

PLANNING COMMISSION MINUTES
December 12, 2011

MEMBERS PRESENT

Mrs. Evans
Mr. Griffith
Mr. Laramore
Mr. Scearce
Mr. Wilson

MEMBERS ABSENT

Mr. Jones
Mr. Jennings

STAFF

Clarke Whitfield
Ken Gillie
Christy Taylor
Renee Blair
Emily Scolpini

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

I. ITEMS FOR PUBLIC HEARING

- 1. Special Use Permit Application PLSUP20110000421, filed by Tashauna Johnson-Ahmed, requesting to allow indoor commercial recreation at 3480 West Main Street to operate a nightclub.*

Miss Scolpini read the Staff Report. Six (6) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Three (3) respondents were unopposed to the request; two (2) were opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Ms. Ahmed. Ms. Ahmed stated I am the business owner that is proposing this. Since the letter was sent to us, we were able to provide additional parking spaces, up to eighty (80) additional parking spaces in that location. Some of the parking spaces were there, they were just light, and we had them recovered. Being new to Danville, I do not plan to be a person that would bring anything to Danville that I would not want in my own community. I am an outstanding citizen. I live in Altavista, VA and I am an outstanding citizen there. My record is clean as far as being an upstanding person. It is my livelihood. I quit my full time job to make this work. Everybody wants to work for their self, well at least I do. I would just like an opportunity to do something that I have always wanted to do. And like I said, I do not plan to be a hindrance to my neighbors on either side, because I know how people perceive night clubs and live entertainment. It is my strict will to do right by the people around me and in my community. I think of Danville as part of my community now. I do not want to do anything that is going to upset my neighbors on either side. Even now we have blocked the right-of-way. We sort of share like a joint parking lot. We have not used that exit or entrance one (1) time for our restaurant or any of the parties that we have had. We have had a Christmas party as well as a birthday party, where the capacity was one hundred seventy-five (175) for each party. I did not receive any police violations or any problems with traffic being a problem during that. Thank you.

Mr. Scearce asked are you already open as a restaurant now?

Mr. Ahmed responded yes. I opened on November 14th.

Mr. Scearce asked you are just operating as a general restaurant now and you wish to turn it into a nightclub?

Ms. Ahmed responded it is not even a nightclub. I want to be able to have live performances on occasion. It is not that I want to operate every Friday, Saturday, and Sunday as a nightclub.

Mr. Laramore asked was the City's problem with the parking related to the restaurant portion of that or the fact that they were adding this new nightclub aspect to it? Apparently she is operating now. I did not realize that.

Miss Scolpini responded it was related to her adding this addition to the restaurant.

Mr. Laramore stated so going from a restaurant to a club is what is causing the problems with the parking.

Mr. Griffith asked did you say that you have added additional parking?

Ms. Ahmed responded yes.

Mr. Griffith asked where is the additional parking?

Ms. Ahmed responded we just made actual lines there, because there were not any lines there at all. It was just like free parking just wherever you could pick a spot. I was not able to take pictures of that. They actually completed that today. In addition to that, when I do have live events as far as like the Christmas parties and things like I had there this weekend, we have people parking to make sure there are no violations of parking in someone else's area or land.

Mr. Wilson asked did you say eighty (80) additional spaces or eight (8)?

Ms. Ahmed responded eighty (80).

Mr. Wilson asked what was the number before?

Ms. Ahmed responded it was twenty (20).

Miss Scolpini stated approximately twenty (20). The parking lot was not lined. The lines were faded, so it was hard to tell exactly how many there were. Twenty (20) was just a rough estimate.

Mr. Wilson asked did it go from twenty (20) to one hundred (100) or from twenty (20) to eighty (80)?

Ms. Ahmed responded from twenty (20) to eighty (80). Like I said I just had that done today, so they have not had an opportunity to and I have not had an opportunity to speak to Miss Scolpini in regards to that.

Mr. Griffith stated that was sort of a question that I had too, if staff has had a chance to look at it to determine if it is adequate parking.

Ms. Ahmed stated I know that we said in the initial paper work that they were going to look at that again on the 17th of January, so I have not had an opportunity to touch base with her in regards to that.

Mrs. Evans asked what kind of music are you planning on having?

Ms. Ahmed responded I plan to have a mix of everything, live bands on occasion. One (1) band that comes to mind is the Worx. They are pretty big in the Lynchburg area where I am from. I just plan to have bands of that nature.

Mrs. Evans asked how do you plan to address the noise problems that have occurred in other places in the past?

Ms. Ahmed responded I was not aware that there were problems with noise in the past. Like I have said, I have had DJs out there for the last two (2) weekends in a row and I have not had any complaints.

Mr. Wilson stated but there is nothing in the Code that would restrict going from the restaurant to the nightclub that would be of concern to us. Is the property zoned in such a way that it could make this work?

Miss Scolpini responded with a Special Use Permit.

Mr. Wilson asked is it currently under one (1) of those?

Mr. Griffith responded no, this just requires a Special Use Permit. It is a permitted use, but it requires a Special Use Permit.

Mr. Wilson stated so we are dealing with really more than just parking issues, but with a change in the use of the facility.

Mr. Gillie stated correct.

Mr. Laramore asked was the previous place, Mercedes restaurant and club, operating under a Special Use Permit as well or how did they operate?

Mr. Gillie responded there has been continuation of legal non-conforming uses throughout the years. It has now remained vacant for more than two (2) years. It has lost its right. Previous occupants of that building have continued on. It would be one (1) thing, and then it would shut down for a little bit, and pick up with something else. It never sat vacant for as long as it has now.

Mr. Laramore stated ok, so we are starting all over.

Mr. Griffith stated I think anytime that it sits vacant for more than two (2) years it requires a new Special Use Permit. The Special Use Permit expires if it is not a continuation with an operation during that period of time. We have to address this with a new Special Use Permit.

Mr. Gillie stated correct.

Present in opposition to the request was Mr. Gary Patel. Mr. Patel stated I am the co-owner of Travel Inn Hotel, which is the next property to this restaurant. We have another hotel down the road, so we basically have two (2) hotels. The hotel neighbor is the Economy Inn. I am not here to say "no you cannot do this and that." I have got plenty of reasons. I just want all of you to think about this. I have a two (2) year old daughter. My house or the apartment is like down the road. It is probably thirty (30) feet from the proposed property. Now in the middle of the night, if somebody is playing the loud music with like fifty (50) or one hundred (100) people in the room, how could you sleep? I have ten (10) rooms within one hundred (100) feet of the property. How can anybody sleep in this environment? I have been the owner for like six (6) or four (4) months now. This is the same problem the previous owner had and that is exactly why the facility was closed, because of the music, parking all over the place. They park in the truck parking area, everywhere. We had to call 911 almost every weekend to remove all of the cars. I do not know if all of you or

some of you can go and have a look; like what is the parking situation right now. Is there enough parking? Can anybody say that this is the parking for the cars? I know the previous owner told me, I do not know when, but the car crashed. Somebody drunk crashed the car into the living room. I do not want this to keep going on. This is going to hurt my business, not only my business, the other guy's business too. If someone comes to the office and says "we can't sleep, we need the money back" who is going to pay for the money? In this economy I cannot run the business like that. I am sorry. I just want everyone to find out the truth about the previous owner. Why was it canceled? Why didn't someone renew the permit? This is the exact reason. This is why I am opposing. I am not saying you cannot run the restaurant or bar. She can run. Everybody has right. I am thirty-one (31) years old. They can run the restaurant. We are just opposing for the club. The other reason is we have club. It is not like City of Danville has no club. I do not know how many or where, but I know the club down the state line is probably one (1) mile. There is no residents that live there. There is no commercial area that has opposed before. All of the customers go and enjoy it right there. It is like a half of a mile maximum from this location. I do not understand. The building is proposed for restaurant use why we are allowing for the club. That is the only thing I want to know. It can run as a restaurant or bar. They can serve alcohol; we do not have any problem. That is all I want to say. Does anybody have any questions?

Mr. Griffith stated Ms. Ahmed mentioned that since she has opened on November 14th that she has had two (2) events, two (2) parties. Have you heard any noise or has there been a parking problem with those?

Mr. Patel responded no, because those events were not in the middle of the night, not after twelve (12). I remember somebody rented a couple days ago, but it was like six (6), seven (7), probably ten (10) cars. It was not more than like fifteen (15) twenty (20) cars. It was limited people and there was no music. I cannot recall anything, so there was no problem. How many events can be controlled? The City of Danville has any number that you can allow for an event if you get the permit for music or rental party. If it is going to be every weekend: Friday, Saturday, and Sunday; how many people are going to come drink and have on loud music? How can we control the events? At the end of the year you can have like fifteen (15) parties or ten (10) parties. We cannot do that. No one is going to tell the owner that this is enough.

Mr. Griffith asked with the events that she has had, and she had indicated that she has had two (2), have there been any problems?

Mr. Patel responded no, because it was probably less than thirty (30) people. I do not have any problem with that.

Mr. Wilson stated so most of your concern, you kept saying previous owner. Your concerns really are with an owner that has been gone for over two (2) years.

Mr. Patel stated no, I think. We just bought like three (3) months ago. We know the problem, because we have another hotel down the road probably one (1) mile from there. That property, we have been owning since forty (40) years. We were in touch. We knew the problem. We know what has been going on. By the time we bought this property, like three (3) months ago, at that time there was nobody next to us. The restaurant and bar was closed before we moved in.

Mr. Wilson asked just hypothetical, is it possible that this new business would be different from the previous owner?

Mr. Patel responded I do not see any reason. How could you control the people and the events and the music? After I came here in August, I had to call at least two (2) times. I do not think she knows because somebody rent it before she came. Somebody rent the location for like one (1) day party. It was like sixty (60) or seventy (70) cars. I called the police because it was like blocking the driveways. The music was so loud that the officer had to call a couple of other guys to control the situation. I mean that is what is my concern. It happened. You can check the record. The officer had to turn down the music and remove the cars from the parking. It was in October.

Mr. Griffith stated ok, but that was before Ms. Ahmed.

Mr. Patel stated before she moved in. That is what happens when you have a lot of people and the cars.

Mr. Griffith stated but any problems that have occurred have been with prior owners, not with the current applicant.

Mr. Patel stated right, but it is the same problem that everybody had before. Another thing is my bedroom; my kitchen is across the street. Between us is like thirty (30), forty (40), or fifty (50) feet. If somebody is doing music like karaoke or club, you are going to have loud music. Who is going to play soft? Nobody is going to come. This is the club environment. I know that. If it is restaurant and a bar, we do not have any problem with that; but the club, that is another problem.

Mr. Scarce stated maybe we need to ask for her to clarify a little bit one more time. There is a difference in my mind between a nightclub club and a restaurant that can provide occasional entertainment. You can have occasional entertainment at weddings and different things like that. Maybe we could get a little bit better clarification.

Mr. Patel stated I am not saying, but if it is under control who can control the people or even their music?

Mr. Scarce stated they would lose their Special Use Permit.

Mr. Patel asked once you have alcohol involved and the music, who is going to be in charge of the control? It is all about safety.

Mr. Wilson stated in your letter that we are sitting here looking at, it says that the Special Use Permit was cancelled at one point. Is that true?

Mr. Whitfield responded I am not aware of that. Certainly the City Manager does not have the authority to do that. It would have to be the Planning Commission or the Council, well actually Council would have to revoke it. I think what has happened, what they are talking about, was that the previous owners being gone for two (2) years, their legal non-conforming status has gone away. I do not believe that there was ever a Special Use Permit with that property.

Mr. Patel asked I just want to know what is the true reason that the previous owner did not renew the permit or how it expired or canceled; because I was told that the City did not renew or cancel it. that is why I put it in the letter that I gave to Emily.

Mr. Gillie responded we did not cancel it. We did not deny it. We did not do anything else. The owner of the building, as far as I know, just had trouble getting tenants to occupy the building during that period. During construction on the highway which occurred a few years ago seriously

curtailed business. They shut down. They had multiple tenants that would go in for a short period and then leave, and then the building has just sat vacant for a long period. It was not anything that the City did.

Mr. Patel stated I was told that this is the reason, because he has been with Council and he met with Joe King. He told me that was the true reason.

Mr. Gillie stated I have been doing this job for sixteen (16) plus years now and I did not revoke it, so I do not know who would have.

Mr. Griffith stated I think what may have happened to that and I think Mr. Gillie mentioned it earlier, it was not Council. It just expired. If the building remains vacant or it is not being used for the purpose granted by the Special Use Permit, that Special Use Permit just expires; and that may be what, whoever you were talking to, that may be what they were referring to. It was not that someone came in and revoked it. It just expired. It was no longer valid after a period of time, and I think that may be what happened.

Mr. Patel stated that is why I made a couple of pages report and it took a couple of weeks to submit it. This is the reason, and I just want all of you to consider all of the reasons before making a decision.

Mr. Griffith stated we value your input as well as anybody in the area.

Mr. Patel stated I just do not want to gain one (1) business profit, and losing two (2) other businesses. That is my concern.

Mr. Griffith stated I think we would all agree with that. Nobody wants to see that happen. Mr. Scarce did you have a question for Ms. Ahmed?

Mr. Scarce stated I just thought that maybe you could clarify, are you interested in opening up a nightclub?

Ms. Ahmed responded no sir; I probably did misspeak when I said that. Like I said this is not something, I have a full time job as well. I do not want to be there every Friday, Saturday, and Sunday night. Maybe twice a month, maybe two (2) weekends out of a month that I would like to have some live entertainment. That may be karaoke, maybe a comedy show, just things of that nature. It may not always be a dancing function. I just want to bring some culture to the area.

Mr. Wilson asked will we have the chance to clarify the difference between restaurant and nightclub? Are those technical terms that we are dealing with or those just perception terms?

Mr. Gillie responded in the Zoning Ordinance they actually have different definitions. We can read the definitions if you would like to hear what the differences are.

Mr. Wilson asked I guess my question is, are we dealing with technicalities that once we make a decision can expand into something more than what we originally you know.

Mr. Gillie read the definition of restaurant in the Zoning Ordinance.

Mr. Gillie stated so you can have food and drink, no entertainment or anything else.

Mr. Gillie read the definition of a nightclub in the Zoning Ordinance.

Mr. Gillie stated if she wants to have any of the bands or other things come there it triggers what is the definition of a nightclub. She went out of the food and beverage into this, and that is the need for the Special Use Permit. She is operating as a restaurant right now. That is fine within the district. To ask for the music and other events, then she needs that Special Use Permit.

Mrs. Evans asked the two (2) events that she has had so far, is that ok or not ok?

Mr. Gillie responded I am unaware of what exactly the events consisted of, so it is hard for me to say yes or no.

Ms. Ahmed stated I cannot remember who I was told, but because it was a wedding rehearsal dinner and a birthday party, the event was ok; because we have what we call a banquet room which is on the other side of the building.

Mr. Scarce stated that is just food. Western Sizzlin does that.

Mr. Gillie stated probably alright. Having the Worx as you said, is where it triggers the difference.

Mr. Laramore stated I am assuming you are only going to have it on an occasional basis verses full time. That may be hard with even what we are doing. To you it may seem easy. But once you have permission to do a little, you have permission to do it every single night.

Mr. Griffith stated I have a concern also. I would like for staff to be able to look at the parking situation before, from my standpoint, before I would be willing to make a decision. I would like for staff to have an opportunity to view and check the parking to make sure, not that what you have got is adequate. Is there an occupancy limit on this building?

Ms. Ahmed responded two hundred thirty (230) people.

Mr. Griffith asked you have eighty (80) parking spaces total now?

Ms. Ahmed responded yes.

Mrs. Evans asked is that sufficient?

Mr. Griffith stated so, if they came five (5) to a car we are looking at more people. I do not see where there is going to be parking at eighty (80) spaces if you started reaching maximum capacity. For a building that size at maximum capacity is there a maximum parking requirement?

Mr. Gillie responded there are, and as you said we have not had a chance to look at the parking.

Mr. Griffith stated before I feel like I can make a decision I would like for staff to have an opportunity to review the parking.

Mr. Gillie stated with the eighty (80) that is out there, I would like to see how you could fit eighty (80) on there. Not to dispute the fact that you have it, but I would like to make sure that they all comply. They may have eighty (80) that are not in compliance. At this point we just do not have the information. We do not know.

Mr. Scearce asked are the parking requirements for a restaurant and a nightclub different?

Mr. Gillie responded there are some differences, yes.

Mr. Scearce stated so where she may be qualified to have a restaurant with eighty (80) spots, it is maybe, maybe not for a nightclub.

Mr. Gillie responded correct.

Mr. Griffith stated one (1) of our options with this would be to table it until next month to give staff an opportunity to get out there and look at it.

Ms. Ahmed stated I would like if possible for them to come inside the location and see the building for where we would be having live entertainment. It is a six thousand (6000) square foot property and in reference to having the noise and it being a problem for my neighbor, he would be all of the way on the other side of the building.

Mr. Gillie asked when you go in are you using the area to the right?

Ms. Ahmed responded yes sir.

Mr. Gillie stated we have been in there on multiple occasions. We are very familiar with how it is laid out.

Mr. Griffith stated one (1) of the concerns I have at this point is parking and whether or not we have adequate parking. Mr. Gillie and his staff are much more familiar with it. I rode out there and looked at it. They are much more familiar with the parking requirements. I would like for them to have an opportunity before we do anything.

Close the Public Hearing.

Mr. Scearce made a motion to table Special Use Permit Application PLSUP20110000421. Mr. Laramore seconded the motion. The motion was approved by a 5-0 vote.

II. MINUTES

Mrs. Evans made a motion to approve the minutes from the November 7, 2011 meeting. Mr. Wilson and Mr. Laramore seconded the motion. The minutes were approved by a 5-0 vote.

IV. OTHER BUSINESS

Mr. Gillie stated there are cases for next month, so you will have a meeting in January with this being carried over and some new cases. The January meeting is when we establish the officers for the year, so you may want to talk amongst yourselves for Chairman, Vice Chairman, and Secretary who wants to get nominated. Whoever is not here is usually the one who gets nominated for a position or two (2). Just to let those folks know who are here today, be careful. Council approved the items that you had last time that have actually went to their upcoming meeting. Happy New Year and Merry Christmas. We will see you next year.

With no further business, the meeting adjourned at 3:30 p.m.

APPROVED