

PLANNING COMMISSION MINUTES
December 13, 2010

MEMBERS PRESENT

Mrs. Evans
Mr. Laramore
Mrs. Pritchett
Mr. Scarce
Mr. Jones

MEMBERS ABSENT

Mr. Griffith
Mr. Jennings

STAFF

Clarke Whitfield
Ken Gillie
Christy Taylor
Renee Blair
Emily Scolpini

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

I. ITEMS FOR PUBLIC HEARING

Mr. Jones stated the first (1st) item has been asked to be tabled to number six (6), so we are moving number one (1) down to number six (6) on the agenda.

2. *Special Use Permit Application PLSUP2010000147, filed by Robert Burton, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3N: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended at 211 Nor Dan Drive, Suite 1150, otherwise known as Grid 1808, Block 004, Parcel 000077 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet cafe.*

Ms. Blair stated the applicant has requested this item be tabled until the next meeting.

Mr. Scarce made a motion to table Special Use Permit Application PLSUP2010000147 until the January meeting. Mr. Laramore seconded the motion. The motion was approved by a 5-0 vote.

3. *Special Use Permit Application PLSUP2010000150, filed by W. A. Stevens, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3N: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 1461 South Boston Road, Suite B, otherwise known as Grid 3719, Block 004, Parcel 000005 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet cafe.*

Open the Public Hearing.

Present on behalf of the request was Mr. W.A. Stevens and Mr. Jared Moon, Attorney. Mr. Stevens stated I made a request to operate a business center on 58 East in the shopping center there at Cain Creek. Part of the way we operate our business center is we operate a sweepstakes. We use an IIT system which offers a free sweepstakes to anyone. That is what we have an opportunity to do out there. I see the need for fax and copy service on that side of town. We are trying to create that and use the sweepstakes to promote our business. I have pictures to show you how our business operates that we already have up and running in Farmville, Virginia.

Ms. Blair read the staff report. Seventeen (17) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Five (5) respondents were unopposed to the request; one (1) was opposed to the request.

Mr. Stevens presented pictures to the Commission of the business center in Farmville, Virginia.

Mr. Stevens stated I would also like to add that we will create probably four (4) to five (5) new jobs for the Town by allowing us to operate this business. Are there any questions, or anything I can help you with?

Mr. Jones asked do you operate any of these in Virginia any other place?

Mr. Stevens responded yes, I operate one (1) in Farmville, Virginia. This is the one (1) I have pictures of. At the November meeting I offered for anyone in the Council to come look at the store in Farmville. I offered that invitation, because we wanted you to see how we run our business center.

Mrs. Pritchett asked is there any particular reason why you do not allow anyone under eighteen (18) in your business?

Mr. Stevens responded what we do is just like if you went to McDonalds and buy a sweepstakes cup there. We do not allow anyone under eighteen (18) to enter the sweepstakes. If someone under eighteen (18) wants to buy internet time, we will let them get on the computer. If they want to come in and buy business office supplies, they are more than welcome. That is what we are in business for. If they need to fax something, copy something, we would be happy for them to come in. We try to keep adults and everyone else off of Facebook, and all kinds of sites that are not levy on our computers.

Mrs. Pritchett asked so your business does not exactly prohibit people under eighteen (18) years old?

Mr. Stevens responded people under eighteen (18) can come in. It is just like if you went to Office Max or Kinko's to make copies or buy office supplies. It is just like if you were selling cigarettes, which we do not, that require you to be eighteen (18). McDonalds does not allow anyone under eighteen (18) to win a sweepstakes. We are the same way. No one under eighteen (18) can play the sweepstakes. We use the sweepstakes to promote our business. Like I said, if they want to buy internet time, they can.

Mrs. Pritchett asked do you specifically monitor each individual who is there participating at a computer site?

Mr. Stevens responded our employees walk around those, using internet time to see what they are using. The company that we do business with also monitors the usage. If they find something inappropriate, they will notify us of which computer is being misused.

Mrs. Pritchett asked as quoted in the staff report, the purpose and intent of the Zoning Code is to promote the general safety and welfare the public. Do you feel that your business, in any way, degrades this?

Mr. Stevens responded no, I feel that we are filling a need. I live in South Boston, and coming in from that side of town and from 729, you have to come all the way into town to Office Max or Downtown to Captain Copy if you want to fax or make copies of something. I do not know of anyone else that is doing what we are offering to do around the Cain Creek area. I think we have a good location. We are not asking to be open twenty-four, seven (24/7). I put my hours down when I put my application in.

Mrs. Pritchett asked what are those hours?

Mr. Stevens responded Monday thru Thursday eleven (11:00) a.m. to twelve (12:00) a.m., on Friday and Saturday eleven (11:00) a.m. until two (2:00) in the morning, and on Sunday from one (1:00) p.m. to twelve (12:00) at night.

Mr. Laramore asked do you have just a rough break down of what your volume of sales are for sweepstakes verses your office supply sales?

Mr. Stevens responded I do not at this time. This is a new venture for me as far as IIT. We have been pretty good so far in the one (1) in Farmville as far as the number of faxes and copies. I already have clients lined up that I am going to be doing monthly flyers for and stuff like that. It seems to be coming along fairly well. I would say that we are running probably sixty (60), thirty (30). I do not know because I have not seen the numbers on that.

Mr. Jones asked are these equivalent to your hours in Farmville?

Mr. Stevens responded yes, those are the hours that we operate in Farmville.

Mr. Jones asked do you have a lot of people come in that want supplies at one o'clock (1:00) in the morning on a Saturday?

Mr. Stevens responded you would be surprised, because a lot of people work during the day. If they need to fax something or copy something there are not a lot of places open after five o'clock (5:00). We have a lot of college students from Longwood making copies and things like that for homework. It has really surprised me, the number of college students that we have.

Mr. Scarce asked has there been any safety issues or any crime related issues?

Mr. Stevens responded no, we have not had any problems at all. I have actually operated the one (1) in North Carolina for a little over a year, and have not had any safety issues or problems there either. We have security cameras to watch everything. We use caution just like any other business.

Mr. Laramore asked you say that you monitor the age of people coming in. Do you check ID's at the door?

Mr. Stevens responded yes. In order for anyone to register in the sweepstakes, they have to have a valid ID. This is how we check their age and know who they are. They can come in after they have registered with us, sit down, and put their number in and play the sweepstakes for free. They do not have to pay anything or buy anything. It is free. It is just like if you go online to McDonalds. It is the same way. We make sure when we enter in the first (1st) time that the person is at least eighteen (18) years of age. We know that they are old enough to play the sweepstakes. We monitor everyone by checking their valid ID the first (1st) time we register them. After that they do not have to come to us at the desk if they do not want to. They can come in, sit at the computer, put their number in, and get their free entry to play.

Mrs. Evans asked do people have to buy time on your computer?

Mr. Stevens responded yes, they buy internet time.

Mrs. Evans stated tell me what you are offering different from them sitting down at their computer at home and playing these games.

Mr. Stevens stated you can go to Office Max, Kmart, Wal-mart, and buy games to put on your computer and play. Some people like the comradery with other people just to get out and be around other people, and not being at home all of the time. This way they are not sitting at home in a corner by themselves. There are a lot of people still this day and time that do not have internet at home or they live so far out in the country they have to use dial up service, which takes forever. We have high speed internet, so they come in and pop it up real quick; whereas it would probably still be downloading if they had dial up at home.

Mr. Jones asked if somebody comes and register with you when they are eighteen (18), what is to keep them from giving their registration number to someone seventeen (17) for them to walk in, acting like they have been in before, going over to a computer, and going online?

Mr. Stevens responded usually we have the same employees working at each center that we have, and after once or twice, they pretty much know the people when they come in. They know who they are, not to say that could not happen. That is just like saying someone underage cannot buy cigarettes or beer. We try to limit that and make sure that it does not happen; but we cannot guarantee that would not happen. We are going to do all the policing and the correct stuff that we can to try to nip it in the bud, so that it does not happen.

Mr. Jones asked but you are not checking ID's every time someone comes in?

Mr. Stevens responded if they come in to buy internet time and they are underage, we are checking their ID. When we put that number in, it will pop up. I thought you meant he just handed it to someone and sat down. Every time they come in and they are buying internet time, we are checking their ID. We have a checks and balances for that, it does very well. Mr. Moon would like to address a couple of issues.

Mr. Moon stated I wanted to address a couple of questions that were already asked. Mr. Jones you asked of other locations in the State. Just about four (4) or five (5) weeks ago, I traveled up to Bluefield, Virginia to meet with the City Attorney and the Commonwealth Attorney. A business exactly the same as Mr. Stevens, these are IIT businesses. I would press upon the Commission to evaluate each internet café on its own merit, and not to lump them all together. IIT businesses from what I have seen, and we have multiple clients, are dramatically different than the majority of internet cafés. In essence they are very similar to a Kinko's, not quite as big, and does not offer as large of a variety of product, but extremely similar to a Kinko's business. The only difference here, the most dramatic difference here, in an effort to promote their product is they have the sweepstakes. They do not have the name recognition as Kinko's does. I am also aware of another location in Martinsville. I do not personally have any affiliation with it, but then again that is an IIT business. As far as the question, Mr. Jones that you provided, do we find many people that come to the business at one (1:00) a.m. to make copies of a document? Odds are that probably does not happen. Mr. Stevens' business provides many other services other than just making copies. Primarily it is internet time that would have customers about this time. Just from my experience in the Community, I am personally aware that many of the citizens of Danville do not have internet access. The better question would be, rather than does a person need to make a copy at 1:00 in the morning, are there people out there on the computer, on the internet at 1:00 in the morning. That is certainly true. Many people, in fact not too long ago I myself was on the internet way past 1:00 in the morning. Mrs. Evans that leads right into your question of what is the difference between Mr. Stevens' business and operating a computer at home. I would estimate that the majority of Mr.

Stevens' clients do not have computers at home. It is a fact that in Danville, the internet is just not as pervasive as it is in other areas of the State. I want to transition to address the specific analysis and recommendations of Staff. The reason I impressed upon the Commission to evaluate each business on its own merits with internet cafés is that it appears from the Staff's recommendations to have nothing to do with Mr. Stevens' business. Mr. Stevens' business does not prohibit eighteen (18) and under. Mr. Stevens' business does not operate twenty-four (24) hours a day. Most importantly, the entire recommendation from the Staff seems to hinge on one (1) premise, and that is the premise that does not apply to Mr. Stevens' business; and that is that any business that does not allow anyone under eighteen (18) years of age to enter into the business, it assumes, it presumes that it is an adult establishment. We take issue with that, because that does not apply to Mr. Stevens' business; but most importantly, where is this presumption? This is not found in the Zoning Ordinances of Danville. This is not found in the Virginia statutes. This presumption is not found in any case law provided by Virginia public courts. There is only one (1) definition of adult establishments, and that is provided in Article 15 of the Danville City Ordinances. Each one (1) I could read to the Commission, but I will forgo that. It specifically gives a list with a specific definition of adult bookstores, adult cabaret, and of adult motion picture or mini motion picture. Each one (1) of those has to deal with some distribution of some sexually explicit material. Again, this has nothing to do with Mr. Stevens' business. There is not one (1) allusion, or one (1) reference in this recommendation that has anything to do with Mr. Stevens' business. Just last week, I was able to participate in what we call Rule of Law Day for the Danville Bar Association. I went to the westward middle schools to speak with eighth (8th) graders. The entire premise of the presentation was about the rule of law. We are a nation of laws, not of people. In the United States the law rules. It is what is written down by our elected officials that govern the people not by someone's arbitrary interpretation of that law, statute, or ordinance. Ladies and gentlemen, I submit that Mr. Stevens' business is legal under the law as it is written. If there are people that have a problem with Mr. Stevens' business, then they should petition State Legislation. This business is legal under the law. I ask the Commission to make an assessment on Mr. Stevens' business as it is, not under what they believe internet cafés are, or not what any other businesses that are up before the Commission; but evaluate this business specifically. Thank you.

Mr. Scarce asked are you an attorney?

Mr. Moon responded yes.

Mr. Scarce stated I think one (1) of the main concerns that we all have is not so much that it is an adult entertainment business, but it being construed as gambling. That is the bottom line. You are right, it is not up to us to determine whether it is legal or not. I guess that is one (1) of the questions I was going to ask you in looking at this business, representing your client, what are your thoughts on that?

Mr. Moon responded my thoughts again are as the law is written under 18.2-325.1 this is a legal business. That specific statute was passed earlier this year to make exceptions to the gambling laws. It provides multiple provisions that establishments must follow. We counsel our clients and I can represent to the Commission that Mr. Stevens' business follows those provisions exactly. If anything, they take steps up and beyond what is required by the statute. In my opinion, for what it is worth, these establishments are legal under the law as it is written today.

Mr. Laramore asked and are you speaking in reference to Virginia laws?

Mr. Moon responded that is correct.

Mr. Laramore asked is this the same software that they were using in North Carolina?

Mr. Stevens responded it is the same, but they have changed the software in North Carolina to be in compliance. All IIT businesses are running again in North Carolina.

Mr. Laramore asked you made a comment that IIT is a business or corporation similar to Kinko's in that they sell office supplies. Do you have any idea what percentage of IIT's revenue come from sweepstakes verses the office supply end of the business?

Mr. Moon responded I personally do not know. That would be a question better answered by Mr. Stevens. Even though I did not represent Mr. Stevens at the time, I was here at the previous session when they addressed this issue. Mr. Stevens does have a booklet to show the type of products, the way the business should be ran, and even its layout.

Mr. Stevens stated in the back of this booklet, it has where we can buy office supplies through them to sell in the store. They have a list in the back of the book of the supplies they recommend.

Mr. Moon presented the book to the Commission members.

Mr. Jones asked are you aware of any place in Virginia that has closed down internet cafés?

Mr. Moon responded I am personally aware of Virginia Beach. They closed down several operations there, but again I think each business should be evaluated on its own. It is my understanding in many of those businesses they operated what is called Pot of Gold machines, which are essentially anything you could find in your typical Las Vegas casino. It is a standalone machine that you put money directly into the machine. In my opinion, it has nothing to do whatsoever with the type of operation Mr. Stevens operates.

Mr. Jones asked you mentioned Bluefield, Virginia. Did they have to get a Special Use Permit?

Mr. Moon responded no, they did not. At the time it was a permITted use. Although the City Attorney and the Commonwealth Attorney have their hesitations with it, which is why I went up and met with them specifically. My understanding is now they do require a Special Use Permit for these types of businesses. Bluefield Business Center was grandfathered in, and continued under permITted use.

Mrs. Evans asked is this a franchise?

Mr. Moon responded not in fact a franchise, but this is a better question for Mr. Stevens.

Mr. Stevens stated they provide the games for the sweepstakes, and whatever we get from that, we give them a percentage back.

Close the Public Hearing.

Mr. Laramore stated I direct this to the Staff. I am not necessarily speaking out against what you do, and I know we have six (6) or seven (7) more coming behind this or there may be ones coming up next month. We use a Special Use Permit process, which works very nicely when we have an individual business that someone has created that does not quite fit here or here. You made the statement that we should consider these individually and yes we should. Internet cafés in general, as far as I am concerned, six (6) months or a year ago really did not exist as a category business. I

had not heard of them. We are using a Special Use Permit to try and fix a net. I think it is a bigger industry than trying to take seven (7) or seventeen (17) individual businesses. We cannot sort through the legalities of it, period. Trying to sort through the Special Use Permit to see how they fit within the various shopping centers in the City of Danville. I think it is on a larger scale. I think the City needs to address the overall process for zoning if it is practical to do that. I am not sure, but to come up with some type of way to zone this so that it is as any other business. You mentioned there is a McDonalds in this shopping center. Yes, there are five (5) McDonalds in the City of Danville. We have seven (7) of these businesses coming into Danville today. If McDonalds was coming into town with a brand new business, and there was a Hardees behind with five (5) more; I do not know that us picking on that with Special Use Permits would be practical. I think we would go back and say, well maybe this is a larger picture, it needs to fit into the zoning; and let it be handled that way.

Mr. Scarce stated we have been round and round with this thing in trying to decide what to do. I am all for giving it to City Council and letting them address it. I do not know whether it needs to be something similar as to what Mr. Laramore was saying in creating a separate category. Listening to the applicant, I am all for as a real estate broker, and some of these I will have to abstain because I represent them. This particular one (1), I do not. I am all for leasing property. I am all for creating jobs. I am all for creating revenue. The only thing I can see is if we do not see anything that is prohibiting them, and they are not an illegal operation is to try and get them approved and let them go to City Council. If City Council approves them, let them open up; and on a case by case basis if they are illegal gambling, they will be shut down. The Police Department will do their job and if they are shut down, then we will know. To me, it is too gray of an area for us to be deciding. I am pro-business. I want to see businesses grow. That is kind of where I am at.

Mrs. Pritchett stated that would be my opinion as well.

Mr. Scarce made a motion to recommend approval of Special Use Permit Application PLSUP2010000150 as submitted. Mrs. Pritchett seconded the motion. The motion was approved by a 3-2 vote.

4. *Special Use Permit Application PLSUP2010000151, filed by Anthony Braswell, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3M: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 1155 Piney Forest Road, Suite D, otherwise known as Grid 1808, Block 011, Parcel 000037 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet cafe.*

Ms. Blair read the staff report. Twenty-one (21) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Seven (7) respondents were unopposed to the request; zero (0) were opposed to the request.

Open the Public Hearing.

No one was present on behalf of the request.

Mr. Jones asked is this basically the same thing?

Mr. Gillie responded yes, it is the same as the others.

Mr. Jones stated Mr. Whitfield, Mr. Moon stated that in his opinion these are legal.

Mr. Whitfield stated I do not think, I do not want to misrepresent what Mr. Moon said; but I do not think Mr. Moon said that everyone of them is legal. I think he said that the business he represented was legal.

Mr. Jones stated I understand this is a separate case.

Mr. Whitfield stated I do not want to put words in his mouth, but I believe that is what he said.

Close the Public Hearing.

Mrs. Pritchett stated I still think that we have an obligation if these Special Use Permit requests on an individual basis do not fit within a certain neighborhood, I think we still have the right to, and should look at them on an individual basis and make sure that it is a business that we can approve a Special Use Permit for the neighborhood. I think we need to look at that.

Mr. Jones stated I believe Mr. Braswell has one (1) of these in Charlotte. I am not sure, but I think so from what I remember from last month. I visited Charlotte. I went by his establishment around four o'clock (4:00) on a Saturday afternoon, four (4) maybe five (5) weeks ago and it was closed. This was before the December 1st problem, but it was closed. I could not understand. I figured four o'clock (4:00) in the afternoon on a Saturday, there would be a lot of business.

Mrs. Pritchett asked did you go back at ten (10:00)?

Mr. Jones responded no, I did not go back.

Mrs. Evans made a motion to recommend denial of Special Use Permit Application PLSUP2010000151. Mr. Laramore seconded the motion. The motion was approved by a 3-1-1 vote (Mr. Scearce abstained).

5. *Special Use Permit Application PLSUP2010000153, filed by Jack Wood and Linwood Clark, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3N: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 3352 Riverside Drive, otherwise known as Grid 1703, Block 013, Parcel 000002 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet cafe.*

Ms. Blair read the staff report. Thirty-nine (39) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Eight (8) respondents were unopposed to the request; two (2) were opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. Jack Wood and Mr. Linwood Clark. Mr. Wood stated I think Mr. Jones you were going to stop by our store in Wilson, NC. I do not believe you did.

Mr. Jones stated we were in the neighborhood, somebody else was driving. I did call you and I believe I talked to you on the phone.

Mr. Wood stated yes, you did.

Mr. Jones as I recall, it was closed that day and that was December 1st. You did ask me if I could go by and talk to your manager and I could not at the time. We will get into those questions about that in a second.

Mr. Wood stated I guess we went over pretty much extensively what we are going to do. We do have one (1) more thing that we would like to add that we are going to be doing. We are going to be offering thousands of retail products in our store along with the sweepstakes. We are going to be doing phones. We are going to be offering stuff that you could buy at Home Depot, Target, and they are going to be offered at discount prices through our store. Our sweepstakes are only going to be one (1) product that we are going to have. I wanted to address the letters that were sent back in that I guess you sent out to the people in the town as to whether they were in favor or against. I did not hear the first (1st) one (1) that was brought up with the IIT store, but I did hear the second (2nd) one (1) and they had seven (7) letters sent back in. They were all unopposed. For our store that we are talking about right now, there were ten (10) sent back in: eight (8) for, and two (2) opposed. You are looking at eighty percent (80%) of the population there and one-hundred percent (100%) on the previous one (1). At the previous meeting when we were here, I believe my figures are correct if you add up all of the totals they were around seventy-five (75%) to eighty percent (80%) approval. That seems to be from every poll that you all have taken to be an accurate description of what your citizens would like, for us to come here and have this type of business for them.

Mrs. Pritchett asked you are proposing that your establishment prohibits eighteen (18) years and younger. Is that correct?

Mr. Wood responded we have done that at all of our stores, yes. I guess, and I know I went over this before, when we first opened up people would come in and they would bring their kids in. They would run around and disturb other customers when they were trying to use the computers. The only way we figured we could cut that out was if we restricted it to eighteen (18). If we had people that came up that wanted to do copies or something like that, we would allow them to do that. I was listening on the IIT store. You were talking about checking ID's and you were worried about how you do that. How do you prevent somebody from coming up there and using someone else's ID number, their pin number? Someone could go home and give their twenty year old son their pin number. When he comes up to register and he logs in that pin number, we have rules posted in the store; and they know that when they sign up. When they sign up, they know they are not allowed to give anyone else their pin number. The rules are posted in the store, so if someone came in and used that pin number, let us say they won something and they wanted to collect on their sweepstakes. We would not pay that person out, because they are going to have to show us their ID in order to do that. It would be just as if they were not there to play. We would not allow that to occur. We do that by checking ID's.

Mrs. Pritchett asked do you propose to have your operation open twenty-four, seven (24/7)?

Mr. Wood responded we would like to eventually, yes. If the Town would approve that, obviously we are willing to work with you on that matter. Let us say that we are open for a month, two (2) months, or six (6) months, and we have enough people requesting to come to the store later. We do not want to open up eight (8) hours overnight on another shift if we are not going to have the business. If we have enough customer requests and we think that the business will do well during that period then we would like to.

Mrs. Pritchett asked you have had similar businesses in Charlotte and Wilson?

Mr. Wood responded no, we are not in Charlotte. That was someone else. We are in Hickory, Durham, Raleigh, Wilson, and Williamston, North Carolina. We have signed a lease in Richmond and started construction on that store. We have been approved and are working on opening that store.

Mr. Whitfield asked is that Richmond, North Carolina or Richmond, Virginia?

Mr. Wood responded Richmond, Virginia.

Mrs. Pritchett asked in these numerous locations, have you ever had issues with misbehavior?

Mr. Wood responded very little. We discourage that. If we have someone that is causing a problem or acting unruly, we ask them to leave the store. We might let them come back at a later time, but we like people to consider it like a library. They have to come in and respect other people. We do not allow that type of behavior in our stores. Most of our customers are middle age or older. We have very few problems.

Mrs. Pritchett asked have you had incidents where you had to call the police?

Mr. Wood responded yes, we have. We had to call the police in Wilson due to a robbery. We have had a couple of issues where employees were stealing.

Mrs. Pritchett asked this robbery, was it against you all or a customer?

Mr. Wood responded it was the store.

Mrs. Pritchett stated it was not unruly behavior.

Mr. Wood stated absolutely not.

Mr. Scarce asked are any of the stores you currently have open twenty-four (24) hours?

Mr. Wood responded they are all open twenty-four (24) hours except for Williamston. I think we have a couple of nights there that they are not open twenty-four (24) hours; because we do not have any customers coming in during that period. Other than that, they have all built up to the point that we have a lot of customers come in late at night. They did shut North Carolina down. We were closed for two and a half (2 ½) days. There were a couple of different rulings. I know the IIT people back there, the legality question you were talking about. Mr. Whitfield, you said that they said they were legal but you did not know if they were all legal.

Mr. Whitfield stated no, what I was saying was specifically, Jared said he did not say that not every internet sweepstakes was legal.

Mr. Wood stated he did mention one (1) thing, which was Pot of Gold. He thought they had made those illegal, because they were coming in and putting money directly into the machine. That is considered gambling if it is done that way. The way we do it is considered more like McDonald's or even Subway. First Citizens Bank does a sweepstakes. There are hundreds and thousands of businesses that offer sweepstakes as incentives to come into their stores. We simply do the same thing. I know that on the legal aspect of it, the reason we stayed closed for two and a half (2 ½) days in North Carolina. We still have all of the same games and everything that we had before. They just made one (1) change where it shows your sweepstakes entry before you play any games. The games

have nothing to do with the outcome of your sweepstakes. They are an incentive, an enjoyment, and recreation for our customers to use those games. IIT got an injunction declaring that it was constitutional that they could have their games. They did change some of them. Ours works basically the same way. Our company, VS-2 went back to court a couple of days later and we got a ruling from another judge that said our system was completely legal in North Carolina. We only stayed closed for two and a half (2 ½) days, and then we were allowed to open back up. The Attorney General ordered law enforcement not to harass us and to leave us alone; because we are legal to operate. I have not seen this written down anywhere, but I had someone call me the other day and said that they closed down seven (7) out of eight (8) stores in Virginia Beach. I do not know why they did not close the eighth (8th) store. They did not take their equipment or anything, but then I think they indicted seven (7) of the eight (8) people. I was told that they all were dismissed in court. Do not hold me to that, but that is what somebody called and told me.

Mr. Jones asked why did you feel an obligation to close down on December 1st when you thought all of these things were legal?

Mr. Wood responded the legislators passed the law in North Carolina declaring that we were illegal. That is why it had to go to court. We had to go ahead and shut down, so that we could show that we were damaged and that we were no longer in business.

Mr. Jones asked did you put any additional software on after?

Mr. Wood responded we still have all of the same software that we had before. I do know that they added a change to reveal sweepstakes winnings upfront. I am not sure why they did that, because we always had that capability. The customer always had the capability to hit a button that said "validate" to show their sweepstakes entry and what they had won before they played any games. I think they are going to go back now and make a couple more changes. I think they are going to give the customer the option to hit reveal or to hide that screen before they play.

Mrs. Evans asked you said that you are going to sell supplies that might be found at Home Depot?

Mr. Wood responded that is correct. There are other retail places, and I do not even know all of them yet. We are going to be offering thousands of products through our stores at discounted rates.

Mrs. Evans asked so you are going to have inventory in your stores?

Mr. Wood responded no, we will not have the inventory in our stores. You will be ordering it online through our store.

Mrs. Evans asked so if someone under the age of eighteen (18) wants to buy one (1) of those products?

Mr. Wood responded we would allow that, yes.

Mrs. Evans asked but they cannot come in your store?

Mr. Wood responded no, they cannot. Like I said, in North Carolina we have not done that; but we do not have this same version of our store. We do not have all of these products available there.

Mrs. Evans asked why is that?

Mr. Wood responded well, it has just become available to us. It is a new thing that we are working on getting involved in all of our stores.

Mrs. Evans asked this is not the primary focus of your stores?

Mr. Wood responded it could be. It could do a lot better than the actual sweepstakes. We think it might be the primary focus of our stores. We do not know yet, because we have not gone into that business yet. That is what we are going to offer in all of our stores. We are going to put it in North Carolina as well. We have not got it geared up to go online yet.

Mrs. Evans asked does your North Carolina stores allow people under eighteen (18)?

Mr. Wood responded no, we do not. Initially we allowed it, but then it was causing problems. People were coming in trying to use us for a daycare.

Mrs. Evans stated but there are people under eighteen (18) that do not require daycare. A fifteen (15) year old does not require daycare.

Mr. Wood stated if they wanted to come in our store shop, go online, and that type of thing we would allow that.

Mrs. Evans asked they just could not enter into the sweepstakes?

Mr. Wood responded right.

Mrs. Evans asked who polices them if they are shopping?

Mr. Wood responded well their ID, and they have to have that pin number to get on there.

Mrs. Evans asked so anyone under eighteen (18) could have an ID, come in, and use the internet but not the sweepstakes?

Mr. Wood responded that is right.

Close the Public Hearing.

Mrs. Evans asked a Mr. Leo Holdings opposed. Can you tell me what that is?

Ms. Blair responded he owns property outside of the shopping center.

Mrs. Pritchett asked so he is an individual not a business owner?

Ms. Blair responded correct. His name is beside it under the comments, Gary Takovian. The property was held under the business name of Mr. Leo Holdings.

Mrs. Evans asked so it is a business and not a resident?

Mr. Gillie responded it is a company that owns the property. The same as you could put your property in a company's name and it still be your residence. It is just a company that owns that property.

Mr. Jones asked on the staff report you mentioned things like Sheetz, Wendy's, CVS, Chick-fil-a, and a church. Did any of those send in responses or were they outside of the three-hundred (300) feet?

Ms. Blair responded the church that operates within the shopping center would not receive individual notification. The owner of the shopping center received notification.

Mr. Gillie stated the businesses themselves lease property that is owned by someone separate. All of the tenants of the shopping center do not receive individual notification, because it is just a single owner.

Mrs. Evans stated so we do not know whether they are opposed or not.

Mr. Gillie stated not the tenants inside the shopping center, we do not.

Mrs. Evans asked is that something we should know?

Mr. Gillie responded we are required to notify the property owners themselves, because they have a substantial property interest in it. While the tenant may have an interest in it, the tenant could close up shop tomorrow and leave, so no. We notify them, post a sign on the property. This is part of it. We put the ads in the newspaper, so that they would have the same right as any other citizens to see; but no, we do not send individual notice to a tenant of a shopping center. It is the same as a tenant of a house. We do not send it to someone if they are renting a house. We send it to the owner of the property because they have the property interest.

Mr. Scarce stated I still think we should approve them and send them on to City Council. I have not heard anything that is going to be a detriment to the safety and well being. I think he had talked with Major Burke with the police department. If there is something that is illegal or a problem, I think they will be able to resolve that and shut them down. Again, I am all for increasing businesses in Danville. I am all for increasing revenues.

Mr. Scarce made a motion to recommend approval of Special Use Permit Application PLSUP2010000153. Mrs. Pritchett seconded the motion. The motion was approved by a 3-2 vote.

- 1. Special Use Permit Application PLSUP2010000143, filed by Jack Wood, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3M: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended at 1311 Piney Forest Road, Suite E, otherwise known as Grid 1808, Block 010, Parcel 000001 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet cafe.*

Ms. Blair read the staff report. Twenty (20) 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 Mr. Jack Wood and Mr. Linwood Clark. Mr. Wood stated I guess we can shorten this one (1) up a little bit. It is pretty much the same as the last one (1). If you have any more questions, we would be happy to go over those.

Present in opposition to the request was Mr. Douglas Morrison. Mr. Morrison stated my wife owns the residence at 136 Nelson Avenue where her mother resides. Her mother is eighty-three (83) years old and has Alzheimer's. I am here as a private citizen. I have grave concerns that a business like this is mainly a gaming industry. They are attracting customers into their business through sweepstakes. In my opinion, that brings all sorts of unwanted activity. I am the chief probation and parole officer in Danville, and I have enough business. I do not need anymore. The lottery, although they produce millions of dollars, is just a poor man's tax. I am against gambling, because I believe it decreases the morals of people and it brings all sorts of unwanted characters into this type of business. My mother's house is the second (2nd) house on Nelson Avenue, which is just a stone's throw from where this business is proposed. I am here against this business, because I think that it would have a deterrent on the residents of Nelson Avenue.

Close the Public Hearing.

Mr. Laramore made a motion to recommend approval of Special Use Permit Application PLSUP2010000143. Mrs. Pritchett seconded the motion. The motion was approved by a 4-0-1 vote (Mr. Scearce abstained).

6. *Special Use Permit Application PLSUP2010000186, filed by Alvin Toomes, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3N: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 661 Piney Forest Road, Suite 1, otherwise known as Grid 1815, Block 004, Parcel 000023 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet café.*

Ms. Blair read the staff report. Thirty (30) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Eight (8) respondents were unopposed to the request; five (5) were opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. Alvin Toomes. Mr. Toomes stated I was here previously, and turned down for not enough parking. I changed my address and you all know the story I have. Our operations are from ten (10:00) to ten (10:00) instead of twenty-four (24) hours a day, just six (6) days a week. I will just go from there.

Mrs. Evans asked will you be closed on Sunday?

Mr. Toomes responded yes.

Mr. Jones asked do you use the same software as previously mentioned?

Mr. Toomes responded same software as previous, just a different location.

Mr. Jones asked if all of these things are accepted by City Council, are you worried about making money with all of this competition in town?

Mr. Toomes responded oh yeah. The more you have the lesser outlet for profit you have. When I was here four (4) months ago, I was trying to get it passed before other people came in. For some reason, the City does not want us to come in. They keep coming up with some kind of deal to put

me off and put me off. Parking finally got it. There is nothing against it now. The games are legal, and legit.

Mr. Jones stated it is like Mr. Laramore said, if nothing is done about this, there are going to be fifty (50) applicants here next month asking for the same thing.

Mr. Toomes stated it really will not turn out like that, because the people that supply the software will only let so many come in.

Mr. Jones asked will they deny people the right to come in?

Mr. Toomes responded they have to be spread out. They cannot be next door or a block down the road.

Mrs. Evans asked is it a franchise type business?

Mr. Toomes responded no it is territory.

Mrs. Evans asked what about people under the age of eighteen (18)?

Mr. Toomes responded we do that because the more apt you are to have trouble. The parents do not come and tend to their children. We just try to keep a nicer level atmosphere instead of having kids running around hooting and hollering. There is no kind of adult entertainment or anything like that. We just try to keep a pretty nice atmosphere.

Mr. Scearce asked how successful are you? You have what four (4) other locations? Are they making money?

Mr. Toomes responded yes.

Mr. Scearce asked I noticed on the questionnaire that you spoke with Major Burke in the police department. How did that go?

Mr. Toomes responded he said that if the permit went through that he would send someone by the location from time to time to make sure things were on the up and up.

Mr. Scearce stated so you are not planning on being shut down. You are planning on keeping things on the up and up.

Mrs. Pritchett asked Mr. Whitfield did you report something from Mr. Burke?

Mr. Whitfield responded I do not recall that I did.

Mrs. Pritchett stated I was thinking we had some other conversation other than Mr. Toomes about what Mr. Burke had to say, because we sort of directed you there. I thought we had some other reporting on that. Basically what we understood was that he could not determine what was legal and not legal as far as these establishments.

Mr. Whitfield stated I do not know. I have not talked with Mr. Burke about any particular applicant. I think what you are thinking about is what I had reported in the last meeting. I did not believe that it was reasonable to try to figure out whether they were legal or illegal unless you went

through and did an almost complete audit of their business. I was suggesting that you not make your decision based on that, but you make your decision based on the other factors that the Planning Staff had provided for you based on where they are relative to neighborhoods, churches, and other things.

Close the Public Hearing.

Mr. Scearce made a motion to recommend approval of Special Use Permit Application PLSUP2010000186. Mrs. Pritchett seconded the motion. The motion was approved by a 4-1 vote.

7. *Special Use Permit Application PLSUP2010000188, filed by Maurice Harris, requesting a Special Use Permit to allow indoor commercial recreation in accordance with Article 3M: Section C, Item 4, of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 3000 Riverside Drive, otherwise known as Grid 1709, Block 006, Parcel 000001 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an internet cafe.*

Ms. Blair read the staff report. Fourteen (14) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Three (3) respondents were unopposed to the request; zero (0) were opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. Maurice Harris. Mr. Harris stated my business is basically the same as the other internet cafés. The only difference is what we are proposing as far as the time to be opened.

Mr. Laramore asked what is the time that you are proposing to be opened?

Mr. Harris responded from ten (10:00) to ten (10:00) on Sundays, Monday thru Wednesday's nine (9:00) to eleven (11:00), and nine (9:00) to twelve (12:00) Thursday thru Saturday.

Mr. Jones asked do you have any of these any other places in Virginia?

Mr. Harris responded no, I do not. My partner currently has several of them in North Carolina and in Virginia.

Mr. Jones asked where about in North Carolina?

Mr. Harris responded Winston-Salem area. He has one (1) in Bluefield, Virginia.

Close the Public Hearing.

Mr. Laramore made a motion to recommend approval of Special Use Permit Application PLSUP2010000188. Mrs. Pritchett seconded the motion. The motion was approved by a 3-1-1 vote (Mr. Scearce abstained).

8. *Special Use Permit Application PLSUP2010000187, filed by James R. Bryson, requesting a Special Use Permit to allow for operation of a school in accordance with Article 3E: Section C, Item 14 of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 425 Hughes Street, otherwise known as Grid 1611, Block 009, Parcel 000014 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate a private*

day school at this location providing educational and vocational training for individuals with disabilities.

Miss Scolpini read the staff report. Forty-nine (49) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Fourteen (14) respondents were unopposed to the request; one (1) was opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. James Bryson. Mr. Bryson stated I respectfully request that you approve our request for a Special Use Permit. Everything that was discussed in the previous meeting is the same as it was before.

Mr. Scarce asked are you in agreement with the conditions that staff has?

Mr. Bryson responded yes.

Close the Public Hearing.

Mrs. Pritchett made a motion to recommend approval of Special Use Permit Application PLSUP2010000187 with conditions per Staff. Mr. Scarce seconded the motion. The motion was approved by a 5-0 vote.

9. *Rezoning Request PLRZ2010000189, filed by Sarah Folmar on behalf of the YMCA and Danny Latham, requesting to amend the Year 2020 Land Use Plan from Public and Semi-public Area to Urban Single Family Residential and to rezone from N-C Neighborhood Commercial to OT-R Old Town Residential, 0.158 acres at 810 Main Street, otherwise known as Grid 1716, Block 005, Parcel 000003 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to rezone the property in preparation for consolidation with 840 Main Street.*

Miss Scolpini read the staff report. Thirty-six (36) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Fourteen (14) respondents were unopposed to the request; zero (0) were opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. Dan Latham. Mr. Latham stated I am in favor of approving this rezoning request so that we can transfer property of the YMCA to ownership by me.

Mrs. Evans asked what are you going to do with it?

Mr. Latham responded restore the building, clean up the trees, and use the alley as a driveway.

Mrs. Evans stated I saw in the report that it was slave quarters. I was wondering if you were going to bring those back to life and have them for tours.

Mr. Latham stated that is a possibility. I think our first (1st) interest right now is getting the building stabilized. We will see about the use down the road.

Close the Public Hearing.

Mrs. Pritchett made a motion to recommend approval of Rezoning Request PLRZ2010000189. Mrs. Evans seconded the motion. The motion was approved by a 5-0 vote.

10. Special Use Permit PLSUP2010000190, filed by Ben Davenport, Jr. on behalf of MCD Investments, LLC, requesting a Special Use Permit for a use with lot frontage on the Dan River in accordance with Article 3L: Section C, Item 11 of Chapter 41 of the Code of the City of Danville, Virginia, 1986 as amended at 115 Riverside Drive, otherwise known as Grid 2709 Block 001 Parcel 000020 of the City of Danville, Virginia Zoning District Map. The applicant is proposing construction of multi-purpose a commercial building with lot frontage on the Dan River.

Mr. Laramore made a motion to table Special Use Permit Application PLSUP2010000190 until the January meeting. Mrs. Evans seconded the motion. The motion was approved by a 5-0 vote.

III. MINUTES

Mrs. Evans made a motion to approve the minutes from the November 8, 2010 meeting. Mr. Scarce and Mr. Laramore seconded the motion. The minutes were approved by a 5-0 vote.

IV. OTHER BUSINESS

Mr. Gillie stated your standard City Council report; they approved the Special Use Permit at Nor Dan Shopping Center for the World of Pets. They denied based on the recommendation, the Special Use Permit request on Old Mayfield Road. I wanted to thank Mrs. Pritchett. For those of you who were not aware, this is Mrs. Pritchett's last meeting. She is resigning from the Commission. Thank you for your years of service. It has been very much appreciated.

Mrs. Pritchett stated I have loved serving. I just think six (6) years is enough, and with about nine (9) years prior to that on the Commission of Architectural Review, I think it is time for somebody else to have a good time.

Mr. Gillie stated the City appreciates your years on the various Commissions, and thank you very much. I also wanted to introduce Miss Emily Scolpini. Most of you recognize Emily. She was our Planning Intern previously. Emily has secured the full time position as Planning Technician with the City. If you have any questions, and you cannot find me or Renee, you should find Emily at City Hall. Come and see her. Based on the multitude of cases that we have had regarding the internet cafés, staff would like to recommend that Planning Commission recommend staff hold a public hearing to better address these and probably the definition of what they would be, and maybe a spot where they should actually go. Staff would recommend that Planning Commission recommend staff hold a public hearing next month.

Mr. Jones asked can that be moved to a motion now?

Mr. Gillie responded it is up to you.

Mrs. Pritchett made a motion to recommend staff hold a public hearing to address proposed changes to the Zoning Code in relation to internet cafés. Mrs. Evans seconded the motion. The motion was approved by a 5-0 vote.

Mr. Jones asked will we be setting up a time and advertising that?

Mr. Gillie responded it will be advertised. We already have cases for next month, so just at the January Planning Commission meeting we will hold a public hearing on proposed changes to the Zoning Code to address these issues.

Mr. Jones asked do we have any internet café applicants for next month?

Mr. Gillie responded yes, we do.

Mrs. Evans asked how many?

Mr. Gillie responded one (1) or two (2) right now.

With no further business, the meeting adjourned at 4:48 p.m.

APPROVED