

## PLANNING COMMISSION MINUTES

May 9, 2011

### MEMBERS PRESENT

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

### MEMBERS ABSENT

Mr. Jennings

### STAFF

Clarke Whitfield  
Ken Gillie  
Christy Taylor  
Renee Blair  
Emily Scolpini

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

Mr. Wilson arrived at 3:02 p.m.

### I. ITEMS FOR PUBLIC HEARING

- 1. Special Use Permit Application PLSUP2011000063, filed by Stuart Lovelace on behalf of TRELUV, LLC., requesting a Special Use Permit to operate a group home in accordance with Article 3E: Section C, Item 9, of Chapter 41 of the Code of the City of Danville, Virginia, 1986, as amended at 157 Broad Street, otherwise known as Grid 1719, Block 008, Parcel 000003 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate a group home.*

Ms. Blair read the Staff Report. Twenty-six (26) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Two (2) respondents were unopposed to the request; two (2) were opposed to the request.

Open the Public Hearing.

No one was present on behalf of the request.

Close the Public Hearing.

Mr. Griffith asked currently this is a legal non-conforming and the first (1<sup>st</sup>) thing they need is a Special Use Permit to make it a legal operation?

Mr. Gillie responded that is correct.

Mr. Griffith asked and the second (2<sup>nd</sup>) thing they need is to rezone or get a Special Use Permit to expand?

Mr. Gillie responded correct.

Mr. Griffith stated we have one (1) request here.

Mr. Gillie stated the request will handle both. If given permission, they could expand the facility and that was the Special Use Permit. Right now they are operating as legal non-conforming, which is they can operate as does not need any additional parking or anything else because it is not provided. As part of the special permit process, staff can put conditions on a property. In this case we are recommending that they bring themselves into compliance first (1<sup>st</sup>) off because they have no

off-street parking for their employees or any other guests to the facility. They are just in operation. They do not have a Special Use Permit. If there were a fire or a flood tomorrow, something that would destroy the facility they could not rebuild without a special use permit. As part of this, they came in to talk to us about expanding the facility. The expansion triggers additional requirements. We have not been told how those requirements are going to be adequately addressed. Staff has concerns with the expansion of the facility. That is why we are recommending denial on the allowance of the expansion. We recognize it as an existing facility and we would recommend that the special use permit for the existing facility be granted bringing their legal non-conforming status into a conforming status; because they have met the requirements for conforming status. They got the required parking through a lease agreement with an adjacent property and the facility is allowed in that district if they get a special use permit. We just do not think we have enough information to allow them to expand as they have asked for.

Mr. Whitfield asked have you been provided a copy of that lease?

Mr. Gillie responded we have not been provided a copy of that lease yet. We have had verbal confirmation that they have it, but I have not seen the lease yet.

Mr. Griffith stated I am trying to figure out where they are leasing parking.

Mr. Gillie stated there is parking lot across the street that is used by the Urological Clinic overflow parking down over the hill.

Mr. Griffith stated ok, that is diagonally across the street.

Mr. Gillie stated correct. It has to be within three hundred (300) feet.

Mr. Griffith stated there is a parking lot behind their piece of property.

Mr. Gillie stated correct.

Mr. Griffith stated but that has an eight (8) feet high chain link fence around it.

Mr. Gillie stated that is correct. The parking that they are leasing is across the street, kind of down from it.

Mr. Griffith asked there is a large out building directly behind the building. Were they going to tear that down to expand?

Mr. Gillie responded that would have to be removed.

Mr. Griffith stated because there was not room there with that out building. There is not room on that piece of property to expand anything.

Mr. Gillie stated that is why we have requested a site plan. It is required for an expansion. We do not have that. Our opinion is that would have to be removed to allow for an expansion. Once that is removed we have the issue of parking. How do you provide parking for the additional number of staff that is required? You do not have sufficient access around either side of the building. You would have to cross someone else's property. There are a lot of questions we feel that are unanswered for the expansion. Now the existing operation has been there for quite a long time. We

are not opposed to the existing operation. It is just making it larger. We have some questions unanswered.

Mr. Laramore asked so this special use permit is strictly or has nothing to do with the expansion. It has to do with maintaining the thirteen (13) residents. Is that correct?

Mr. Gillie responded they have requested the expansion. Now just because that is what someone requests a special use permit, you do not necessarily have to grant what they have requested. You can condition it upon what you feel is appropriate for the area. They have asked to expand. As part of that expansion they have to bring themselves into compliance. Staff is recommending that a special permit be issued to bring the existing operation into compliance, but not allow for the expansion at this time until those questions are answered.

Mr. Laramore asked would it be a permit with conditions so if they decided to go further they would have to come back?

Mr. Gillie responded they would have to come back and ask for modifications to that special use permit.

Mr. Wilson stated I am still learning my ropes here. Is it normal for us to grant a special use on just a verbal agreement regarding parking?

Mr. Gillie responded we will put a condition in the ordinance that they actually provide us the written lease agreement and it has to be approved by the City Attorney. If they fail to do so, the special use permit can expire while they can continue with their legal non-conforming status. It will not shut the facility down because they were operating prior to them coming and asking for it and prior to the adoption of the current Zoning Code. All it would do is protect them and it is in their best interest to provide that because it protects them in case there is some type of accident or something else and the facility is destroyed. We have had verbal confirmation that they have it. I have just not seen the actual paperwork on it yet. That still does not address their request to expand which started the whole process.

Mr. Jones asked it is my understanding that we cannot give approval to conditions that violate the Code, right?

Mr. Gillie responded that is correct.

Mr. Jones stated to expand as he wants to expand from the information that we have now would be in violation of the Code.

Mr. Gillie stated that is correct. We would not have the required parking. We would not have the information on the fire suppression system, setbacks, and some other things.

Mrs. Evans asked what happened to the neighbor concerns that were expressed at the March meeting? Did anyone ever look into that?

Mr. Gillie responded we have looked into that. There are some issues that really cannot be discussed in a public forum. There have been some investigations done. That is all I can really say at this time. Attorney, is that correct because of the sensitive nature of the matter?

Mr. Whitfield responded I think you are right.

Mrs. Evans asked should we be voting on this?

Mr. Gillie responded the voting is on what they have got right now, the legal status of the operation. Yes, you can vote on the legal status of the operation. The expansion, again if they provided that additional information you could vote on that. Staff is not recommending that because they have not addressed the concerns that we have. The neighbors' concerns on the care of the others in the facility are not something that comes into play in front of Planning Commission, because you do not regulate how they operate the facility as much as they have a group home, do they meet the criteria for parking, do they meet the requirements for setbacks, is it a safe facility per say that meets all of the other Code requirements not as much as how they operate, their internal operations. That is handled through a different group and that is being addressed through other organizations.

**Mr. Scearce made a motion to approve Special Use Permit Application PLSUP201000063 as the current operation with no more than thirteen (13) residents providing a lease agreement for the parking, not allowing for any expansion. Mr. Jones seconded the motion. The motion was approved by a 6-0 vote.**

- 2. Rezoning Application PLRZ20110000138, filed by Terry Francisco on behalf of Ameritech Service Co., Inc., requesting to amend the Year 2020 Land Use Plan from Suburban Single Family Residential to Attached and Mixed Residential and to rezone from M-R, Multi-family Residential to A-R, Attached Residential District, 0.24 acres on Thunderbird Circle, otherwise known as Grid 2918, Block 001 Parcel 000004 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to construct a townhome complex.*
- 3. Rezoning Application PLRZ20110000139, filed by Terry Francisco on behalf of Ameritech Service Co., Inc., requesting to amend the Year 2020 Land Use Plan from Suburban Single Family Residential to Attached and Mixed Residential and to rezone from M-R, Multi-family Residential to A-R, Attached Residential District, 0.25 acres on Thunderbird Circle, otherwise known as Grid 2918, Block 001 Parcel 000003 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to construct a townhome complex.*

Miss Scolpini read the Staff Report. Sixty-five (65) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Fourteen (14) respondents were unopposed to the request; six (6) were opposed to the request.

Open the Public Hearing.

No one was present on behalf of the request.

Close the Public Hearing.

Mr. Gillie stated the applicant had called stating that he was unable to attend the meeting today. I wanted to let you know. He was planning on attending. It was kind of a last minute thing.

Mr. Jones stated one (1) of our comments says, "We would like to suggest clearing all trees." Another comment is "a row of trees are left at the edge." Do you have any idea what is going to happen to the trees? Is he going to clear it all? Is he going to leave a row?

Mr. Gillie responded we are waiting on the final site plan for it. In discussing it with them, they are planning on clearing all of the trees if possible off of the lot. They did the same thing just across the street to the north. If you were out at the site, as you came down Thunderbird, this property is on

the south side of it. They are built a similar complex directly across to the north. In that, they cleaned the property out and then went back in and landscaped it and everything else. Their plan was to clean everything and start over.

Mr. Griffith stated one (1) of the comments on here also suggests leaving a row of trees planted, but that is keeping where they have already started the excavation. I noticed they have already started doing the site work.

Mr. Gillie stated they did get an erosion and sediment control permit. You can get a permit to grade property prior to getting any development approvals through zoning.

Mr. Griffith stated the concern is that one (1) of the people have, and I was over there this morning, is to keep the red mud flowing from the property down across adjacent property. Is there something in the Code that prevents that or require them to do something to take measures to prevent that from happening?

Mr. Gillie responded State Erosion and Sediment Control regulations require silt fence and other things. They also require a construction entrance be installed, which is a stone construction entrance to try and knock off any of that red mud off vehicle tires before it is tracked out into the street. They are also required to put silt fence up to try and stop any water carrying dirt from going onto adjacent properties. Once the property is graded, if they do not go directly into construction they have a certain period of time before they have to seed the property to try and keep the dirt and other things from washing off. If you have seen the facility across the street, they have done a really nice job on the building. During times of construction you will have dirt move. They do the best they can and they follow those regulations. The City has an active program where we go out and monitor construction sites to make sure they are in compliance with Erosion and Sediment Control regulations. We are not anticipating an issue on this site.

Mr. Griffith stated I was just curious. I thought the piece of property across the street was very nice looking. I did not realize it was the same people that own this one (1).

Mr. Gillie stated they were successful across the street and wanted to do it on this side. If that works, they are looking at future sites in the immediate areas. This may come back to you again.

Mr. Griffith stated in looking at the map, the respondents who were opposed, most of them were farther away from the piece of property. None of the ones opposed were adjacent to this piece of property. It looks like they were the ones that are further away from this piece of property.

Mr. Gillie stated it appears that way.

**Mr. Scarce made a motion to approve Rezoning Application PLRZ20110000138 as submitted. Mr. Laramore seconded the motion. The motion was approved by a 6-0 vote.**

**Mr. Scarce made a motion to approve Rezoning Application PLRZ20110000139 as submitted. Mrs. Evans and Mr. Laramore seconded the motion. The motion was approved by a 6-0 vote.**

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

### ***1. Review of Final Plat of Dedication of Right of Way along Bridge Street.***

Mr. Gillie stated if you need me to read the staff report I can or I can give you just a synopsis of it.

Mr. Griffith stated if you want to go ahead and just give us the synopsis of this that will be fine.

Mr. Gillie stated the City is selling a parking lot across from the Burton Condominiums, which they are already leasing to the Burton Condominium Association. As part of that we found out that part of the sidewalk extended over to the lot. So what we are doing is taking that sidewalk and cutting it off, rolling into the right-of-way for Bridge Street, so all that they are buying is the parking lot not being responsible for a portion of public property.

**Mr. Laramore made a motion to approve the Dedication of Right of Way. Mr. Jones seconded the motion. The motion was approved by a 6-0 vote.**

## *2. Review of Final Plat for River Landing, LLC.*

Mr. Gillie stated they took four (4) lots previously, consolidated it into one (1) large acreage tract, and offered it up for development for sale. A person is interested in buying a portion of that large acreage tract. They are buying the really large piece and what was the remainder of one (1) other lot that gave it frontage on River Oak. They are then taking two (2) of the lots that had been previously rolled into the one (1) and just putting them back as they were. You will end up with three (3) lots, where you took four (4) converting into one (1). Now they are going back to three (3).

**Mrs. Evans made a motion to approve the Final Plat for River Landing, LLC. Mr. Laramore seconded the motion. The motion was approved by a 6-0 vote.**

## III. MINUTES

**Mrs. Evans made a motion to approve the minutes from the April 11, 2011 meeting. Mr. Wilson and Mr. Scarce seconded the motion. The minutes were approved by a 6-0 vote.**

## IV. OTHER BUSINESS

Mr. Gillie stated City Council approved the item that you recommended last month and that is about all that we have right now. We will have a meeting next month. We have a subdivision plat in line to come in front of you assuming that City Council approves the rezoning for that property on Thunderbird; because they are creating six (6) lots, the subdivision plat will have to be approved by Planning Commission. We could not have it approved before it is actually rezoned making the assumption that they do approve the rezoning. There will be a meeting.

With no further business, the meeting adjourned at 3:28 p.m.

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APPROVED