

**PLANNING COMMISSION MINUTES**  
**March 11, 2013**

**MEMBERS PRESENT**

**Mr. Laramore**  
**Mr. Griffith**  
**Mr. Jones**  
**Mr. Searce**  
**Mrs. Evans**  
**Mr. Bolton**  
**Mr. Wilson**

**MEMBERS ABSENT**

**STAFF**

**Renee Blair**  
**Ken Gillie**  
**Christy Taylor**  
**Clarke Whitfield**

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

Mr. Searce stated that he had a conflict of interest and therefore would abstain from Item 1.

Vice Chairman, Bill Griffith now presided over the meeting.

**I. ITEMS FOR PUBLIC HEARING**

- 1. Rezoning Application PLRZZ2013000009, filed by Madison Whittle, requesting to amend the Year 2020 Land Use Plan from Urban Single Family Residential to Multi-family Residential and to rezone from OT-R, Old Town Residential to M-R, Multi-family Residential, 143 Marshall Terrace, otherwise known as Grid 1719, Block 021, Parcel 0000016 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to rezone to expand the use of the property to allow six (6) apartments.***

Mr. Gillie read the staff report. Sixty-three notices were sent to surrounding property owners within 300 feet of the subject property. Twelve responses were opposed to the request. Nine responses were not opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. Madison Whittle. Mr. Whittle stated I bought the property at 143 Marshall Terrace. The apartments go back to 1923 that is what I can find. I lived in them during the 80's. They are a six-plex. There were no notices, no issuance or correspondence to the previous owner about them being out of compliance. I have a letter from the previous owner, Dr. Guanzon and his son Michael both, stating that there was a tenant in the building up until the month I bought it. They were paying rent up until the month before I bought it. The title insurance company didn't even pick it up. If they would have I wouldn't have bought it or I would have made sure the issues were worked out before I got it. The property was never abandoned. He was paying the taxes, insurance, trash removal, and the power bill up until I bought it. To change that building to anything except what it was is an undo hardship for me. I know that they have parking issues, but that building was built as a six-plex, it always has been. I know on the street there are some parking issues. When I lived there I had to maybe walk a couple of houses down to get to it. It was an inconvenience to not be able to park right in front of it; but if I had to walk it was never more than a couple of houses. On Marshall Terrace, there are 100 on-street parking spaces. There are 40 driveways, now these are plus or minus one or two or three; but I

counted it a couple of times. Thirty of those driveways would hold two cars. That is 60 and then 100 on-street parking spaces and there is 51 dwellings. To me, that is three and a half per household. If you want to look at the good side of it, you don't want it to be a blight property. My tenants can be instructed to where they are to park, not to park in front of people's driveways. We are real strict with how we run our company. The City and/or whoever is involved with this would not turn my power on. We have been through two freezes and they wouldn't cut the power on to my property, so I have a problem with that too. We have damages. We have things that should have been addressed. Those are simple things that were outside of my control. I have tried to keep the property up. The zoning should have never changed. The upside of it is that I can bring people back to work to finish the properties. We can bring in contractors to work. We can do four or five building permits. The taxes on that property will go up, I am sure the City can use the money. It will help raise the value of all of the properties instead of it just sitting there. If you do the math, I am out of about \$21,000 so far and I haven't got to City Council. Rents verses getting adequate decent housing, we lack that. The Foundation had a study done where Danville lacks adequate foundation for how we are growing with Averett, with the hospital, with other industries coming to town. I can't believe it is taking this kind of time. I am hoping that we will vote this thing up to get to City Council and get moving with it.

Present in opposition to the request was Mr. Glen Giddings. Mr. Giddings stated I live at 134 Marshall Terrace. The property is across the street and one house to the right. I have lived there since February 2005. This property has had no one living in it since August 2009. I work Friday, Saturday, Sunday; so Monday through Thursday I am out in the yard and stuff and I have not seen anyone coming or going in there. The last tenant that lived there had a stroke and was put into a nursing home. This same tenant would go around and borrow the neighbor's cell phones and home phones to try and sell her narcotics to other people. We stopped that once we caught on to what she was doing. There is an issue with tenants that were living there. There is drugs, noise, parking issues, the tenants before would open their car doors and just kick their fast food trash out into the street. They weren't respectful. I had to buy a No Parking sign to put in front of my driveway because my driveway would get blocked; and with me being on call with the Emergency Room that is an inconvenience to call the police to have them could search for that car's owner while I should be at work. In the driveway of this property, he had said at the last meeting that there were three parking spaces. You can drive down the driveway but you are not getting out of your car. There is not enough room. Maybe two cars could park there but no one is going to get out of their car. There may be two parking spaces in front of that apartment. Across the street in front of my house there are probably four parking spaces with my house and the neighbor's house next door. This is an ongoing issue, so I hope we can resolve this.

Mr. Wilson asked is there a way of looking at this as a possibility by having it developed and refurbished that it might actually bring it into that kind of thing? Why would you feel that it is going to be more of the same?

Mr. Giddings responded before when the tenants were there I would call Dr. Guanzon and complain. He wouldn't do anything. If he wasn't there and I called his wife, she would tell me to stop calling. Who's to say that it is not going to be the same? Who is to say that he would sell it to somebody else and this would continue again?

Mr. Wilson stated I certainly see your point, but those are a lot of assumptions. At the same time, it just sits there and deteriorates with nothing happening and that can't be good for the

neighborhood either. I am just curious as a neighbor with these concerns, what would your response be to that?

Mr. Giddings responded if there was some way that he could come up with the parking and be in control of the tenants that might be feasible and to assure that would not happen.

Present in opposition to the request was Ms. Renee Blair. Ms. Blair stated I live in the neighborhood and have been there a little over two years. I just want to state my personal opposition to this rezoning and that my belief is that this is the definition of illegal spot zoning. The spot zoning is the benefit for this property owner not the overall neighborhood. We do have an issue with parking which of course has been raised many times. Just in the past two weeks, I had a situation where the bus couldn't fit through. We had an emergency situation on one end and the school bus could not even get through to get my children. That is how tight the road is. Adding any additional parking is just going to increase this. If there is an emergency situation, you do have concerns of how those vehicles are going to get there. If there is no room for them to pull over, you can't address the emergency situation. There is the concern of tenants, but as you said that is an assumption. You can't control that, but my main concern with this case is the illegal spot zoning.

Present in opposition to the request was Ms. Greta Vandecarr. Ms. Vandecarr stated I live next door to the property in question. I live at 141 Marshall Terrace. I have lived there since 2006. My experiences with this property before 2009 were deplorable. There are porches that overlook my backyard where garbage was thrown out. Students that were drunk would throw up on the side of my house. They were skateboarding up and down my road. I am a teacher and I do enjoy the college kids; however it is very difficult to reign in their behavior. The issue of maybe if we made these upper scale apartments is a great idea; but no, in fact Danville's population is dropping. We just lost three schools. You can't tell me that we need adequate luxury apartments. Our population right now is at the lower end. I have been in the apartments. They are deplorable. They are trashed. No human being right now could live in them. I can imagine the damage that he has done, because there was so much rot and mold and just awful conditions that no one in their right mind could live in them. Sure let's make them upscale, yeah that would be great as long as he has a parking place in the back for them; which I don't believe by zoning is allowable. I do have a driveway plus two parking spots in front. In the past, I am more than happy to give up a parking spot for these apartments. You can't control that. They will park where they want to. I avoid parking in my driveway for the reason Mr. Giddings said, you get blocked in. Since 2009 there has not been a police officer called to that residence, which I am delighted about. We try to run a very clean upstanding neighborhood. We are going to make them luxury apartments for nobody who can afford them. It doesn't seem right. At this present time, I am personally trying to sell my house well under what it is worth, well under what I bought it for, and well under what it is assessed for. The eyesore is the apartment complex. What kind of clientele do they have? My past is all I have. I have no other knowledge. Drugs were ramped over there. I had to shelter my children from it. I just know from my past. I can't give you an answer if these were beautiful high dollar apartments, but let's be real. Danville doesn't have a high dollar clientele. Do you have any questions? Thank you, I hope you can resolve this.

Mr. Whittle stated we are familiar with the Beaverstone Apartments that were near G.W. They were terrible. We took them over, went in and spent the money to fix them. They are very good renters. I want to do the same thing with the Marshall Terrace Apartments. It is a demand for it. The hospital is bringing in 60 interns at a time and we have actually had to

move them to other properties that we have because we don't think we are going to be ready for them to get here in June. That was my target for these apartments. With the parking issue, I just learned a little earlier that we can probably work on a parking issue in front of the units maybe. I thought we could get three down the side. I know I can get one down the side of the building. There is an opportunity to put some parking in the back. It still has to go through this process and before City Council. I still have to go and get that approved. Believe me I want my tenants happy. I don't want to hear of people having problems with one of my units. Dr. Guanzon is a doctor, not a landlord. We manage 150 properties. We are strict. We run a lower occupancy rate, because we screen out as much as we can before some get through. The first one to go is the one who starts any problems. I was actually glad to hear today that there might be some way to work something out on the front of the property and/or a few spaces in the back. It is not wide enough to get in there now, but if there is a place we can put in a turnaround I would much rather have two lower level people walk in on the lower level. These are single bedroom apartments, again you can say it might take 12 cars; who knows, but they are not two bedroom setups. I actually prefer the single bedrooms for the market that I am going to target.

Mr. Wilson asked what is the market that you are going to target?

Mr. Whittle responded I am going for the interns at the hospital. We have a property in the area that we have moved them into. We are going to temporarily move them into other units that I have, but they want to be able to walk. We want Averett teachers and students. Believe me I have a pretty boring life, but if I have a problem with tenants, on a Friday night I will sit out there and see what is going on. I will knock on the door and we figure out what is going on pretty quick. It is the business that I am in. It is what I do. It is how I make my living. I had to lay a few people off because of this project. That is really disheartening for me. I am responsible for the eight or nine families that work with me and the subcontractors that were counting on these jobs. This process that the property has been through needs to be more business friendly. If there is any way that I can help with that outside of this, anything that we can do to make it more business friendly sure would be a help for Danville.

Mr. Jones asked do you have some type of agreement to help these interns with the hospital?

Mr. Whittle responded about two months ago I was at Hardees on West Main Street and one of the interns came in. He was looking at the Fitzgerald Apartments because he found them on the internet. I have four getting ready to move into other properties. I do believe we can get them and good tenants put in that property.

Mr. Jones asked ballpark figure, how much do you think you can get for these apartments?

Mr. Whittle responded we are going to shoot for \$650 a month per unit and we will adjust it until we get it.

Close the Public Hearing.

Mrs. Evans asked moving ahead to the Green Street property we are going to talk about next, the City has required a minimum of four striped spaces; but you are not requiring him to provide spaces. Is that correct?

Mr. Gillie responded the property on Green Street is a special use permit. This is a rezoning. In this case, the off-street parking is something that is going to have to be addressed one way or another. At this point he cannot meet the minimum standards onsite. There are options available, but first he has to see if he can get the property rezoned.

Mr. Griffith asked is there a waiver or a special use permit that can be done at this particular property to increase the parking behind the apartments?

Mr. Gillie responded there are a couple options for the rear of the property. The Board of Zoning Appeals would have to grant a waiver to the minimum driveway width requirements. We have a 24' driveway width requirement. Based on the size of that building you can't meet that. They have precedence to do that. They did that on a couple properties where you have sufficient parking behind but the driveway is not wide enough to meet the requirements. There are options available. There may be a waiver for pavement, but in numbers alone; we are going to have to work with him on that. He can't go to the Board of Zoning Appeals until he finds out if he can use the property for a multiple family dwelling.

Mr. Griffith stated the biggest issue seems to be the parking. Mr. Whittle had mentioned that there were some alternatives and that is what I was trying to explore to see what they were. But there is a possibility that there could be some additional parking behind the building?

Mr. Gillie responded I believe so.

Mr. Laramore asked is there a notification process for properties that are in violation like this? Is it triggered when the property is sold? What triggers that?

Mr. Gillie responded first off, knowledge. We are aware of certain properties and we do our best to notify. We don't always get notified when the properties sell, so we can't just notify everyone on the sale. As Mr. Whittle mentioned, usually title companies will catch it. They will call us and ask if this property can be used for x or y. In this case, I don't remember speaking to anyone at the title company. Are we perfect in the system? No, we are far from it. We do the best we can. When there is an issue we try our best to let people know. We hope that realtors check the zoning, give us a call. Word of mouth is our best thing.

Mr. Laramore asked you have a number of properties that are just like this. Is it practical or necessary for the City to explore a better way to handle this?

Mr. Gillie responded yes.

Mr. Laramore stated I look at this differently than if someone had a house with a mother-in-law suite and next thing you know there is a nine family dwelling going on. This was built for this. I have no idea why they didn't address this.

Mr. Wilson asked is there a reason the Code left out these multi-units? The only reason we are in this position, if I understand it right, is because the occupancy has gone down to a place for a number of years. Now we are looking a multi-unit building, clearly designed for that. Anybody that bought in that neighborhood can look and see that this is what this is and now it has to go back to single family. Why was that left out of the Code?

Mr. Gillie responded he believes it was built in 1924. It has been non-conforming since at least 1959, so for 60 years the property has been legal non-conforming. Our Code has

always stated that are legal non-conforming structures have to maintain a certain standard or they lose their vested right. It has maintained that standard up until a few years ago. Why people quit occupying it, I can't say. The Code change in preserving legal non-conforming is a slippery slope; because if you have something that is very detrimental to a neighborhood that doesn't belong there, legal non-conforming is a tool to have that removed. You can't just say we think this is a good idea for this property, but a bad idea for that property. If they are both legal non-conforming, you have to treat them equally. I presented some State Code changes that address non-conforming issues. We need to look at that and see how we want to modify our Code to address this.

Mr. Wilson asked is the long-term interest just to let the building deteriorate and eventually get knocked down?

Mr. Gillie responded the long-term interest is to convert a building into a use that is in compliance with the Code. As Mr. Laramore said, the issue is, how was it constructed? He has more of an issue with something that was built one way and converted into something else. In this case, it was built one way but not necessarily how the Zoning Code came into effect for it.

Mr. Wilson stated if we pass over it and say "no, I am sorry Mr. Whittle you can't do anything with it" then it basically just sits there, goes through multi owners, deteriorates, and goes down and down until somebody comes bulldozes it and puts something appropriate.

Mr. Gillie stated or somebody converts it into a structure that is in conformance with the district.

Mr. Bolton stated that is not cost effective.

Mr. Gillie stated you have the luxury of looking at the cost effectiveness of things, as a staff person I don't.

Mr. Wilson stated that brings me to a question for Clarke. The statement was made about this illegal spot zoning deal unless there is a legitimate governmental interest.

Mr. Whitfield stated for the community as a whole.

Mr. Wilson stated so really part of the decision we are trying to make is if it is better to have a building that has been refurbished, brought up, and occupied for this neighborhood; or is it better to just let it pass in which it will deteriorate and basically be removed, but at least it is under the Code and everything goes to single family eventually. I am trying to decide with the decision we are making here what is the legitimate governmental interest for the neighborhood. It would seem to me that healthy neighborhoods with occupied buildings that kept up would be to the benefit of our community.

Mr. Bolton stated from my perspective, in the last 20 or 30 years I have seen all kinds of apartments being built in the County and you talk about losing population. We are losing population, because when people come to town that is where they find apartments. I would say that having six apartments in the City would benefit the City. Is that benefiting the government? I am having a hard time with what is the governmental benefit and what benefits the City or more than one or two people. I want to say that it does benefit more than one or two people.

Mr. Whitfield stated I think you all have to make that decision. You all are the ones that have to determine whether there is an overall community benefit with legitimate governmental interest. That is why you all get paid the big bucks.

Mr. Bolton stated the only thing I see that is going to be different is the property is improving.

**Mr. Bolton made a motion to recommend approval of Rezoning Application PLRZZ20130000009 as submitted. Mr. Laramore seconded the motion.**

Mrs. Evans asked may I ask a question before I vote?

Mr. Whitfield responded it is up to the Chair.

Mr. Griffith stated go ahead.

Mrs. Evans asked the properties that are across the street and beginning two doors up beginning towards Mt. Vernon are zoned multi-family, correct?

Mr. Gillie responded the property at Mt. Vernon and Marshall Terrace, north eastward you will see Holtzheizer, CW, West, Locklier, and the Barker property behind it. If you go to your map, it shows you what is zoned what. It will have the name and underneath it is the current zoning. M-R is the multi-family residential; OT-R is the single family residential that we have.

Mr. Griffith stated there is one on there that is zoned OT-R but it is a four family unit.

Mrs. Evans stated I just find it odd, but when I looked, everything down to Ms. Vandecar was duplex or more and then you've got her as a single family and then you've got the Whittle property. It just seems like all of that would have been multi-family.

Mr. Gillie responded duplexes are allowed in the Old Town Residential district by special use permit. The four units are legal non-conforming. We matched what was in the previous zoning. In this case, back into the 50's. I would have to go back and pull old maps to see what the other properties were.

**The motion was approved by a 5-1-1 vote (Mr. Searce abstained and Mr. Jones voted in opposition).**

Mr. Wilson made a suggestion that it would be beneficial to have drawing plans to present at the time of public hearing to help the Commissioners better understand the proposed plans.

Ms. Blair arrived at 3:45 p.m.

Chairman, Michael Searce now presided over the meeting.

***2. Special Use Permit Application PLSUP20130000046, filed by Anneatha Reed Williams, requesting a Special Use Permit to construct a duplex in accordance with Article 3.E; Section C, Item 2 of the Code of the City of Danville, Virginia,***

**1986, as amended, at 848 Green Street, otherwise known as Grid 1720, Block 006, Parcel 000003 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to modify the existing single family structure to create a duplex.**

Ms. Blair read the staff report. Forty notices were sent to surrounding property owners within 300 feet of the subject property. Seven responses were opposed to the request. Three responses were not opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. Chris Dunlap. Mr. Dunlap stated I am the contractor on the house. I am real impressed with Mrs. Williams, actually she is the type of new owner we like to have in this City. She is from Washington D.C. and her plans are to retire from the public schools up there and move to Danville to live. She bought this house on Green Street a little naively not knowing that it was in an historic and not realizing that it wasn't multi-family. There were three electrical meters on the house. The house was in extremely poor condition. It was almost at bulldozing stage. It dates back to 1897. She has tried month by month, setting aside part of her salary to work on that building. She has consistently done that. She has renovated a lot of the inside. She has worked with the Historical Commission to meet all of the specifications. She drove all the way to Philadelphia to buy a window. She found shingles to match. She had the porch renovated. Forty-eight pickets she had taken out and refinished. One was broken and she found a similar one, put it in, and the Historical Commission found that one picket. She took it out and I took it to a wood maker who is making one, so she is trying to do the right thing. It is a big house. It is over 4,000 square feet. It was used as a tri-plex. I don't know the history of it. Her intention is to retire down here and have one of her relatives occupy the second unit. She added an addition on the back of the house. She went out and found brick to match. She has really done everything you can possibly think of in her financial situation could possibly do to get this. The issue came up about parking. We looked very hard at it. I think the problem that we have here and that we are always going to have is that we are applying 2013 regulations to an 1897 building. Back then the houses were built very close together. There is no way to get around the house to get to the back yard. There is a zero lot line almost. On the left side of the house I guess you would have to tear off the back part of the house in order to get any kind of right-of-way and it wouldn't have the 24'. She wants to make the house handicap accessible, so we have another drawing before the committee of how she would like to make a ramp that would fit into the character of the house. I have been working on that house on and off for probably eight months. I have never had a parking problem. I always park out front. There is a park across the street. This is an area that is largely unpopulated. There is a four-plex two houses up and there are several other multi-family homes. Across the park, they are all practically multi-family homes. I know the intent of the City is to try and get away from large groups living in a home, but I don't think a duplex is going to interfere with a parking situation; because you do have a park across the street and there is a lot of parking there. The police department takes up about 12-14 spaces. I think this is the kind of urban pioneer that Danville should be looking for. This is a lady that is willing to put her money where her mouth is. She has unfortunately been taken by a few contractors in this area. We are trying to straighten this out for her, but anytime we think something is wrong she immediately jumps on the issue. Like I said, her intent is to move down here and occupy it. She is not an absentee landlord. If you have any questions, I would be happy to answer them.



Mr. Griffith asked is the parking requirement something staff is requiring or CAR? Who is requiring that?

Mr. Gillie responded the Code states that anytime you have a multi-unit dwelling that you have to have parking. Anything other than a single family dwelling has to have a certain number of parking spaces. They are required to do that. The first step was to go to the CAR and ask for just a straight waiver to do that. Failure at the CAR to grant that waiver, there are other options to explore. We were just giving to you all the information that was available at the time the staff report was completed.

Mr. Griffith stated I didn't see that requirement in Mr. Whittle's case.

Mr. Gillie stated she went to the CAR early, prior to coming here and going to City Council to try and just knock that step out. CAR meets before Planning Commission does so she just asked ahead of time. Mr. Whittle doesn't have the option of going to the CAR because he is not in the historic district. That is why there is a difference there.

Mr. Laramore asked did I understand you correctly, access to the backyard is impossible or unlikely?

Mr. Dunlap responded it is impossible. On one side you probably have less than three feet before you hit the property line. On the right side there is probably three feet to the property line. There is not anyway to get to the backyard without tearing the house down.

Mr. Jones asked has the owner asked the Historical Society or the Architectural Review Commission for other requests and been denied?

Mr. Dunlap responded I don't think she has been denied. Right now we have the brick and the handicap accessibility going before CAR to see if they are going to approve that.

Mrs. Evans asked have renovations already started making it into a duplex?

Mr. Dunlap responded no, all of this was superficial to this. Her intention in her mind was always to make it into a tri-plex. She wanted to get some income in. If you have ever dealt with an old home, they are very expensive. They have expensive repairs to keep these things up. She assumed that it was already ok because there were three meters on the house. it wasn't until she submitted to the CAR for the doorways and all that she first became aware that it was not zoned for a tri-plex. She asked for it and they pretty much told her not a shot at that one, so then she dropped back down to a duplex. She already had her plans drawn out to put the second apartment upstairs and putting a new staircase inside the house, but she stopped everything. Nothing has been done in order to change it into a duplex as of now.

Mr. Jones asked are the four spaces required for parking going to be a killer thing?

Mr. Dunlap responded there is just no way to get to the back. There is not a house on that street that you can do that with.

Mr. Wilson asked does that kill the project?

Mr. Gillie responded no.

Mr. Scearce asked you have recommended approval of the project. How does that relate to not being able to provide the parking?

Mr. Gillie responded the Board of Zoning Appeals can address parking issues. If necessary, we can apply for a variance. One of the things for granting a variance is that there has to be some sort of physical condition with the property in which you cannot comply with the Code. If you cannot drive a car through a building, you cannot comply. That is a physical condition. There are options available. At this point, it can only be used a single family dwelling which doesn't require parking, so they can't go to the Board of Zoning Appeals until such time that they are approved by City Council for the special use permit for a duplex. They could go to the Commission of Architectural Review prior to coming here to ask for a waiver, which they did and were denied. There are other options available to them.

Mr. Scearce asked so if we approve this they can in turn go to the Board of Zoning Appeals?

Mr. Gillie responded it goes to City Council first. If City Council approves it, then they ask for that waiver.

Mr. Griffith asked can Planning Commission request a waiver on the parking?

Mr. Whitfield responded I think the applicant is going to have to do that. I don't think you can ask for that on behalf of the applicant.

Mr. Griffith asked can we make a motion to approve the special use permit application without the minimum four parking places? Can that be done?

Mr. Whitfield responded yes, you can make a motion to approve the project as is even without those parking spaces. Again, there are actually two options. One option is the Board of Zoning Appeals. The other thing is that she has actually appealed that ruling to City Council, so on the night of the 16<sup>th</sup> that is going to be heard by City Council.

Mr. Griffith asked even if we had a motion to approve as is without the additional parking?

Mr. Whitfield responded yes, you would just approve it. You approve the duplex or not approve the duplex.

Mr. Griffith asked so we can't put the part in there about the parking?

Mr. Whitfield responded I think that would be beyond what your authority is.

Mr. Dunlap stated again I say that this lady is a real urban pioneer granted there aren't that many people buying houses on Green Street.

Present in opposition of the request was Mr. Steve Wilson. Mr. Steve Wilson stated I live on Main Street in the historic district and I also have two houses on Green Street. I voted against this motion for a couple reasons. One that was mentioned was isn't it good to renovate a house and maybe something good will happen. It is a different situation from this other guy. One of the problems with the historic district is that there are lots of people who live out of town. Someone says that they are going to move to town, but not at all. The

City hired Allison Platt to put together an Old Westend Rental District Plan and that plan mentions some specific things about this exact house. If you could get someone to live there and then convert a second apartment that would be a good thing. Having someone buy an investment property living somewhere else, she is going to create apartments here. The parking issue, there are at least 25 police cars parking there and not only the police cars but their personal cars as well. There is absolutely no place to park. If anything, the City could build a parking lot for that police station then there would actually be street parking. Our house on Green Street is four doors up and in fact there at least four or five owner/occupied houses, not duplexes. From Chestnut to Jefferson this would be the first duplex although there are a half a dozen empty houses. It would be a nice thing if it was a nice house. I have a picture on my phone because I believe having a picture helps you see. When you drive down there it looks like a huge apartment complex because of all the parking on the street. I am not going to say one way or the other. If good news comes and she actually moves to town, the real question is if it was a single family house how many parking spaces do you need? There still isn't any parking. I am glad I came here to hear about the parking in tight neighborhoods. Thank you very much.

Ms. Blair left the meeting at 4:07 p.m.

Mr. Griffith asked do you own the property four doors up from that?

Mr. Steve Wilson responded 868.

Mr. Griffith asked between that property and this property isn't there one piece of property that is a four-plex?

Mr. Steve Wilson responded it is a vacant house.

Mr. Griffith asked but isn't it originally built as a four-plex?

Mr. Steve Wilson responded it is hard to tell. I think they went to CAR and got approval for a duplex. It looks like it could have originally been a four-plex.

Mr. Griffith stated I went by there twice today and both times there was plenty of parking on Green Street.

Close the Public Hearing.

Mr. Jones asked can you park on both sides of Park Street?

Mr. Gillie responded I believe so, yes.

Mr. Jones asked is there no way we as a Commission can show our feeling about this parking situation?

Mr. Whitfield responded I just think you are exceeding your authority by doing that. Certainly your comments could be reflected in the report that goes to staff, you know that there was a lot of discussion and this was the general feeling of the Commission; but I think by doing it in a motion you are probably exceeding your authority.

Mr. Griffith made a motion to recommend approval of Special Use Permit PLSUP2013000046 as recommended by staff. Mr. Jones seconded the motion. The motion was approved by a 7-0 vote.

- 3. Special Use Permit Application PLSUP2013000048, filed by Tanya Lovern, requesting a Special Use Permit to operate a wildlife rehabilitation center in accordance with Article 3.C; Section C, Item 25 of the Code of the City of Danville, Virginia, 1986, as amended, at 439 Hunter Street, 441 Hunter Street and three adjacent vacant parcels on Hunter Street, otherwise known as Grid 0614, Block 005, Parcel 000012, Grid 0614, Block 005, Parcel 000014, Grid 0614, Block 005, Parcel 000015, Grid 0614, Block 005, Parcel 000011 and Grid 0614, Block 005, Parcel 000013 of the City of Danville, Virginia, Zoning District Map. The applicant proposes to operate a wildlife rehabilitation center at this location.**

Mr. Gillie read the staff report. Twelve notices were sent to surrounding property owners within 300 feet of the subject property. Zero responses were opposed to the request. Six responses were not opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mrs. Tanya Lovern and Mr. Michael Lovern. Mrs. Lovern stated I just want to save wild animals and I want to stress that I desperately need this to be approved with your recommendation or your choosing number two as I have submitted the application. I did of course provide a drawing that shows what I intend for the center to look like eventually; but I need to stress that this is not a commercial thing. I don't know how to describe it, but there is no other alternative in the City of Danville for me to save wildlife. It was either I operate out of my home in Windsor Heights as I have done for the past umpteen years or I find another piece of property and I convert it into a wildlife place just for wildlife. It does not have paid people. I put all of my money into this. I do have some people that donate money, but this is all on me. I certainly cannot afford to pave the driveway that I will eventually have to. According to these recommendations I have to make a 13' wide dirt driveway that is now covered with gravel into a 24' wide driveway by filling in the culverts. It is an immense expense to me paving it, putting curb, and a parking lot. It is not meant to be a public area. It is meant for volunteers to come and help with animals. It is meant for people to come and get trained to help the animals when I am not available and to get their own permit, but it is not meant for me to spend \$50,000 to make this into a commercial petting zoo thing. This is not what it is for. It is just to house the animals safely, securely away from the public in an area where I have control over who goes there. It also gives the game warden and other people who help me an opportunity to go get the animals and drop them off for me while I am not there. We have key lock doors. It is very secure. I have the vegetation around the property already. That is one reason why I chose it. I don't know if any of you have driven to the property, but to be where it is; it is extremely secluded, especially when spring comes and the trees fill out. You wouldn't even know it was there. To make it look like a commercial event thing is not going to help at all. It is not going to help my case and it is going to shut the center down. There is no way in the world even with all the recent media coverage I have had, just to give you an idea I got \$150 in donations. I cannot afford to go and do all of this. If you guys have any questions I will be glad to answer them, but I really need option two of this to be approved.

Mr. Wilson asked of the seven conditions could you pick out the ones that you could accept, the ones that you feel would work with what you are trying to do and the ones that are prohibitive?

Mrs. Lovern responded number one is at least a \$1500 hit. The lots belong to us. I bought the property. They are actually in my husband's name. The center is non-profit, so we hope if things progress that one day we will give the land to the center itself. It is an extremely expensive thing to get them surveyed. Number two is not a problem. I will be glad to have a building inspector come there and tell me anything that needs to be fixed. The two houses that we bought were dilapidated. They were not fit for a human to live in. we have rehabilitated one of the houses by ourselves. It is absolutely beautiful, if I may say so, since I did it myself. The other one we plan to do the exact same thing, but we have to jack the house up to fix the foundation and that is going to take some money and time. I have no problem with number three. Number four, I don't know if you would call it an office; because there will be animals in the office. There will be animals everywhere but the kitchen, unless an animal comes in injured because there is a medical spot in the kitchen. I have nothing against handicap things of any kind, but if it is not open to the public I don't understand why I would have to have handicap access. Number five, once again it is not for public. If you guys would like to visit, call me and I will meet you there. It is not meant for people to come visit the animals every day. They are wild. I don't want people around them every day petting them. That is not what they are for. I actually carry rabies vector series, so it is not actually a nice safe thing to do either. I don't understand the whole thing about the public and parking. It is for me and people who are volunteering to help me. I used to have volunteers come to my house. I had classes at my house. I taught people how to care for animals in my sunroom in Windsor Heights. It was not a public thing. It is kind of hard to discern. Number six, there is vegetation that surrounds the entire center. It is at least six feet tall. I have planned on putting natural trees such as Leyland Cyprus or something of that nature that grow really fast to create a natural hedge around the center. You can only imagine what a fence would cost on 1.3 acres. I haven't priced them but I am assuming that it is going to be a ridiculous amount of money. The animals don't escape. I have been doing this 20 years and have never had an animal escape except for a vulture that got out of my hand. The animals are small. The biggest thing I will have is a deer. They can't jump fences when they are five months old. Number seven, the State dictates that I can either bury or incinerate animals. I chose to incinerate them. I take them to the Humane Society or vet where I have them euthanized who will incinerate them for me. I do not intend to bury any animals onsite, because we all know what a mess that would be if a dog comes along. There are stray animals. Right now the center is the home of a opossum, a groundhog, a raccoon and his family, I have at least six or eight deer in the back yard every night just to give you an idea. Any questions?

Mr. Scarce stated the conditions that staff has put in here are not just arbitrary to make your life difficult.

Mrs. Lovern stated I know.

Mr. Scarce stated these are part of the Code for the health, safety, and well-fare of all people. Let's just suppose this is too costly for her and she just drops the whole subject and she goes back to doing it at her house. How is that going to work?

Mr. Gillie responded currently the house would be in violation with the Zoning Code. She could ask for a special use permit to have it at her house because of the zoning district and

go through this process. The house would still be subject to the same conditions because it is no longer a residence because of its use. It has changed use from a primary residence to this and this is where these Code requirements come from.

Mr. Searce asked even though it is broken up into different lots, but it is all one owner is that the problem with it?

Mr. Gillie responded the problem is right now it is five different lots. They could proceed to sell a lot or something else. Right now where the facility is, it is basically a landlocked piece. You don't have access to a public street unless you consolidate these properties together. The Code requires that all properties share one lot. They've got five, so they have to according to the Code. All of these are just standard Code requirements. The condition of the vegetation is a condition that you keep the natural vegetation. We just don't want you going in and clear cutting it.

Mrs. Lovern stated oh no, I am not.

Mr. Gillie stated that is what that condition is for. It is to protect the property owners around it from that. If you have natural vegetation, the Leyland Cyprus that takes care of that condition. The consolidation is a Code requirement. The parking is in accordance with Article 8. There are waivers for parking. Handicap accessibility is a Federal requirement. I can't waive a federal requirement to have handicap accessibility to the facility. These are all just standard Code issues that everybody has to follow.

Mr. Searce stated I know it is not open to the public, but that is part of the reason; because of the use.

Mrs. Lovern stated here is the problem. Wildlife rehabilitation is almost always done 100% out of someone's home, because it is on our dime. The State does not pay for it. If you decided to be a wildlife rehabber you would start out of your home. When I called a year and a half ago and said "hey, Kenny I am thinking about taking what is in my home and making it somewhere else because I am getting overrun with animals. I can't do this in my house any longer" it became Tanya has to be a commercial business, Tanya has to get a commercial special use permit, Tanya has to do all of these things that rehabbers in Roanoke, Virginia Beach, and Waynesboro have never done. I don't know how to describe it. It is like taking a squirrel out of a tree in your backyard, taking it in, and fixing it's broken leg and you have to have a parking lot. I don't know. It is becoming very frustrating, because right now I need to be feeding baby squirrels and I am here arguing with you guys about how I need to provide this for you all. I am not doing it to make money or anything. I am doing it at night, in the middle of the night, and in the morning and it is getting very hard.

Mr. Searce stated we understand. We applaud your efforts. The problem is that we have got to figure out a way to go around this.

Mrs. Lovern stated the problem was that it was zoned as commercial. To me, commercial means that you are out to make money and that you are out to benefit yourself. I am doing this to benefit the hundreds of animals I get every year and to benefit you guys.

Mr. Searce stated the Danville Humane Society went through a similar thing and they had to comply.

Mrs. Lovern stated but they get State and Federal money too.

Mr. Lovern stated I don't see a fence up there.

Mrs. Lovern stated no, they don't have fencing. Their parking lot is half gravel half paved. They did put a handicap access to this new part that they have. I had talked to them about using some of their facility just for wildlife and then I went and looked at my responsibility for wildlife in the State of Virginia and I can't have wildlife within so far of domesticated animals.

Mr. Scarce asked is there any other way to skin the cat?

Mr. Gillie responded charities, churches, a lot of other non-profits have facilities that are not being used as a single family residence; so it is no longer a residential facility. According to Zoning Code, Building Code, and others is considered a commercial facility. You don't have to make money to be considered a commercial facility. You still have to meet the Code requirements for that. You have someone that is unfamiliar with the structure, they need to have safe egress from the facility. The handicap accessibility, you can have someone that shows up at the facility that is handicap. They have to have access to it. That is Federal and it is also the Building Code. These are all just Code requirements that are out there to protect the interests of anyone who is coming to the facility. Having it toured by the Fire Marshall and Building Inspector, if there is a fire at the facility the firemen need to know what is there, how it is set up, what kind of things are there to protect them as well as to protect the people inside it. No, we don't know any other way around this. We are trying to do what we can within the Code requirements. The parking, you have staff, you have employees, where are those cars going to be? You have to make provisions to account for that. These are all standard Code items.

Mrs. Evans stated but there is one employee.

Mr. Gillie stated you still have volunteer staff. You have to provide based on the number of people who will be at the facility whether they are paid or not. A church may not have any paid staff, but they have people who come to that facility. You have visitors. You have people go there. You have to account for all that. As we used the Humane Society as an example, they have a few staff but they have visitors. We have to account for all that. The gravel that they were talking about is actually asphalt millings that the City provides.

Mrs. Evans stated that needs to be repaved and probably should have been done a long time ago.

Mr. Gillie stated that is probably an issue with Public Works, but they do put the millings down. We are not asking her to do anything that other people are not required to do.

Mrs. Evans stated but the Humane Society is open to the public. She is going to be limited. She is not open to the public.

Mr. Gillie stated she said she had classes. People will still eventually come to that facility. Unless she can say that no one will ever come to that facility period except for her, but as soon as you have someone such as yourself go there that triggers these other Code things, because these people are unfamiliar with this location they have to provide services for these additional people. If it was only her and just her, that is one thing. Once you have someone else come to that facility it changes.

Mr. Wilson asked if it was her and just her would she have to apply for any of this at all?

Mr. Gillie responded if she is using some place in the City, yes. What do other places do? Most of the other places I've talked to have actual facilities. There is the one in Roanoke, Virginia Beach. They have become facilities for that. This is now going out of her garage, basement, carport, whatever you were using before to a center. It is the same concept. It has become a center. It is not as huge as what those are, but it is still a center. We've changed the scope of this, so we have to meet these Code requirements.

Mr. Scarce stated it is just bringing the property up to standards.

Mrs. Lovern stated the place right beside me is a horse polo non-profit, 50 acres I think. They do not have a parking space, parking lot, or a road that is paved at all. They have fencing around because they have horses there. The public is there at polo meets. Where is there parking? Where is their requirements? They have millions of dollars to spend on it. I have \$150.

Mr. Scarce asked is that something that was grandfathered in?

Mr. Gillie responded Equis was constructed under a previous Zoning Code and also they don't have any structures on the site. They have one or two aluminum carport buildings. There is no Code requirement for that. As for the off-street parking, under the old Code I didn't have the ability to require that kind of thing. It was an agricultural use originally. In 2004 the City eliminated the agricultural zoning designation. Under the old agricultural zoning designation, it waived all parking requirements and others. We have different Codes now and this is what I have to go with.

Mrs. Evans stated it seems like we are putting up barriers for her to do what she wants to do. It was my understanding from City Council that we were not to put up barriers. Is that incorrect?

Mr. Gillie responded yes, because I cannot waive the standard health, safety, and welfare provisions of the Code. I can't just say "ok, what she is doing is great, everybody thinks it is awesome, just forget about everything else." We still have to protect the interests of herself and the people that are coming to that facility. I don't have the waiver power for it, City Council doesn't. They are Code requirements. The Building Code is a State Code. You have to meet those. About the only thing I have the authority to do on the Zoning Code is work with her on parking and not pave it, but instead provide a gravel parking lot. I can't do that until such time that the thing is approved. I've done everything possible. I don't have any more ways to do this.

Mr. Bolton stated say we can approve number two like she wants and it goes to Council and they approve it. She is obviously out of compliance according to the Code. What happens?

Mr. Gillie responded I cite her for violations of the Code. The Building Official is probably going to cite her for violations of the Code. The Fire Marshall is going to cite her for violations of the Code.

Mrs. Evans stated she is willing to do some of those.



Mr. Scearce stated whatever she didn't do she would be cited for a violation.

Mr. Gillie stated the handicap accessibility issue is subject to a lawsuit from somebody who wants to come to the facility and can't. I won't be me, but that is a possibility. That is why we try to do all of these things to protect her and the citizens in general.

Mrs. Lovern stated I have insurance on the facility and it is special wildlife rehabilitation insurance offered by the Hartford. I believe I have a million dollar policy. Anyone transporting animals has a five million dollar policy on them while they are transporting. It is specifically for wildlife rehabbers and it covers their houses because that is almost always where we are. I have it covered jointly, my house and the center. I have protection in place for people that are there volunteering. It is not open to the public. Just to drop off an animal doesn't mean that it is open to the public.

Mr. Gillie stated but you stated that you held classes at your house.

Mrs. Lovern stated I can hold classes at the Danville Science Center. I can tell you right now in a motion that I will hold classes at the Danville Science Center like other rehabbers do. I hold classes because you have to take an animal and show someone how to feed it. You can't just show that on a powerpoint.

Mr. Wilson stated this raises an ongoing issue that I have struggled with ever since I have been on Planning Commission. There is no question that the sentiment is for this. I know City Council has given that green light. I don't think there will be any real opposition to this at all. It goes back to the notion that ideas are conceived, property is purchased, but then either understanding of Codes and requirements, understanding the law, and proper funding is not in place to actually fulfill the dream. We are put in the position to waive, twist, and do different things to make that dream possible. I don't know what good it does if we say yes, City Council says yes, and then you turn around and get a bunch of Code violations. I don't know what we are approving. I am not opposed to this in anyway, but I don't know what good it does for me to say yes, pass it on to City Council and they say yes, and then you turn around and are getting fined.

Mrs. Lovern stated let me go ahead and tell you also that I told the Planning Department about this property six months ago. I had gone to them first to see if there was any land that the City wanted to get rid of. I checked to see if there was anything that I could buy from the City to make this happen, no. I asked for ideas of places for sale that I could buy. The kennels out on Piney Forest were suggested and a big farm out on 360 that is \$170,000. I happened to find this property and I called Mr. Johnson who owned it and it was perfect for what I needed. I called Planning back in March or April last year and said I want to buy this property for this. They said no. "But I am in violation at my house. Yes you are in violation at your house." I was supposed to cease operations of all kind, accepting any wildlife animals whatsoever when I called them. I am the only one in four counties. What would you have me do? Basically, I bought two rental houses and I am renting them to animals. Do you know when this parking area thing came up? I was told last week that I would have to pave this parking. He had known about this property for months and months. I was told last week. I told him the day before I bought it "I am buying for the center." "Well I haven't figured out what you are going to do with it yet." I had to make a decision. It was \$20,000. It was knocked in half because of what I was going to use it for. I am told last week that it has to have a 24' two way road to allow the public in paved with curbs. I can't even do that. This property doesn't have that. The road that goes to it is one way with culverts underneath

it because there is a little river stream thing. I can't even fill it with dirt. It is 10' high on each side. Why wasn't this brought up months ago? I don't understand. I have do something for the animals. I can't wait for certain things to happen. Believe me I would have loved to have known about this when I was looking at this property and I did not; so what do I do now?

Mr. Wilson stated that is a good question.

Mr. Gillie responded do you remember what you said when I told you no at that facility? You said that you were buying it anyway.

Mrs. Lovern stated I had to Kenny. I had to buy that facility anyway.

Mr. Gillie stated I said that you needed to get the Building Inspector out there to look at it and you said I am buying it anyway. As you just said, "I am buying it anyway." I have explained this previously, but her and I will agree to disagree on this or maybe not even agree to disagree. I have expressed this before. This is not new.

Mr. Scarce stated looking at this, it looks like most of these things can be complied to relatively inexpensive except for the survey.

Mrs. Lovern stated the survey is at least \$1500 but I have someone who has offered. If I need to get it done there are people who have offered their services at a discount maybe. They have to see the property.

Mr. Scarce stated from a Realtor's practitioner standpoint, when you've got five lots it is always wise to combine them. These things need to be done just as housekeeping things and it is unfortunate that life costs so much sometimes, but it just does. I would think between a charitable donation or some kind of way the price could be brought down where that could be done.

Mrs. Lovern stated the issue I have right now is the parking, the curbs, the paving of the road. That road is 245' long. It is long and there is no way to make it a two lane road.

Mr. Scarce stated I think that there are other ways to do that. Something was said about other pervious material.

Mr. Gillie stated for parking spaces that are less than six, you can ask for a waiver from the Planning Commission to go with a 6" compacted gravel surface as opposed to paved and also the waiver to the asphalt and curbing requirement. It doesn't change the minimum driveway width or the space size requirements, but it does save on not providing actual pavement and curbing.

Mr. Scarce stated I think there are ways to do it if we approach it with the right attitude. Our hands are pretty much tied, because it is the Code. We don't have the right to change the Code. I think there are ways to work through these and get them done.

Mr. Jones stated if we go down it again, you say that you might be able to work out something on number one.

Mrs. Lovern stated yes, number one is a \$1500 thing. I could save up for a couple more months and take care of number one.

Mr. Jones stated you are ok on two and three. We get to four, are we talking about just a handicap ramp? Are we talking an Eagle Scout project?

Mr. Gillie responded on four, I cannot answer that question until number two is complete. Until the building has a change of use survey I don't know what handicap issues there are inside that facility.

Mr. Jones stated number five; we talked about a waiver there. Number six, I am having trouble with the vegetation. What is the Code there and why? Can that be waived? We are ok on number seven. Talk to me about number six.

Mr. Gillie responded number six is to provide screening to the adjacent properties because you have a use that is no longer single family. We have a separation of use requirement. If she proposes to keep her existing vegetation or as she said she is planning on planting Leyland Cypress. That will take care of that condition.

Mr. Griffith read condition six. It doesn't say *or*.

Mr. Gillie stated it is supposed to say *a border fence or vegetation*.

Mr. Wilson asked does it qualify already as having appropriate vegetation?

Mr. Gillie responded as it stands now, yes.

Mr. Wilson stated so really number six is off the table.

Mr. Gillie stated no, what we would like is something that preserves that. It keeps her from going tomorrow and cutting every tree down. We want that condition to keep some of that vegetation in place. She has agreed to keep the vegetation in place here at the meeting, but I don't have anything in writing that says that vegetation will stay.

Mr. Wilson stated let's assume that the current layout of this meets that requirement. She doesn't have to do anything to meet number six.

Mr. Jones stated there is no cost involved.

Mr. Gillie stated there is no cost. It is just an agreement that she won't cut it down.

Mr. Wilson stated really we are down to five, the parking and the handicap. Do you have or are you a non-profit organization?

Mrs. Lovern responded my application is in with the Federal Government, so within three to six months, yes.

Mr. Wilson stated we overheard part of this discussion at the last City Council meeting. In listening to that discussion, one of my original thoughts was that you carry a large individual

burden with this operation and I was just wondering if dialogue with certain folks might generate some of the income that you are lacking.

Mrs. Lovern stated I have to wait until I am a non-profit, which by the way costs \$800. I have to wait until I am a non-profit to apply for the grants. I am a grant writer. I own a company that I write grants for small businesses here in Danville and surrounding areas. I know how to write a grant. That is not a problem, but whether I get approved for that grant I don't know. That takes months and months. What they are saying is that I am in violation at my house. I am in violation at the center. What happens to these animals? I have six squirrels in my truck. What happens to them?

Mr. Wilson stated I understand you are going to do what you need to do. The nobleness of your effort is without question.

Mrs. Lovern stated it is just very hard.

Mr. Wilson stated I understand it is very frustrating. I am just sitting here thinking of ways that we can work to solve some of these financial issues because really they are financial based issues.

Mrs. Lovern stated let me give you an example. I have no problem with the paving of the parking lot. I have actually talked to someone about paving my parking lot. It was extremely expensive. He happens to want a bid written. I write bids. We were kind of going to get together on that; however there is no way that I can take a road that is 13' across that has a ditch thing 10' down and make that a 24' across road to make two way traffic. If it is done it is \$15,000-\$16,000 dollars and no offense but I want to spend that \$16,000 on the animals not on asphalt. It is expensive to take care of them. My last formula order was \$245. The gravel that I put down was \$380.

Mr. Wilson asked is this the only access? The road we are talking about, is it the only way to get into this property?

Mr. Gillie responded that is the only way to get in. Unless adjacent property was purchased that is the only way. You can do anything with enough money, but realistically I don't think it would help.

Mrs. Evans asked can we waive the 24' width?

Mr. Gillie responded you cannot waive it. The Board of Zoning Appeals is the one that regulates that because that is a standard Code requirement. The only that Planning Commission has within their scope is you can waive the pavement requirement. You can waive the curbing requirement. If you waive the pavement and curbing requirement it still has to meet that six inches of compacted gravel.

Mr. Scarce stated to get this done I think that is what we need to do, to grant a motion to approve it with the two changes on the road and let it go before City Council. They should probably approve it and then let it go back before the Board of Zoning Appeals so the road can be taken care of by standard process. It should work. It sounds like she has all the issues worked out. It is not going quite as nicely as she wants, but it seems like all of these items can be met.

Mr. Jones asked Clarke, is the legal cost of number one something that gets into a lot of money?

Mr. Whitfield responded that is something that a surveyor and an engineer does. I wouldn't have any idea. What she is saying is that the price she has gotten so far is \$1500. That involves a surveyor and an engineer going out and actually walking the property and preparing a new survey and consolidation plat.

Mr. Griffith stated that would have to be recorded. There are legal fees with that too.

Mr. Gillie stated it is \$20 to record a plat.

Mr. Lovern asked is there any legal way to help an animal in Danville, Virginia?

Mr. Gillie responded yes, call the Danville Humane Society.

Mr. Lovern stated they don't take wild animals.

Mrs. Lovern stated they euthanize them.

Mr. Lovern stated they don't rehab wildlife.

Mrs. Evans stated I know they don't rehab them, but they do transport them because we have had chickens and goats.

Mrs. Lovern stated those are domestic. Raccoons are put down immediately. The squirrels, they called a rehabber before and it took 15 days and the rehabber never showed up and they euthanized it.

Mr. Lovern stated if everybody started taking their animals to the Humane Society, they would take care of them is what you are saying.

Mrs. Evans stated I assume I am wrong.

Mr. Lovern stated it just seems that it wouldn't be this difficult. A lot of people do it in their house. the game wardens work with her. They take animals out of people's houses that have pet raccoons and stuff because what happens when you don't have a rehabber in the City or the County people start taking these animals off the street and keep them in their house. Now because they have somewhere to take them to will take them to her so they can be released. You wouldn't believe the number of people who have these animals in their homes. The game wardens can't really transport so they have to put down animals because the gas and money from the State doesn't allow them to transport them to Roanoke. Anything you can do, I am appreciative. It is getting really hard. We've put a lot of money into it. I know some of it was premature but either way we were going to lose. She can't do it in our house. Even though it isn't a business or anything like that you still have to have curbs and stuff. The property we are looking at doesn't even have curbs in the whole area but it would be nice to have curb going to the center I guess.

Mr. Scarce stated I think we have got all of that taken care of. We are trying to show you how to get around that.

Mr. Lovern stated I appreciate that. Anybody that has ever been in any of these has been for it. It seems like the Code is not there to help.

Mr. Scarce stated this is an unusual situation. It really is.

Mr. Lovern stated the problem is that it shouldn't be. This is probably why. Maybe some people started doing and found out what the cost was going to be. It is \$700 just to try and get permits done not to mention all of the other stuff.

Mr. Jones stated you've got to realize I think you are preaching to the choir. The way we understand it, we are totally involved. They are doing their job because they have to.

Mr. Lovern stated I understand that it is in the Code and the Code makes it difficult. I guess that is more State. When you are doing this you talk to people who have had to go through similar things. It doesn't appear easy for anybody. It is what it is.

Mrs. Lovern stated where I am from in North Carolina there is 30 rehabbers in the City. How are they in the City? I think the point he was trying to get across is, is there is any legal way to rehabilitate a wild animal in the City of Danville?

Mr. Gillie responded you are going through the process now.

Mrs. Lovern asked so this is what every wildlife rehabilitator in the City of Danville would have to do?

Mr. Scarce responded yes.

Mrs. Lovern stated you do realize that you are out of the norm of every other City I have ever been in. We have never had to have permits from the City of any kind. I have lived in several Cities: Raleigh, Cary, and Sanford North Carolina. One of my best friends has a facility in her home in the City of Roanoke.

Mr. Scarce asked is she in compliance with the Code?

Mrs. Lovern responded yes. She just formed the Southwest Virginia Wildlife Center. She is the one I take all of my raptors to. The closest one is her. She is in the City of Roanoke and in complete compliance in her home.

Mr. Wilson asked is this a locality issue? Could Roanoke actually have loser rules about this? Maybe we need to look at our general Code.

Mr. Gillie responded all zoning is locality specific. Any Council can establish what regulations they want. There are certain things that the State allows you do. Virginia being **dylan rule State** we can only do what the State allows us to do. How they operate in Roanoke, I know a little bit of it but not a whole lot. I am not an expert on Roanoke. I know what I was able to find when we first started working on these Code amendments to allow this by special use permit. We have already modified the Code once to allow this kind of thing. What I found was that most localities were in the same boat that we were in. The individual thing in Roanoke, I don't know. I will check on it before next month. Right now I can't testify to say how their rules differ from ours. As far as I knew, we were doing the same thing they were doing.

Close the Public Hearing.

Mr. Scarce mentioned the various options for making a motion. If Roanoke has a similar building I am sure that it is compliant with everything. If there are people operating out of their house I don't know how they are doing. I am sure their Code is similar to ours.

Mr. Gillie stated possibly. That still doesn't address the issue. She is looking to move out of her house into another place, so we've got to address that issue. Staff is not in favor of tabling this, so we can get them to be compliant. Right now we've got a situation where they are not in compliance anywhere. We want to try and fix this one way or another. We stand by our conditions because they are Code related issues that need to be addressed.

**Mr. Griffith made a motion to recommend approval of Special Use Permit PLSUP2013000048 with conditions by staff with the following changes: item 5 parking requirements be waived to use alternative material, and item 6 change the word *and* to *or*. Mr. Jones seconded the motion. The motion was approved by a 7-0 vote.**

- 4. Request to amend Chapter 41 entitled "Zoning Ordinance" of the Code of the City of Danville, Virginia, 1986 as amended, more specifically Article 10:, entitled "Sign Regulations", Section D. entitled "Sign Definitions", and Section G:, entitled "Exempt Signs" to allow for the installation of sponsorship signage on government land or facilities which have received donations from organizations to recognize their contributions and Article 7: entitled "Nonconforming Uses", Section B. entitled "Nonconforming Uses: Change, Discontinuation and Expansion", and Section C. entitled "Nonconforming Structures" to address how nonconforming may be permitted to continue and address changes made by the Code of Virginia and Article 3.R:, entitled "HP-O, Historic Preservation Overlay", Section F. entitled "Commission of Architectural Review: Membership and Organization" to expand the membership criteria and create a waiver of professional qualifications.***

Mr. Gillie read the staff report.

Open the Public Hearing.

No one was present on behalf of the request.

Close the Public Hearing.

Mr. Griffith read staff recommendations. Are you talking about all of this or just the first item?

Mr. Gillie responded just the 15.223.07, the vested rights of not impaired non-conforming uses. Staff advertised for a change under Article 7 entitled non-conforming uses Section B entitled non-conforming uses and Section C. We are not recommending that at this time. Attached is the two page section of State Code 15.223.07. This will deal with situations such as the apartment complex. The State has changed some of the language in there that talks about how the structure was originally constructed. There is a provision in there about the length of time someone pays taxes on it and whether that can create a lockable non-conforming situation. There are also provisions in here about septic systems. In 2004 the

City eliminated septic systems if sewer is available. There is another provision that says you cannot put a septic system in the City unless you went to the Board of Zoning Appeals and asked for it even if sewer is not available. They've amended the State Code section that allows for the replacement of that. There are a lot of things that have changed in here that will impact certain sections of the Zoning Code above and beyond just the non-conforming stuff. I ask everyone to read this section, look at your Zoning Codes, and see how you think it would apply to the cases that we've had today because this may address some of the concerns that the people have. From a staff perspective I can look at it one way, but I would like to get input from the Board, so that is why at this time I am not recommending that section to be changed. Please take it, read it, and if you want to email me how you feel. Next month I can bring you some actual Code amendments.

**Mr. Wilson made a recommendation to approve the Code Amendments as recommended by staff. Mr. Bolton seconded the motion. The motion was approved by a 7-0 vote.**

## **II. MINUTES**

**Mrs. Evans made a motion to approve the February 11, 2013 minutes. Mr. Griffith seconded the motion. The motion was approved by a 7-0 vote.**

## **III. OTHER BUSINESS**

Mr. Gillie stated at this time I don't have any.

With no further business, the meeting adjourned at 5:10 p.m.

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APPROVED