why are they coming before us now if there has been indoor recreation as this facility before correct?

Mr. Gillie stated not that the staff is aware of where they have charged to lease the facility out.

Mrs. Evans stated oh okay.

Mr. Gillie stated it's when you charge for the event we just had one similar on North Main not too long ago. To have and operate as their own business they don't need to, its when they charge and lease it out to other people when they need the Special Use Permit.

**Mr. Bolton made a motion for approval as submitted. Mr. Garrison seconded the motion. The motion was approved by a 7-0 vote.**

2. *Rezoning Application PLRZ20150000292, filed by Faiz Malik and Muhammad Riaz, requesting to rezone from TO-C, Transitional Office Commercial to "Conditional" N-C, Neighborhood Commercial, 1009 Main Street, otherwise known as Grid 1720, Block 012, Parcel 000010, of the City of Danville, Virginia Zoning District Map. The applicant is proposing to rezone to allow for the operation of a convenience store.*

3. *Special Use Permit Application PLSUP20150000293, filed by Faiz Malik and Muhammad Riaz, requesting a Special Use Permit for the operation of a convenience store with gasoline sales in accordance with Article 3J, Section C, Item 3 of the Code of the City of Danville, Virginia 1986, as amended at 1009 Main Street, otherwise known as Grid 1720, Block 012, Parcel 000010, respectively, of the City of Danville, Virginia Zoning District Map. The applicant is proposing the operation of a convenience store with gasoline sales at this location.*

Ms. Levi read the staff report. Twenty-two notices were sent to surrounding property owners within 300 feet of the subject property. You have a list in front of you of the responses.

Mr. Scarce opened the Public Hearing.

Present on behalf of the applicants was Attorney James Daniel.

I'm representing the applicants Faiz Malik and Muhammad Riaz. There has been a service station in that area since 1916, the building that presently stands there was built in 1969. I believe the building has actually been vacant for longer than a couple of months. What has happened to the Gas sales business and the car repair business is that the shop there, along Main street is no longer economically feasible. Cars, as I'm sure you know are far more complex with computers that are used to service cars. The money that was made from the sale of gas is profit that was in the larger stores such as the Sheetz. Gas profit is down considerably so it is no longer economically feasible to have a service station and mechanic at that location. The question that I submit to you today is what is the best use or repurpose of an existing vacant building. I think we can drastically change the use of real estate. We are not attempting to go from purely residential or light use to intense use. As it has been pointed out there has been a service station here for 99 years where cars have parked and waited for new tires and mechanical work; cars coming in and out for days on a constant basis, to the air compressor putting air in their tires. I have a leak in my tire there is an air compressor right there on the front creating noise and there is lighting for that gas station. We are not suggesting a more intensive use really than what has been there. What should be the approach that property should set vacant or provide a benefit to those who travel in this area? Last Thursday night my clients and I met at a home on Main Street with concerned citizens that live in the surrounding area. I will not tell you that we changed any minds but what we did do is answer questions and provide information about what the use would be by these businessmen. These folks are successful as they have a store in Lynchburg the store is clean well maintained and it has a delicatessen where they cook chicken, fish and serve a variety of foods. They have four or five booths for indoor seating. This would be a store that will not have beer we don't want people walking on Main or Holbrook with a brown paper bag drinking a can of beer. That is not what this store is about. We believe that such a store will add a compliment to the area. There is already Midtown Market it will be a compliment to Midtown. They don't intend to cook Christmas Hams or Thanksgiving Turkeys, but they would have a cheap variety of wines by the bottle and some food. Mr. Phillips contacted numerous people in the area and some were actually excited to see this type of business locate here. I have numerous surveys that Mr. Phillips collected and people who work and some who live in that area on Main Street would be glad to show those to you if I might? Also, we have some pictures I believe some were submitted with the application of the store in Lynchburg which we believe will give you a proper idea of what the applicant's intent is. This could be a great place for people to pick up a sandwich for lunch or to get some chicken on their way home. This store would be a part of the neighbor and even a part of the rebuilding of Danville. We submit that this is not really illegal spot

zoning. There have been intensive what I would call a heavy use mechanical work and gas sales. These folks are not looking for a fight and they don't want to be the poor neighbors in the neighborhood they want to be good neighbors. What will this do for this area and for Danville it will repurpose this property that the city has been realizing the use for diminished tax revenue for months because no sale has taken place. Does that building deteriorate with time? I submit to you that it will without use; repurposing it and putting it to use as a convenience store would bring somewhere around 8 to 10 new jobs. Muhammad here will move to Danville to operate the store. It will be a new business in the neighborhood convenient for people who leave there, people who work in the doctors buildings, and who work in the dentist office along Main Street. There is an area as you know that is known as Millionaires row an area that we all are so proud of. If I were coming before you today saying let us tear down one of those buildings and put in an convenience store I know what the answer would be and I would not be here asking for that. This is an existing building that can be used. I realize we would have to get approval from the CAR. The only change they would make would be to take out the three bay windows and close that up. To have a building that the doors would be moved, the same brick would be used to make it into a more homely interior store. We believe that would enhance the neighborhood and improve the area and we ask that these applications be approved and the applicants are here if you have questions that you would like to ask them.

Fran Baughman stated I'm not an attorney and my presentation won't be quite as elegant as Mr. Daniel's presentation but I'm willing to give it a go. I live in the Historic Old West End neighborhood. I am one of the people who live within 300 feet of the property in question and I did receive a letter in the mail. I am speaking today on behalf of myself and the West Inn neighborhood. We also put together a petition and I know the attorney for the buyers has presented a good case for the people that work in the area. But the benefit to the people that work in the area come at a cost to people that live in the area. I have a petition here that was signed by 223 people who live in the area. The majority of them come from the West End area a few of them are coming from Beverstone and a few from Forest Hills but the overwhelming majority are the people who are the home owners in the Old West End Historic District. Did you want a copy?

Mr. Scarce stated you can pass them around.

Mrs. Baughman stated the people who signed this petition are the people who would be directly impacted by having a convenience store or gas station with gas sales in the neighborhood. As well as the people who live nearby who will also be impacted by this change. We respectfully ask that you look out for the citizens of Danville today and deny the zoning changes and Special Use Permit for the property located at 1009 Main Street in Danville. The property owners in the area in the City of Danville have worked hard to revitalize this area including the River District and the Old West End corridor from downtown to a regular diversity. The area has come a long way from where it was 20 years ago or even 10 years ago. The area is doing well we have had several ribbon cuttings ceremonies in the last few months. In addition, over the past several years, crime in the area has decreased significantly thanks to the efforts of the citizens in the area, the help of Danville Police Department, City council and Mayor Saunders. All of who have worked closely with the neighborhood and the community with events like the recent neighborhood night out event. Downtown Danville and the Main Street corridor have been changed from being the place to avoid in Danville to the place to be. The challenges we now face are two fold; the first thing is the sustainability of the progress made to the area to date and the second is to sustain and momentum that we as a group have achieved to control the redevelopment of

the area. The decision that you all make today will be a mile stone decision that will not only determine the future of the Main Street area but the future of Danville. One has to ask several questions regarding the issue of the convenience store with gas sales. Does this convenience store benefit the residence of the area? Does this align with the City Council's 2030 visions of where we would like Danville to be in five, ten or fifteen years? How will this impact people's perception of the area? What will be the impact on the quality of life and safety in the area? The answer to number one is there is no direct benefit to the residents of the community. Convenience stores tend to be higher priced; the choices of food items are limited to nonperishable so it's not likely that local residents could purchase fresh fruits produce or other healthy items. Studies have shown that children who live in close proximate to convenience stores have a higher rate of obesity than those who don't. The profit from these stores is driven by junk food, tobacco and alcohol as well as lottery tickets. They profit from those who can least afford the higher prices and prey upon citizens by enabling smoking, gambling and alcoholism. From a healthy mother's perspective the noise, light, air pollution and littering would adversely impact the area. Although this location has been a gas station for a long time, it was opened well before the impact of having a gas station in a residential area was fully understood. Recent studies have shown that air contaminations can extend up to 300 feet from a gas station and prolonged exposure can result in many health issues including brain damage, heart damage, fetal development issues and many other health problems. So today if we were proposing to put in a gas station in this location it would likely be declined but this particular station is grandfathered because it has been there for a long time. It has been suggested that this particular store will be different to me that just sounds a little bit like putting lipstick on a pig. The answer to number two is that this does not align with City Council's 2030 plan and independent studies that recommend that this be developed to encourage heritage tourism and bring visitors to the area. People's perception will be altered given that neighborhood stores like this tend to create the impression that the area is potential unsafe especially if the store is open late and people are loitering about. This property is in the heart of the historic area and the design guidelines for this historical district according to the State of Virginia empowers you with the ability to preserve designed landmarks and the development in their surrounding areas from destruction, damage, defacement and obviously incongruent development and a sure that uses are combatable with historic landmarks. Many of the homes in this area are on the national register of historic places and are subject to protection. Based on the belief that the area is protected and the city has a development plan in place, the home owners in this area have spent tens of thousands of dollars and in some cases hundreds of thousands of dollars on renovation and repairs to maintain their property. The answer to number three is that the quality of life would be significantly impacted by this change. Currently, if one were to observe the area on a daily basis they would see that the area is family orientated and residential. In the morning they might see students from Averett running or walking downtown; parents with small children in strollers taking walks, pet owners walking their dogs and retirees taking their daily stroll. In the evening people might be sitting on their porches greeting passerby's. In addition, tourists often take the walking tour of the homes on Main Street and the historical society hosts their annual holiday day homes tour every year. This could all change if a convenience store with gas sales were to open in the area because this would then change the character and perception of the area. If the area is not an area that people can walk in and feel safe due to the increased traffic, potential crime and loitering that comes with convenience stores it would be a real detriment to the city. Although the applicants indicated that they would have accepted help from the neighbors the fact is that their acceptance of our requests on limitations of the sales of goods was met with resistance. The proposed hours of operation approximately 6am to 10pm especially the closing time are not in keeping with the residential nature of the neighborhood nor are they

consistent with the other area businesses they typically close at 5:30 or 6pm. In addition, the potential owners plan to leave the lights on twenty four hours a day. A necessity in a business that has a high crime risk potential but a detriment to the home owners adjacent to the property. When asked if the buyers would enter into a binding agreement with the neighborhood or the City to limit hours of operation and alcohol sales that the zoning changes were to be approved they were non committal. This is an area of concern because without a binding agreement these buyers could potentially change to a 24/7 operation with full blown beer sales and wine sales and no input or approval would be required. Another area of concern is the potential for increased crime in the area; national police studies have shown that six percent of all robberies occur at convenience stores. Although this number may seem small the percentage remains unchanged over the last three years, the percentage has remained at six percent and many stores became victim of repeated robberies. Convenience stores are often received as being targets due to location, low number of employees and the ease of escape into the surrounding neighborhoods. It is well known that the area some in blocks east and west of Main Street are higher crime areas and as reported on the Danville crime map. Mr. Corp here has a copy of the two year Danville crime map.

Mr. Corp stated David Corp Holbrook Avenue the visual aid. This is the 2013 crime map we put this little jewel here to indicate the post convenience store. Basically, the darker the color the higher the crime rate measured in numbers of crimes per square mile. This is from 2013 the darker the color the more violent the crime or more numerous the crimes. In 2014 this as Fran mentioned vastly improved thanks to the Police Department, the City and the neighbors. The proposed convenience store would be centered at the confluence of the most crime ridden areas. As you see by the arrows going from these higher crime areas that all converge at the proposed site for the convenience store.

Mrs. Baughman stated I'm circulating a copy of the same map so that you all will have a copy. The good news here is that between 2012 and 2014 the crime rate in these areas decreased. As with the other neighborhood initiative here is to sustain that positive trend. A year ago as most to the day November 10, 2014 we were in these same chambers addressing the same issue at that time you all had the wisdom to see that this zoning change would not benefit Danville. I hope that same wisdom prevails today and you again deny the request for zoning and the change in Special Use Permit. If you do I think that we all prefer not to be back here in 2016 discussing the same issue for a third time. It seems obvious to me that the seller has not investigated other business models that might better meet the needs of the area residents. We would like to have the opportunity to work with the seller to develop a winning scenario where he could sell the property and someone could open a business that would better align with the City's 2030 development plan and better meet the needs of the residents without changing the character of the neighborhood. We have several churches, civic organizations and area residents who are interesting in working with the seller to identify alternate uses for the property that would not involve a zoning change. On behalf of the residents of West Main Street including myself I thank you for your time and thoughtful consideration of the issue at hand and encourage you to vote no on the zoning change and Special Use Permit.

Mr. Jones stated if you had your choice what could the property be used for?

Mr. Baughman stated that's a great question. We debated that in our neighborhood ourselves. What we would like to see is the gas station removed and the gas pumps removed. Some potential uses might be a Starbucks type coffee shop where the

neighborhood could gather, maybe an information center so that people who are going on the walking tours could have a place to congregate and maybe the historical society could use that for meetings as well. There have been other possibilities like neighborhood meeting places, smaller restaurants, deli type sandwiches shops, bakeries something like that.

Susan Stillwell stated I don't live in the Old West End historical district but I lived there for twenty years. I have been in the real estate business for thirty-seven years and thirty of those years were in Danville and my focus was to restore the Old West End historic district. In 1986 I sold five houses on Jefferson Avenue from there I went on Chestnut Street, Green Street, Holbrook Avenue, Chestnut Place and Main Street. I enticed a lot of these people to bring their money to Danville and invest and they have spent many thousands some of them several hundred thousands of dollars on their home. I'm sure you take care of your home but you're not threatened with a convenience store in your neighborhood. I served on the Planning Commission for ten years and I think some people at the City wish either I would expire or they were waiting on my term to expire. I'm not afraid to come back in here and talk with you. I also serve on the Commission for Archeological Review and I have worked with historic properties in Colorado, Mexico and Virginia. This is not going to be good for the neighborhood as it is still fragile. We've gotten rid of slum lords, we down zoned properties; we brought in new owners now there are children playing in the neighborhoods. That was not here thirty years ago. There were slum lords in that neighborhood. People were afraid to go outside at night and we don't need that to happen again. I reviewed some of the details of the Special Use Permit and at the top four was to remain in harmony with the comprehensive plan and to be in harmony with the adjacent property owners. I doubt you would have any sense of harmony if this was going on in your neighborhood. Convenience stores attract a lot of people from lots of different ways of life. They are the kind of place if you need money you take your gun in there and you get it. There will be a lot of littering, there will be loitering, none of us need that. We don't need to put up with that. Midtown Market is there open from 9-6 six days a week and has been there since 1921. Anything you need to buy in that neighborhood can be bought, I see the employees of the doctor's office and dentist office, the residents in fact it's a social gathering to go to Midtown Market. Please I beg of you do not vote to support the rezoning and do not vote in favor of the Special Use Permit.

Mr. Rick Walker of 135 Holbrook Avenue which is within 300 feet of the proposed zoning change, living on Holbrook and in the Historic district for over 25 years it informs my opinion on this proposed zoning change. The one thing that I like about Danville in comparison to other cities I have traveled touring other historic districts is the fact that we have an stream line from the 800 block of Main Street all the way to Ballou Park and essential architectural 101 this was amazing architectural. So if you start in the 800 block you can see the pre-civil war housing; moving on up the street you can see great examples of Victorian houses, then you have the early twenty century Edwardian houses all the way up past Averett University where you can see 1940 and 50s bungalows and this great residential architectural inventory is only interrupted by the mistakes of the past. I define mistakes as those changes made on that street made prior to 1972 and global warming now protects that neighborhood and those properties. If you look at some of those examples such as the former YMCA building, mansions where sacrificed to create what seemed at the time to be a good idea, which a generation later is obsolete and it is being leased as a church. We go up the street a little further most of us remember when the Doctor's building was a popular Doctor's building and it was full, there was a lot of activity and then a generation later that building is not fully occupied and is not a well-known destination. That property would be in question later and I just use those as examples of anything that is nonresidential in a neighborhood

over time because problematic. From the Doctor's building if you move over to the site in question the gas station many of us made decisions to acquire property in this neighborhood knowing that, that gas station was there. So even though we might not like the gas station we have to accept it because we knew that coming in. But changing that will be a different story. So, if I can agree with Mr. Daniel that no one would advocate the destruction of antique inventory to allow the creation of a gas station today and if that's logical then I struggle with finding logic in suggesting that because it existed and expanded that commercial use would be reasonable. It seems not if it wouldn't allow the construction of a gas station today to allow the expansion of that use seems kind of restorative to all we are trying to accomplish in the historical district. I would ask that you uphold the staff's recommendation and deny the change and variance of the zoning.

Ms. Beverly Richardson stated I live at 731 Grove Street if you all have been up Grove Street you have seen the change that has happened from the 700 block to the 900 block. I recently have got involved with the Westmoreland neighborhood organization which, at its peak, has 75 members and I live in the Old West End. I want to speak on the impact of the convenience store on minorities in particular. I know that this is a touchy subject for most people but I think it is fair and just to explain to you why convenience stores are not a good fit for historic district poor economic disadvantage minorities. Which happen to be in Paxton area, Green Street area, Colquhoun areas where the City has worked so hard to clean up and make Danville a more livable place for all the citizens on Ross, Holbrook Avenue and Gay all over in the Westmoreland district the City has revitalized and rehabbed the houses? Community Development has done an excellent job revitalizing the areas especially around Holbrook and Ross. It is just remarkable to see the quiet and solitude that has returned to the neighborhood. I have seen because I was over there last night talking with a few neighbors and getting petitions from the folks who live by themselves. They do not need a convenient store there; there is no benefit to a senior citizen to have a convenient store there. People who are at retirement age who would like to live in quiet peaceful neighborhood to me it's not an issue of rich or poor it's an issue of quality of life, public safety, good community neighbors, people looking out for on another. I think that is what Danville needs to be about. Now you have those flags down at the River District that says Reimagine Danville, Reimagine the Old West End extend it all the way up to the Hospital to Ballou Park all the way to Schoolfield. Danville can be a bright light in this country for the size that the city it is. I am saying this because the city is going in the right direction but the vision has to be to keep the Old West End as a historic neighborhood without the inconvenience of a convenient store. This situation with the convenience store they do not do anything but take advantage of the disadvantaged. Alcohol, drugs, tobacco and lottery tickets people are mostly affected in the first place who do not need any more obstacles to overcome. I am really disappointed that someone would have the audacity to come into a neighborhood such as the Old West End with the crossroads of the Westmoreland neighborhood and want to put a convenience store there and sell alcohol, tobacco and firearms; when we know across this country the blight, crime and all the mess that comes in poor disadvantaged neighborhoods. I am asking you all to be honest and look inside yourselves and say would you want it in your neighborhood? If you answer it no then tell them that you don't want this convenience store and you're not going to vote for it. I thank you so much for your time.

Mr. Paul Liepe stated I live on former millionaire's row. I say former because anyone that had a million dollars when they came spent it on they're house. My wife and I since we bought the house 12 years ago have frequently opened our house to visitors here in Danville. We have been on a holiday tour and we have been part of the Virginia Garden

week. We routinely invite people who are taking the historic society walking tour into our home. In fact, we have now in 12 years had all most fifteen hundred people through our home. I've answered hundreds and hundreds of questions about Danville and I will have to tell you I have never once been asked where the closest convenience store is? Thank you very much.

Mr. James Daniel stated we voluntarily ask Thursday night, we are more than happy to negotiate with the City and the residents that live in this area. We would love their business plan. We would love to know a better use for this property. This property has been for sale for ages and no one has come forward with a viable business plan to present to us. Lights we have never intended to my knowledge to leave the lights on 24 hours a day. I never heard that before. Loitering, these folks don't want people loitering in the parking lot or beside their store because people like that scare business away. We don't want that and it's not going be a problem-they will see to that. Robberies? Yes, robberies occur and I personally know that from my own personal life from 44 years ago but not having a business there doesn't chase crime away. It doesn't reduce crime in Danville. Crime is a problem that all of us have to work on and I think the city is doing an excellent job on that point. Since the Green Street station has opened with the Community Police Division. I think you have seen a drop in crime in that entire area and I submit that will continue. Gas spreads, we don't want a gas station there because gas spreads, there is a gas station there as well as tanks there. Denying this rezoning application is not going to pull the tanks out of the ground. Sounds in all due respect, that some folks don't want outsiders coming down Main Street; I respectfully submit to you that everybody should be welcome. Think how great it would be if people taking a walking tour and they could go to a delicatessen sit down and get a sandwich and a bottle of water. People visit the museum and walk over and get some chicken to take home at the end of the day. Mr. Barker raised an excellent point that is the beauty of Main Street going all the way up to West Main to the Ballou Park area stop and think what is there. He mentioned the YMCA you have a couple of those lots that are asphalt that the churches are using for parking, you have the urology clinic, you have that Doctor's building, you have the Wednesday Club, 1045 Main street which is also a Doctor's building, next to that was a doctor's office, Townes Funeral Home, the Hospital this is not a pristine perfect residential area. It has been changed over the years the dentist office there on Main Street as it becomes West Main Street. We are not asking for a drastic change. We are not asking to tear down some building to put a terrible use there. We are asking to be permitted to use a building that has been there. The building is not going to go away you can't replace the mansion that once stood there. We are asking for the right to use that building for a use meeting as many of the demands for the people In that area as possible, to provide eight to ten new jobs, to provide more tax revenue and to take a vacant building one that hasn't been used for several years and make it an attractive, appropriate place for people not only in the neighborhood, but people who come and go to places like the museum and take the walking tour to see what Danville once was.

Mr. Jones stated I have a question for Mr. Daniel as you know we make recommendations to city council and they make the final decision. Why did the applicant withdraw the request last year after we made our recommendation then they could have gone to city council and got the final decision?

Mr. Daniel stated that was not these gentlemen.

Mr. Gillie stated different applicant sir.

Mr. Jones stated different applicants? Same property different applicant. Do you know why they withdrew?

Mr. Daniel stated no sir I was not involved in that. I don't even know who it was that did the applied.

Mr. Wilson stated a picture in our packet I can't totally read all the writing at the top. It says rendering photo type suggestions for Main and Holbrook and it's got total vision care. I'm curious about what this strip center thing has to do with this particular project.

Mr. Daniel stated I do not have any idea. I do not know what this is I'm sorry.

Mr. Wilson stated so let me ask another question how is this a sufficiently different application than the one with we dealt with about a year ago?

Mr. Daniel stated I apologize Mr. Wilson I don't know I wasn't involved in that and I don't know anything about it. I assume that one difference is that will not sell beer and it's going to be a cheap variety of wine.

Mr. Steve Wilson stated I'm from 918 Main Street I have some handouts for the commission and staff. I'm sorry I was delayed getting here so I missed the pitch that Mr. Daniel had given early about the convenience store. What I wanted to talk to you about is last year and this year both the staff recommended against spot zoning. As you know spot zoning in the State of Virginia is illegal and has been deemed so by the Supreme Court of Virginia. But in fact the point is it might not be illegal if it fits within the overall City plan. I would like to touch on a different view of this while based on the City's plan for revitalization of Danville. As you may know four or five years ago the City commission did a study from Alison Plat and Associates called the River District study. This has resulted in creating the River District downtown and it begun with rehabbing apartments there and etc. Now there has been sufficient revitalization of the downtown area and there have actually been four reports; one report by the River District one for the downtown and the Old West End, Alison Plat Associates, Hills Studio, as well as most recently City Council accepted the report we call the Bookie report from CZB Associates. It's a housing Analysis of Danville incorporating housing and other contributing quality of life issues to the city for development. That's the background for the map that I handed out. The map is actually on the city website. It's adopted from the Bookie housing report and their focus area for the next five years for revitalization of Danville. As you will see color coded as the River District, Downtown then going down Main Street all the way to Averett and West Main Street. This area along here is actually key to revitalization of the whole city; this is actually part of the city plan. Coincidentally, this article that just came out a month or so ago in Hampton Roads Norfolk City Council was asked to insert a convenience store in the middle of a multimillion dollar revitalization project in Hampton Roads. You can actually read about this at your leisure later. But In fact it has some parallels to this specific instance right here and particularly as I point out on this map. Here is a picture of the convenience store currently owned by the person asking permission to build the convenience store, of the epic center of the entire Danville Redevelopment. So I wanted to read you a sentence from this email I sent around to some individuals, residents and organizations which I could tell you about later along Main Street corridor from the River District to Averett. In fact, the residents and the city and developers have invested millions of dollars so far developing this corridor and as they learned in Hampton Roads. Having a convenience store at the gateway to the River District is a bad idea and, in fact, it's a terrible return on an investment. So this was my idea a few

days ago I contacted some individuals and a number of individuals outside Danville to get advice. I would just like to read you comments I got back from them. Alison Plat who actually wrote the River District plan and in fact two other plans for the city said, "To show up at this meeting and logic and being right is not always enough to win the day" that's from Alison Plat. So the most recent city plan which actually is a much more detailed vision for revitalization of Danville was written by Charles Bookie who has a company in DC about Danville and the treasure of the center of town up to Averett and the corridor of Danville. I sent him the same map and described the situation. He writes that site should be a secret protect at all cost site and redeveloped appropriate which is the exact opposite of what is being proposed. Besides that feedback I have also talked to the Chair and Vice Chair of Danville United, the ministers of the churches up and down Main Street they are all astonished at such an idea. So I'm hoping a number of residents have also contributing there input some thank you.

Dave Fillman I live at 137 Holbrook also within about 300 feet of the proposed convenience store. I have been there since 2004. I wouldn't have bought that house if I would have known it was going to be a convenience store there primarily because I have been through this before. I lived in a place called the Roosevelt Historic District in Phoenix, Arizona for 14 years and we restored a house there. Basely the same thing happen a convenience store opened up about the same distance away from my house there as what would happen here. The neighborhood that I lived in had gone from a bad neighborhood when we moved in there and they fixed up the house and it became a very nice area. I was able to see very distinct backward changes once the convenience store was there, primarily with people outside of the neighborhood. That were wondering through the neighborhood to get to the store and stopping sometimes to bum change off of people. There were more break-ins of cars parking along the street and more trash on the sidewalks in people's yards. It was more of a feeling that it wasn't safe to be out at night anymore. Because there were so many people walking through the streets because the convenience store was open until about 10 or 11. It took us about three years to get that convenience store to close and then a month or two to clean up and get it back to where it had been. So I have actually seen what happens when a convenience store opens up in a historical district. I would really hate to see that happen here to.

Dr. Alabanza part owner of the Doctor's building across the street from the involved area. Mr. Alabanza stated I do not have any paper to present but I just wanted to voice my opinion. I feel like it wolf here. But this is the question what is Main Street without a convenience store? It is just like asking what is Danville the last Capital of the Confederacy if it doesn't have a confederate flag? But that is another story it's just a comparison. We pride ourselves with a nice Downtown that has been rejuvenated. We have the Millionaire's row that we want people to come and see. But if you get tired and you get thirsty moving and walking around going up and down Main Street where would you get something to drink? What if you want to relax and you want to read the paper where can you get it? Would you go across the river and look for another place. If you are in Mexico and you go down Main Street that will probably be the only street you will see. If you don't see a store where will you go? Get out as fast as you can. It is very important that we have something around the area. Neighborhoods or neighbors don't know when they will have surprise visitors and they want some drinks or maybe some gas where would they go? If you have a store you can just go across the street. They say that stores are an attraction for those who are dangerous but if there was a convenience store there it would be better lighted and people walking by would feel safer. There would people around not just you walking and like right now when it is very dark you would be afraid to walk across over there. You have

people working in the stores and you would probably feel safer that way. Again, if you feel that these stores are attractions what are all the other stores doing around town or in the county? Are they also there attracting bad people? No they are for the people that live there. I feel that this store will do well for people visiting and for people right around the corner that need things right away. This is what we should think about.

Connie Atkins of 124 Broad Street stated I'm very terrible at speaking in front of people so I apologize if my voice gets a little bit shaky. But I don't know where this gentleman goes to see Main Street but I don't see any Main Streets with stores. We have a Bed and Breakfast at 124 Broad Street. Paul said he's had thirteen hundred people through his house, we have had probably double that we have been a very successful B&B for eight years. We actually have someone staying at our house now that grew up in Danville and left when she was 18 years old. She has a 90 year old Mother that she comes to visit. She was a little hesitant to stay on Broad Street because she knew what the contention on Broad Street was. She was very surprised she brought her family over to see our house she went downtown to the coffee shop. She didn't ask where to go for something to drink she wanted to know where you would go to have lunch or dinner down town she said it was great. So I just want to tell you that I come from an area that has many destar towns. One of the ones is Bourne town, New Jersey where Napoleon's brother came, moved and stayed there is not one convenience store in that Downtown area. I know that isn't quite the downtown area that we are talking about but there is not a convenience store that sells cigarettes, lottery tickets and where high end wine comes with cigarettes and lottery tickets is beyond me. When you have a passion for the architecture that we have come to know by fixing up these houses we love them. We did the restaurant Jakes on Main. We fixed that up and there's a passion there that when something is not cohesive with the area it gets the historians up in arms. Because we have worked so hard our blood and soul is in this and where the notation comes that we don't want someone coming into this area along Main Street is ludicrous. That's why we have had our house open for the historic tours, the Christmas tours, the garden tours and if Joyce Wilboure ever does the walking tours and we are there just come on in and look at the house that we have we are so lucky to have it. Thank you I hope that you say no to this because it's not a good thing if you are trying to rebuild an area like this.

Susan Wilson of 918 Main Street stated I would like to respond very briefly to what I heard here. I will start with the most recent part owner of the Doctor's building, he was actually speaking on our behalf as neighbors and I would like to refute some of what he said. I do walk in the neighborhood I live on Main Street and I have good friends on Holbrook as I pass by that corner regularly. I do not feel in the least bit unsafe having it as a vacant building right now. I would feel quite differently than if it were a convenience store. When it was a gas station we did use occasionally filling our car there. We did occasionally get a tire fixed or whatever and I was never disturbed by noise from that location. I would prefer that it was something other than a gas station. But to say that it is currently a gas station, therefore, should be expanded I think is really counterintuitive and counterproductive for the needs of the city and the needs of the residents. There are numerous places where someone can get a cup of coffee or a drink of some kind. There is modern pharmacy which has long hours and actually has a very good pharmacy in there. It also has snacks and whatever. There are also places to eat in the Hospital and as I understand there is a Starbucks in the hospital which would possibly be competition. We also heard about the II Georges Inn people can find many places downtown to eat now. There is the Coffee Emporium which I'm sure everyone here has had found plenty of good things. The thing we really want to avoid finding nearby or in fact would prefer finding no place for everyone's sake is lottery tickets, cigarettes sold by the individual cigarette and beer sold by the

individual bottle. Those are still things that are still being sold as I understand at five forks and that is a really bad crime area. Those of us in the neighborhood that have been here a numerous of years have been working really hard with each other and the Police to clean up this neighborhood. There is nothing that could be added in the way of convenience store that would be as a whole helpful to all of us. There is no way it would make any of us feel safer when infact it would be quite the opposite. But I did want to say something that I don't believe has been really touched upon enough about others in the neighborhood that do not what to see an convenience store there. One of the reasons all of these people are not here is because the way it works with getting the announcement of who needs to sign off on a variance effect. So one of the groups that was contacted was The Wednesday Club and because it's not there it's directly across the street from this former Exxon. It is not anything any of the members want to have that there; I am a member of the Wednesday club. The President apologized that she wasn't able to come here to speak. My husband did speak to many of the churches in the area including the First Baptist which is very close, First Presbyterian which is closer. He spoke to the Ministers both and we did not have time to speak to congregates. The New Union Church Minister is very much against this as well as the Holbrook Street Pastor. There is modern pharmacy which could be impacted by the business which I would like to see an small family owned long time establishment if someone wants to get a candy bar a soda pop or whatever I would prefer they go there which is not the other stuff that I would rather them not have. You can get bad cigarettes and whatever else is unhealthy but at least it's not as bad as convenience stores and it would be preserving the long time entity and has been a good family establishment and has been helpful to the people that frequent the hospital as well as those in the neighborhood. I would like to respond to one thing Mr. Daniel said and that was on Thursday Night that he also asked us as a group what would we suggest and we all at one time said we have suggestions we would like to work with him as well as the city. We would certainly like to see that area well developed and we have nothing against seeing the property sold. We just would like to have something positive going in there instead of something negative. So if we would have known we would have all come together more quickly to come up with suggestions had we been sought out. There is a historical society which has not been asked for assistance about this the first we knew about it was when these letters came out about zoning. The Historic society was not approached, the museum was not approached, the neighbors beyond that which was official that they needed to be approached we were not approached. We are more than happy and now that we have had two requests for an convenience store we realize we that we do have an obligation to come up with some ideas and to offer our help to come up with something that would be satisfactory. We do not want anyone to lose money because they have a property they can't sell. We don't want that at all but I do want to leave you with one thought and that is an overwhelming majority of people who have put in literally hundreds of thousands of dollars each and some many hundreds of thousands dollars into their homes very much a part of our entire assets. To have something like this so that one individual can sell a commercial lot to make a couple hundred thousand dollars, possibly when he is already made money over a number of years. Which would result in so many of us losing so much on each of our homes to benefit one seller and one owner at the detriment of all many of us in the historic district as well as all of Danville for what would happen with this very important corridor from The River District, Averett and The Hospital. Just does not make sense.

Cara Burton stated I live on Sutherlin Avenue close to the Convenience store and I'm also Executive Director of the Museum of Fine Arts and History. What I have today is a request that the Planning Commission work with the Old West End and the staff of the City to develop a plan for this area. What I'm observing as a new resident to the area is that the

decisions are being made piece meal. As planners that is not the best way to make decisions. Last month, the Community Development Office came to the Danville Museum and invited the area residents and we were presented with an update on the area by five departments Parks and Recreation, Community Development, Economic Development, Police Department and Utilities. So there was over 40 people that attended that. We also have to keep in mind the interest of the Hospital. I'm sure that they would like to have some in point in what goes into the area, as well as Averett and The Downtown Area. All of these should be working together and I request that a planning meeting I would offer the auditorium of the Danville Museum at a meeting space to collect public information so that we can do better decision making in the future.

Mr. Searce closed the Public Hearing.

Mr. Garrison stated if we say no to this today a year from now will we be faced with the same problem?

Mr. Gillie stated It depends on what City Councils action will be.

Mr. Garrison stated right but this is something somebody said we were here last year and we are here again this year. We can't stop this from happening every year if someone comes to you with a request you have to bring it to us? I just wanted to make that point.

Mr. Wilson stated on the list of properties related to this there were things that said not seeking and ones that are left open for use. Is it my understanding if we were to approve the request seeking a Special Use Permit that we are also agreeing that the property can be used for driving facility, fast food restaurants, public and private schools and colleges, public utilities, restaurants, places of worship, convenience store without gasoline, public uses which seems vague to me and retail sales that don't include automotive, boats, recreation facilities, mobile homes is that correct? In other words if we were to say yes to this we would also be opening up future use for those items?

Mr. Gillie stated no not exactly. If you will notice on page 12 of 68 seeking a Special Use Permit the following uses are still the same as what's under the zoning code. You have certain rights by the Special Use Permit. So for the ones that would be under the N-C district by Special Use Permit that would still need to come back by Special Use. They can't throw a proffer in your approval and wave that portion uses that would be by right. They could by right if it is approved do anything that is listed on this list that would require Special Use Permit in the future and they would still need to come back for a Special Use Permit.

Mr. Wilson stated so why aren't we just saying specific uses for this type of building?

Mr. Gillie stated the applicant generated this list of what they were asking for under the N-C district. They removed certain things and kept other things same as any other proffer. Now under that N-C district if it was permitted by Special Use under N-C this can't exempt them from coming back for Special Use. They would have whatever is by right that they are seeking that list that is permitted than they could do it any others would still have to come back.

Mr. Wilson stated illegal spot zoning may occur when this zoning is not consistent with the land use plan for the area and solely benefits the property owner and not the general public. Is there a difference between spot zoning and illegal spot zoning?

Mr. Whitfield stated yes there is a difference between spot zoning and illegal spot zoning. All illegal spot zoning is spot zoning. So spot zoning at certain times is okay as the Virginia Supreme Court created that definition that you just read as a test for whether is illegal spot zoning or not. Illegal spot zoning is considered to be an arbitrary decision by the legislative body but there might be certain circumstances where spot zoning is okay where it does benefit the entire community. Just because a spot zoning situation benefits the land owners doesn't mean that it benefits the entire community.

Mr. Wilson stated what if we determine that this doesn't benefit the whole community and therefore how would that be seen through the spot zoning?

Mr. Whitfield stated if you determine that it is not a benefit to the entire community you all have the right to make that decision. Ultimately, Council makes that decision. Then you would address it in whatever way whether you vote in favor to recommend or not recommend. You speak your recommendation to Council. Your recommendation wouldn't necessarily say we are denying it because or that we are approving it because you just speak through either we recommend approval or deny approval.

Mr. Gillie stated if I may add a little further. If you will notice in our staff report we put that we didn't feel that this was illegal spot zoning because this is a fairly debatable situation. We have had this case come before us once before we have it come here now staff is not recommending changing the zoning because we don't feel that the transactional office is inappropriate for that site. But if you as Planning Commission do that's what we feel is not illegal spot zoning because we have had substantial debate. We have had neighbors we had meetings so in that case staffs opinion is that it's not illegal but were not recommending changing it.

Mr. Scarce stated it appears that the ones that could benefit from it don't want to benefit from it.

Mr. Bolton stated clarity then under the TO-C he can't apply for a Special Use Permit for the convenience market the zoning has to be changed to in essence apply for a Special Use?

Mr. Gillie stated correct the zoning would have to be changed to ask for a convenience store and a TO-C. But they're a number of uses that are permitted in a TO-C district that staff believes this building could be adapted and reused for. We just haven't had that presented to us. So that's why we are not in favor of changing it because we believe there are options under the TO-C that this building could be used for.

Mrs. Evans stated how long does the property have to be vacant before it loses it grandfathered status?

Mr. Gillie stated it has to be vacant for over two years.

Mrs. Evans stated how long has this property been vacant?

Mr. Gillie stated approximately 16 months off of the top of my head and please I don't have the numbers in front of me. I would have to go back to the state to see when they actually turned in their closure of the gas station and when the business licenses closed. I'm going off the top of my head on those figures.

Mrs. Evans stated so it could have been 25 months?

Mr. Gillie I don't believe so I don't. We have had various business licenses we have had short term people that have gone in and out folks went in for little bits of time. I would have to do much more research to make that determination.

Mrs. Evans stated what does the staff believe is a viable use for this property?

Mr. Gillie stated it could be used as a multitude of things under TO-C. It could be converted into a small office, insurance agency, a small neighborhood hair salon; there are all kinds of different uses under the TO-C. Someone mentioned possibly a small coffee shop that is one of the uses permitted by Special Use in the TO-C. There are we feel other uses for this historic building other than a convenience store that's why we are not recommending changing the zoning.

Mr. Jones stated if the two years runs out and it hasn't been used then what?

Mr. Gillie stated they look under the TO-C district at the uses that could go in there and apply for something by right in the TO-C or by Special Use Permit under the TO-C.

Mr. Bolton stated but the TO-C wouldn't change after the two year period?

Mr. Gillie stated correct.

Mr. Bolton stated not revert back to some other zoning.

Mr. Gillie stated correct it is zoned TO-C now it will stay TO-C.

Mr. Scarce stated everything in the area is TO-C.

Mr. Bolton stated I think a lot of the things that one of the speakers mentioned as possibilities probably would fit into that.

Mr. Gillie stated there are 17 uses by right and another 23 by Special Use Permit under the TO-C district.

Mrs. Evans stated so if someone wanted to open a coffee shop is that by right? They would have to come before us?

Mr. Gillie stated they would have to come through us for a Special Use Permit under the TO-C. Restaurants are permitted under the TO-C item 15 under items permitted by Special use permit. Offices are permitted in the TO-C district, Child support facilities, daycares, funeral homes, personal service establishment; pharmacies there are a number of uses under the TO-C.

Mrs. Evans stated all by Special Use?

Mr. Gillie stated no the pharmacy is by right. Nursing home, doctor's office, office of general profession, the personal service establishments are all permitted by right. If someone wanted to convert it into a beauty salon or a barber shop or something like that that would

be permitted by right. If they wanted to use it for an insurance office, doctor's office or small dental office these are permitted by right.

Mr. Bolton stated if they didn't conform to use as the gas station could they continue selling gas and have a coffee shop in the building?

Mr. Gillie stated they could continue selling gas and then they could apply for the Special Use permit for the coffee shop thing.

Mr. Bolton stated under the TO-C?

Mr. Gillie stated under the TO-C.

Mr. Jones stated is there a problem with parking if it was a convenience store or a coffee shop? How many spots do you have there?

Mr. Gillie stated no we don't feel there is a problem with parking. For a couple of reason one, there is substantial space outside that they could strip off and create parking. Also being in the historic overlay district the Commission of Architectural Review has the ability to grant a waiver to some of our parking requirements. So they could adjust the numbers based on the needs for the facility. Our opinion no there wouldn't be a parking issue.

**Mr. Bolton made a motion to Deny Special Use Permit Application PLRSUP20150000292 as submitted. Mr. Jones seconded the motion. The motion was approved by a 7-0 vote.**

4. *Rezoning Application PLRZ20150000294, filed by Piedmont Place I, LLC requesting to rezone from OT-R, Old Town Residential to HR-C Highway Retail Commercial, parcel ID # 56127, otherwise known as Grid 0716, Block 012, Parcel 00004, of the City of Danville, Virginia Zoning District Map. The applicant is proposing to rezone to allow for a consolidation with an adjacent parcel with the same zoning classification.*
5. *Special Use Permit Application PLSUP20150000295, filed by Piedmont Place I, LLC, requesting a Special Use Permit for a waiver for increase in building height in accordance with Article 3M, Section C, Item 20 of the Code of the City of Danville, Virginia 1986, as amended at parcel id #56127 and a portion of 57221, otherwise known as Grid 0716, Block 012, Parcel 000004 and Grid 0716 Block 012 Parcel 000020, respectively, of the City of Danville, Virginia Zoning District Map. The applicant is proposing construction at 56' where 50' is the maximum allowed.*

Ms. Levi read the staff report. Thirty-one notices were sent to surrounding property owners within 300 feet of the subject property.

Present of behalf of this request is Mark Johnson representing Piedmont Place.

Mr. Johnson stated I do have a hand out I would like to share with you if I may. The rezoning portion of this request has to do with a parcel that was purchased after the Piedmont Place Development was put together and started being developed. It was not zoned properly in order to consolidate into the development so that's why we are here now

to clean up some of those and that particular property will be consolidated part of the property we are looking at for the height request. The hotel if you can look at the handout it kind of shows the lot configuration which is kind of small and it has a lot of utilities though it that causes us as the developers to look at reduced the foot print and raising it a story so that's why we are here. The total height allowed is 50 feet as you see on the elevations I think its 55.2 inches and that's through an architectural tower. The only other thing we could put there is a probably a convenience store. If there are any other questions I would be glad to answer them for you if I can.

Mr. Wilson stated will this will be a second entity in Danville?

Mr. Johnson stated what I understand the existing will change place.

Mr. Bolton stated will it face Piedmont Place?

Mr. Johnson stated yes it will face Piedmont Drive. The way these hotels are constructed if you look at the elevations all of them look like a front entrance.

Mr. Searce closed the Public Hearing.

Mrs. Evans the extra six feet is there anything in the area greater than 50 feet?

Mr. Gillie stated no there isn't anything in the area greater than 50.

Mr. Wilson stated how tall is that sign at the mall?

Mr. Gillie stated 35. The way we define height is the vertical distance to the highest point of the roof. For flat roofs because of the architectural feature that's how we have to do the height. The actual structure itself is less than but because of what our definition is that's where the couple feet are. The building its self will comply it's that feature that kind of throws it off. No we don't have anything else in that area that is that tall the Sam's Club is right around 35 or 40. Toyota is well lower than that.

Mr. Searce stated of course all of those are on a higher elevation too.

Mr. Gillie stated the new Centra Medical Center that is going in will be right around 45 close to 50 but it because of the grade and the slope. It's not going to be noticeable.

**Mr. Jones made a motion to Approve PLRZUP2015000294 as submitted. Mr. Dodson seconded the motion. The motion was approved by a 7-0 vote.**

**Mr. Garrison made a motion to Approve PLSUP2015000295 as submitted. Mr. Jones seconded the motion. The motion was approved by a 7-0 vote.**

## **II. ITEMS NOT FOR PUBLIC HEARING**

6. *Request for a waiver for paved surfaces at 202 Stinson Dr in accordance with Article 8, Section B, Item 6.b. of the Code of the City of Danville, Virginia 1986, as amended. The applicant is proposing to expand the existing gravel access road in place of a paved road.*

Ms. Levi read the staff report.

Mr. Bolton stated this fits in with what we talked about In our work session?

Mr. Gillie stated sort of we have done these in the past. Riverside Roof Truss has one, Goodyear we have done it for them. Industrial operations use it a lot just because it's less wear and tear on the vehicles and trucks that are going around. Staffs only concern is that stones don't get actually drug out of the street but they have a sufficient paved area to allow stones and other things to work out of tires. We are probably going to have one or two more of these there are other industrial operations in the area looking to expand.

Mr. Bolton would the only negative be that perhaps there would be rocks and all coming on to the road?

Mr. Gillie stated yeah that's the only thing from our perspective is the rocks coming out. We prefer in that case if they have about a thousand feet of pavement in this case they will have that coming around the facility. Goodyear had 1300 roughly a quarter of mile or space. Riverside roof truss was a little short but even then we are not having a problem with rocks being drug out in the road.

**Mr. Wilson made a motion to approve the wavier as submitted. Mr. Bolton seconded the motion. The motion was approved by a 7-0 vote.**

### **III. MINUTES**

**Mr. Wilson made a motion to approve the October 12, 2015 minutes. With the following change; Page 3 change days to bays. The motion was approved by a 7-0 vote.**

**With the following change; Mrs. Whitfield change to Mr. Whifield. The motion was approved by a 7-0 vote.**

### **IV. OTHER BUSINESS**

Mr. Gillie stated we do have cases for next month so December 7 plan on being here. Council approved the last set of items that you had go in front of them. Everyone knows the Comprehension plan was adopted at the September meeting so that is effective. I think everyone has copies of everything if you need any additional copies please let me know. Also, I wanted to introduce our new Associate Planner Anna Levi that's comes to us from Greensboro she has a Masters' degree from UNCG and she will be attending the meetings. Mrs. Burtons will probably not be coming to the meetings just because of the schedule change and some other things.

With no further business, the meeting adjourned at 4:45 p.m.

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APPROVED