

## PLANNING COMMISSION MINUTES

August 8, 2011

### MEMBERS PRESENT

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

### MEMBERS ABSENT

Mr. Jones

### STAFF

Clarke Whitfield  
Ken Gillie  
Christy Taylor  
Renee Blair  
Emily Scolpini

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

### I. ITEMS FOR PUBLIC HEARING

- 1. Rezoning Application PLRZ20110000250, filed by AutoCycle, LLC, requesting to amend the Year 2020 Land Use Map from USR, Urban Single-family Residential to HI, Heavy Industrial and to rezone from T-R, Threshold Residential to I-M, Industrial Manufacturing, a portion of 14.84 acres at 1668 Halifax Road, otherwise known as Grid 3714, Block 004, Parcel 0000017 of the City of Danville, Virginia, Zoning District Map. The applicant is requesting to rezone a portion of 1668 Halifax Road to allow consolidation with an adjacent parcel.*
- 2. Special Use Permit Application PLSUP20110000293, filed by AutoCycle, LLC, requesting a Special Use Permit to operate a junkyard in accordance with Article 3.Q; Section C, Item 16 of the Code of the City of Danville, Virginia, 1986, as amended, on a portion of 14.84 acres at 1668 Halifax Road, otherwise known as Grid 3714, Block 004, Parcel 0000017 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to expand operations at 1692 Halifax Road to this location.*
- 3. Special Use Permit Application PLSUP20110000294, filed by AutoCycle, LLC, requesting a Special Use Permit to operate a junkyard and alter the conditions of SE99-015 in accordance with Article 3.Q; Section ,C Item 16 of the Code of the City of Danville, Virginia, 1986, as amended, at 1692 Halifax Road, otherwise known as Grid 3714, Block 004, Parcel 0000016 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to alter previous conditions placed on operations per SE99-015 granted in 1999.*

Ms. Blair read the Staff Report. Thirty-five (35) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Four (4) respondents were unopposed to the request; twelve (12) were opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Mr. Stan Luther. Mr. Luther stated Bill Weaver, I do not know why, but about twelve (12) years ago he moved out there. He really did a whole lot for the whole section in there. Not only did he cut my grass if I was not feeling good, he did this and he improved so much over there. Slant Systems over there, they were nothing. Of course the City moved into there when they went into the County. They closed up and it stayed closed, but when Bill came in there, the way he kept stuff up over there close to the Coke plant in the City; he made all of those people sort of improve down there. I saw that for myself. He helped us a whole lot. He helped my property a whole lot. The way it is, he is going to be in the back. It is like a football field if you look

at the measurements. Our land goes back like a football field. He is going back so far and making it residential and going with his business back there. You do not even see it unless you are flying over it. I gave him permission to park some cars, so his customers could get into where he is at. Just like today, as hot as it was, Bill cut my grass. He cut the lady's next door. He cut the people below me and across the street too. Bill is like that. I heard somebody say "the trucks are so bad coming from across the road," well I have a copy of it. The only trucks that are there is the City truck. They go over there for garbage. You do see a pick-up truck go thru there once in a while. I have been living there twenty (20) years. My wife has been living in that section every since she was born and that is eighty-seven (87) years ago. That is all I have to say. Bill is good for the community. He has even talked to the man across the road to try and clean his business up. Bill will do what he says he is going to do. I have known that for twelve (12) years. I do not know why he took me under his wing like that, and done so much for me; but I sure do appreciate it. Thank you very much.

Present in opposition to the request was Ms. Nancy Carlton. Ms. Carlton stated I live in the Glenwood Community. That community is also defined as Planning Area 9. I am representing myself. I have lived in the community for over twenty-five (25) years. I am also representing my husband who has lived in this area for over forty-five (45) years. There are three (3) applications that are currently being heard that we believe if they were approved would negatively impact the residential neighborhood in which we live. It is where we have invested in real estate. It is where we call home. It is an area that we want to see once again as a bright spot for our community, not an eyesore for the City of Danville. We believe that the negative impacts on our neighborhood would include: number one (1) it goes against the City's Comprehensive Plan for our area, and the City's vision for the future of the City of Danville, number two (2) it is contrary to the specific recommendations in the plan for our neighborhood, which is defined as the City of Danville Plan 2020, again Planning Area 9 is what we are speaking of. Approval also goes against the smart growth philosophy developed for and by City in the 2020 plan. We do not need or want more hodge podge development within our residential neighborhood. Five (5) we do not need or want the reallocation of residential property in the middle of our neighborhood to heavy industrial or industrial manufacturing property again in the middle of our neighborhood. Just like any other neighborhood in the City of Danville, we also do not need one (1) acre or acres upon acres of dimensional junk yard property where junk cars will be located in the middle of our neighborhood. It is not to the advantage to convert residential property in a neighborhood to HI or IM property. Glenwood is our neighborhood, a residential area not a business district. Just like any other residential neighborhood we certainly want to maintain more of a residential environment not a junkyard landfill. We do not want any more additional acres of junkyard storage. As you may already know there are other junkyard areas designated within this corridor. The Comprehensive Plan 2020 for two (2) years, from 1999 to 2001, City leadership including the Manager's office, City Council, Planning Commission, as well as the City of Danville citizens in conjunction with a higher consultant developed this plan. It is a twenty (20) year plan that we are ten (10) years into. It was enacted ten (10) years ago. It laid out plans through 2020. It quote "represents the City's vision for the future and serves as the most important document for orchestrating growth and development; and defines goals for future development as well as specific actions which should be taken over the next twenty (20) years to achieve its vision." Ten (10) years into this twenty (20) year plan, we are presented with an opportunity to stay on track with that plan, which equates to not recommending the conversion of residential property to HI or IM; and not recommending the approval of acres upon acres of new junkyard area in the middle of a residential neighborhood. In this plan emphasis was placed on establishing "a smart growth philosophy" for Danville, including our community. Per the plan, rewards for smart growth are enhanced property values, improved allocation of land uses and density, and a higher quality of the community citizens. Converting residential property in a residential neighborhood to HI, MI; and additional business activity is not smart growth that enhances property values. It is not what is recommended in this plan for the Halifax Road corridor.

Approving two (2) applications for allowing acres upon acres of junk cars and create junkyard space for junk cars is not smart growth that enhances property value. Ms. Carlton read from the 2020 Comprehensive Plan under Planning Area 9: Existing Land Use, and Future Land Use. Again converting a residential area to HI or MI and allowing for one (1) acre or acres upon acres of new junkyard land in our residential neighborhood goes directly against what was recommended in this twenty (20) year plan. I would like to point out, and I have a copy of that plan here, when we speak of junkyards page after page in this plan nowhere in this Comprehensive Plan is there a recommendation to increase junkyard space anywhere in our City: not in my neighborhood, not in your neighborhood, nowhere in our City. So, I ask is this really how we want to grow? Is this really what we need to do for our neighborhoods including the Glenwood neighborhood? Apparently the City leadership, City Council, the Planning Commission, the Consultant, nor the population when this plan was developed thought that was a good idea. According to Mayor John Handlin, who was heavily involved in the Danville Comprehensive Plan development, and approval said "the Comprehensive Plan is almost like the Bible for the City in terms of importance and guiding future growth and development." Our City's development Bible says "no, absolutely not" to converting residential property in Glenwood to HI or IM, and absolutely no to junkyard acreage in our backyard. Please protect our neighborhood. Please stay on track with the twenty (20) year plan that was endorsed by the Planning Commission. Glenwood has many challenges to face, but we do not need to further destroy the Halifax Road corridor. Because of our investment to the Glenwood community I am here to respectfully ask that you recommend denial on these requests. Thank you and I am happy to take any questions.

Mr. Griffith asked how far do you live from the property here?

Ms. Carlton responded less than a mile. I wanted to make one (1) point. In the late fall, wintertime if you are traveling down Halifax Road, when there is less foliage on the trees, you can actually see the cars that are parked where trees have been taken down. You can see that straight from Halifax Road as it stands today.

Present in opposition to the request was Ms. Linda Edmonds Williamson. Ms. Williamson stated I stand before you to offer an opposition to the three (3) proposals that we have on the floor. In giving you just a little bit of background history, I was born, lived on Halifax Road for forty (40) plus years; and I continue to go back and visit as my parents have property there as well as I. I am standing before you to oppose from a different standpoint, a standpoint that reaches deep within me. It is a personal thing. The community is and has always been a beautiful community to me. It is one that the neighbors love each other, talk to each other, speak to each other, and help each other; so it is one that we care about. When I learned of what was about to take place I became greatly upset. First of all, I was upset when I returned from college to see all of the junk cars and what had been done to my neighborhood, a beautiful neighborhood, a clean neighborhood, one that could be expanded into building homes, beautiful homes. We love beautiful homes. We love nice things just as anyone else. We want our neighborhood to be a beautiful one as well, an effective one as well. What has been brought to our neighborhood is eighteen wheelers running all day long; and I can tell you this, because I sat on my porch and I watched eighteen wheeler after eighteen wheeler, one bringing junk, the other one taking junk. It is junk, junk, junk; and then you have the pickup trucks bringing junk and hauling junk all day long. You cannot even sit in your house or even on your porch for hearing the noise of the crushing all day long. When I say all day long, I mean all day long. You hear and see strange people walking in and out of there, walking across yards and what not even to the point where my parents had a lawn chair, a lawn chair that had been set up for forty (40) plus years. It was not brand new and it was falling apart, but my family and I loved it because that is where my father sat. That is where my mother sat. There is why we wanted to keep it there; but that too was taken. It was stolen. We investigated. We went up to the crushing place and asked if

they had seen our chairs. They said "oh yeah, they came thru here. They crushed them." At anytime we would have paid whatever we had to pay to get my mom's chair back, my dad's furniture back. My neighbor had tin that the wind had blown off of a utility shed in the front. My neighbor is a little disabled, so he was waiting for his son to come to tack the tin down, but instead you know what happened? The tin got stolen. Now we have a situation where, I guess there are more people in the neighborhood they are looking around to see what all they can take. It is just a few feet away from the metal place. Not only that, but at one time they issued some grand opening or some grand dedication to "whatever you can bring." Do you know that our street was backed up for hours from people bringing in whatever, all kind of junk. Imagine that on your street. Imagine the fumes. Odors are emitted from that area. When I heard what was about to take place, I started walking and I got busy. I talked to every neighbor on the street. They all had a complaint from the snakes crawling from behind the existing structure. Would you like that in your neighborhood? Do you know where they are living? They are living in those old junk cars. The rats are living in the old junk cars. We do not need that. We do not want that. We want our neighborhood to be each new hope, Glenwood Community, the community where the ones that are here to oppose it, love. One other thing I want to talk about is the noise. I mentioned the crime being up in the area as a result of it. One other thing I want to talk about is the depreciation of our property. It can only decline. It can only depreciate. It can only go down in value. What do we have to sustain to increase it with- a junk yard? I speak to you, because my property is two (2) houses up from the metal crushing place. When they crush, we hear it and we feel it. It shakes the house. You have to be there to know what I am talking about. I am not lying. I do not need to lie, because I have too much truth on my side. When you live there you know. As I said, I talked with people. I talked with everybody that was affected in this area. I knocked on doors and they told me how they were bothered by this early in the morning, late at night. Imagine when you get off your job, you want to go home. You want a peaceful environment. As far as what I would like to ask the committee, would you please, please, please deny the requests, all three (3)? If anything should be built out there on Halifax Road, it should be homes. It should be things to increase the value of each new hope as it is a community that is worthwhile. Do not throw us away. Do not throw us to the dogs. Do not throw us to the junkyard. I thank you.

Mr. Jennings asked you mentioned the noise and the trucks that are passing through the area now. Are they going to this particular business, or are they going to other businesses?

Ms. Williamson responded they are going to that business. I have observed them. They will come down Airport Drive and then they will turn and come up Halifax Road. As I said we are living in the fourth house from the business. These trucks come up the road all day long. When I tell you all day long, I am not exaggerating. The fumes that are emitted from it, the smells that are emitted from it, sometimes you see lots and lots of pickups as well come down with junk hanging all off the sides of it.

Mr. Jennings asked how far is this particular business from the school?

Ms. Williamson responded I am not sure exactly in terms of measurement, but you have the school, maybe two (2) houses and then it is some empty property there and James Baptist Church there. I would probably say maybe a half (1/2) mile from that property. I am pretty sure the school as to be effected too. They have not started up yet, but I am sure they would have to be effected. You can hear that stuff all of the way down to where my grandparents live, which is about seven (7) or eight (8) houses down from where I live. You can hear that noise way down there. Can you imagine what I am hearing three (3) houses down, or what the people are hearing two (2) houses from their business, or one (1) house? It is atrocious.

Mr. Jennings asked are there other businesses out there that attract noise as well, auto mechanics, or repair shops?

Ms. Williamson responded no, sir none that has gotten my attention. I am a very observant person. There is an auto mechanic shop, but by no means can I stand here and say that I have heard sounds coming from their shop.

Mr. Wilson asked I am a little confused. Will you please state your last name for clarification?

Ms. Williamson responded I hyphenate my last name. You will see Edmonds on the report. I do love the neighborhood very much. I do not want it to go to anything else, but what it can be and better. Thank you all and I do wish for your vote to oppose this request.

Present in opposition to the request was Mr. Arthur Wimbush. Mr. Wimbush stated I am a deacon at St. James Baptist Church at 36 Cleveland Street. I am here regarding the church property that is ours on Halifax Road. This is about ten and a half (10 ½) acres that the church purchased some years ago. When the church bought this land, the junkyard was not there. Now the junkyard is there and it is causing a lot of confusion even in the church; because we wanted to build a new church over there on Halifax Road. People are talking about how the junkyard is going to affect the church, and how far it is going to be from the church. It is just a big mess is basically what it is. We had no idea this junkyard was coming into this neighborhood. When we bought this land it is strictly residential. This junkyard is basically just a headache. When we received this letter to the church, we discussed it amongst the deacons and the trustees. We are trying to figure out if this junkyard is expanding further down the street, getting closer to the church, because we do not want to build a church beside a junkyard. I mean when we bought it, it was just homes around there. We did not have a problem with the homes, but now with this junkyard there, it is creating a pretty big problem. A lot of people do not even want to build a church out there now. It is a headache anyway you look at it. I know the tractor and trailers will be moving up and down the road. It should not affect the church on Sunday morning, but if you have a funeral or something during the week; and you have these tractor and trailers coming in and out while trying to direct traffic and all of that. I do not know, but I know the people of the church told me to plead with everybody on the panel to not let this junkyard expand anymore or whatever they are trying to do. The church totally disagrees with everything that they are doing out there. If they are going to expand this junkyard, in my opinion, the church will not even think about building on that property. They do not want the junkyard right beside the church. The junkyard is less than a quarter of a mile from where St. James' property is. In my personal opinion, it is way too close for a church to be building a church on that property. We just wanted to come and plead with you all, maybe you can help us do something about this. In the future, we plan on building a church, but now that we have this junkyard situation; I do not know what the church is going to do. We have to wait and see what you are going to do about this junkyard situation before we can do anything. We would like to keep the neighborhood a neighborhood, because the church can grow and the neighborhood can grow. The junkyard is going to cause a lot of confusion. It is causing a lot of confusion now, and the church has not even started building there yet. That is all I have to say in representing St. James Baptist Church. Does anybody have any questions that they would like to ask me? If I can answer them, I will be more than glad to.

Mr. Wilson asked has the church actually taken some kind of official vote in opposition of this, or are you just coming to represent them?

Mr. Wimbush responded I am representing the church and the neighborhood. We have not taken an official vote, because we do not know what you are going to do about this junkyard. We cannot

do anything until you do something. If they are going to expand the junkyard, we do not want to step out of the church looking at junk cars around the church. The church probably would not even build on the property.

Mr. Wilson asked forgive my confusion. You were talking about building a church a quarter mile away. Do you have other property somewhere that you are thinking of expanding to?

Mr. Wimbush responded no, we would probably sell that and buy some somewhere else if they are going to expand this junkyard.

Mr. Wilson asked so, you do not own other property?

Mr. Wimbush responded no, not right now.

Mr. Wilson asked so, you would have to make a decision on how to expand your church if you did decide to build?

Mr. Wimbush responded right.

There was discussion about the location of the property that St. James Baptist Church has.

Mrs. Evans asked are you there during the day where you can attest to the noise?

Mr. Wimbush responded I normally go over there and cut the grass about every other week. Yes, I have seen several tractor and trailers coming in and out of the junkyard there.

Mrs. Evans asked do you hear the noise from the crushing?

Mr. Wimbush responded yes. I can be out there mowing the lawn and hear the noise. I am going to be frank with you. We really do not know what to do right now. We cannot do anything until you decide what you are going to do about this junkyard situation.

Mr. Jennings stated the problem that I am having is that this operation is going on now.

Mr. Wimbush stated yes, sir.

Mr. Jennings asked how is expanding this business going to be more harm to you than what it is now?

Mr. Wimbush responded if we were to build a church on the present property right beside the junkyard now, anytime we come out of the church we will be looking at the junk cars, the traffic constantly moving in and out. We meet over at the church every Wednesday for Wednesday night prayer meeting. Every Wednesday we are going to have to listen to this noise, because they are still going to be running. If we have a funeral or something, you have got tractor and trailers, and there is traffic constantly moving in and out. He is trying to run a business and we are trying to run a church. We are side by side. When we first bought this property the junkyard was not there. We are stuck between a rock and a hard place right now, so to speak.

Mr. Laramore asked there was a manufacturing facility there some number of years. Was that near your property?

Mr. Wimbush responded I do not think so. It was nothing out there.

Mr. Laramore asked was there a manufacturing plant there?

Mr. Wimbush responded I cannot remember.

Mr. Griffith asked how long have you owned the piece of property?

Mr. Wimbush responded we have had this piece of property approximately twelve (12) years.

Mr. Griffith stated Slant Systems was in that building probably twenty-five (25) years ago. That building has been there for years.

Mr. Wimbush stated it was not a junkyard then. The building was there, but there was no noise or traffic. Now this is a problem.

Present in opposition to the request was Mr. Maurice Deshazor. Mr. Deshazor stated I am one (1) of the residents. I have been there for fifty-seven (57) years. I am not going to repeat everything else that everybody has said, but I totally agree. The thing that I would like to see is that the business that is there now is removed. I am coming from a point of view of a builder investor. I purchase property out there with the intent of building and developing some of the homes that were just mentioned. I own about eight (8) building lots. There is really only one (1) piece of property that is separating my property and the business. I bought that land and made a deal with the person that purchased the land, but from looking at it, the attachment, the closeness, it really turned me off as a builder. I backed away from it thus far. With this coming, there is no way that I can really build, because I do not know if we could sell. I did invest in one (1) and increased the value of that home verses the others. The home that I built appraised at \$125,000. The others appraised at about \$50,000 and \$60,000. My goal was to increase others to make the community better. This right here is a deterrence. The school is not a half a mile. It is less than a quarter of a mile from the business. Of course, you just discovered that St. James, the proposed church is next door. When this business came to the community, we did not understand that it was going to be a junkyard. It was going to be operated as Trade Street was operating, which would have been a lot quieter. It was going to be operated more or less like an Advanced Auto. You could buy used parts, but the used parts were not supposed to be taken from the cars and cars being crushed. It was never brought to our attention that, that is what they were going to do. Yes, we were sleeping the first time around or we would have opposed this type of business coming from the very beginning. What can we do about it now? We do not know. Do we plan to look into it? Yes, we are. I have talked to several people in the community. They really cannot sleep at times. They cannot get rest. A young man stated, that is not coming up, went home from his mom's house to recovery from major surgery. He stayed one (1) day and had to leave, because he could not rest. He had to make other provisions. I truly hope you vote no against this. This is not personal. What was said by one (1) of the homeowners is true. Yes, he has come into the community and helped neighbors out moving snow and doing this and that. As far as personal person, having a good personality, neighborhood person, that is great; but this is business. It is two (2) different things. We do not want this business to expand. We would really love to see it moved. Thank you.

Present in opposition to the request was Ms. Rosetta Ferguson. Ms. Ferguson stated I live next door to the building. I have been living there for about fifty (50) years. I have not had any problems with the building until the last people took over the building. I am not a large talker, but I can tell you one (1) thing, I have really had some problems since they moved there. The loud noises, the crushing, they pick up car parts with a lifter and put them over in the tractor trailers, and that

shakes my house. Not only my house, but the house next door too. The ceiling fans that I have in my house have come down from the wall. I have a closet built to the wall and it has moved from the wall. I do oppose of this. I have never had any problems with the place until lately. I have already had water problems. You might as well say that I have a junkyard in my back yard. The scrap metal that they are selling is right beside of my property. Nothing is between that but a fence. I can hear everything that goes on. When these large car parts are dropped, one lady was passing by my place on the sidewalk when one of these fell and the lady hollered "Jesus!" I told her that it was nothing but this place next door. The lady acted like she was ready to jump out of her skin. I am not a big talker, but I would like for that place to get back like it was or either move. Thank you.

Mr. Scarce stated what we have before us today has nothing to do with stopping the current operation.

Mr. Griffith stated that is correct.

Mr. Scarce stated that is not going to change. I guess my question is, if he is ready at this point, to have the applicant come forward; because I want to understand if we are going to increase the crushers and the level of noise that is going to be happening in the area or is it going to be just added storage area for car parts. I understand the buffer is increasing. The buffer is going to be larger. I guess that is the question I would like someone to answer.

Present in opposition to the request was Mr. Lewis Wilson. Mr. Wilson stated I have been in this residence for a long time. It is true from what everybody has proposed from this place being there. It started out as Trade Street, which had parts that you could go there and buy. I think since Auto Cycle took over they installed a scale and they started crushing cars. When we are in the backyard having cookouts and stuff, you can look right through the trees and see all of this junk. You cannot even really talk to each other with all of the noise. We are about three (3) or four (4) houses away from this junkyard. The fumes and smells with the tractor trailers and all of the traffic coming up, if they expand there is going to be even more. It is going to be more traffic. We oppose of this junkyard even being there. I do not know how it got there to start with. No one told us anything before they put these scales in. We could not come and talk about it before he even put the scales in. It is a lot of noise. There was another gentleman that was put in the hospital that was supposed to be put in the home could not stay because there was too much noise. That noise is all day long, the crushing and stuff like that. We would like to see it moved to another location, because the value of the homes and everything is just going to go down. I would just like to see it moved out. Thank you.

Mr. Jennings stated I have one (1) question for Ms. Carlton. I believe you said that you live in the Glenwood area, not in the immediate area of this operation. Is that right?

Ms. Carlton responded not adjacent to it, but close enough to it that I do not want it in my back yard. It is still a part of our neighborhood.

Mr. Jennings asked I think you have answered my question, but does any of the activinty of this business affect you perosonally where you live?

Ms. Carlton responded sure. Immediately I can tell you as you have heard before, there is a lot of traffic activity including large vehicles, trucks loaded with scrap metal. Just as you have heard before, that is an opportunity for all of these eyes to come into our community and see what else is available to them whether it is scrap metal or some other opportunity. We do not want this opportunity in our community. If I could just ask one (1) question that relates to item number three

(3). Ms. Carlton read Item for Public Hearing number three (3). Is that junkyard permit already in place? If it is not, those inoperable vehicles should not be there to begin with.

Mr. Griffith stated I am going to let Mr. Gillie respond to that question.

Mr. Gillie responded they were issued a permit under the old Code. They are asking to clean up the old Code to match the new Code if they are going to expand to the adjacent property. We would need to issue a new one for it. They have one currently, so they are legal in operation where they are at now.

Ms. Carlton asked are you saying that they do have a current junkyard license?

Mr. Gillie responded yes, they do for their current facility. Since they are expanding onto the adjacent property, the way that it is written in the Code used to be called Special Exception Permit now it is Special Use Permit. This will just allow them to be on both properties.

Mrs. Evans asked can you hear the crushing?

Ms. Carlton responded when I am driving through my neighborhood, yes.

Mr. Griffith asked at your house can you hear it?

Ms. Carlton responded not at my house.

Present in opposition to the request was Ms. Cynthia Thomas. Ms. Thomas stated the junkyard is in my back. My property comes down into a V; however I cannot even go down into my back yard now, because all kinds of animals are there. They were not there before. I know animals do run in the country. There are noises that are bad. There are a lot of seniors now in the area where we are. I am a senior myself. There was so much noise one (1) evening and one (1) morning bright and early before six o'clock (6:00) I heard this BOOM! I thought something had blown up. It was coming from there. I have no grievance against the man personally. It is the noise, and everything that has transpired since the junkyard has been there. I am very unhappy. I do not want to live where I am anymore. That is my home. I should not have to be thinking about moving out of my home, because I am not comfortable there. I have a son that I have been taking care of. He cannot even rest. When he was in a lot of pain, he was hurt very bad, he could not rest because of the noise. My house really shakes on its foundation sometimes. I am just very unhappy. I hope and pray that you will not give him any more leeway to do anything else. I do not know how far down that it is going. My understanding is there is a road going all of the way down the back of me. It is seemingly coming out of Robinwood Drive. I do not know if that is where he is planning on expanding to have a road come out there; but I hope it does not. As it is, I have people coming up in my driveway that I do not even know. The trucks come up and turn around in my driveway. I can be sitting on my porch, and they do not even acknowledge me. They just turn around and go on, because they are looking for the junkyard. There was this man that came along, parked his truck across the street in the driveway and ran down to the house across the street looking for junk and he stole the junk. I asked him did anybody give him permission to go there. He said "we are looking for junk." I told him that he should not be on other people's property. I told him I would call the police, but they did leave. They took off real quick, but they went to the junkyard. Please, do not pass this. Thank you.

Present on behalf of the request was Mr. Bill Weaver. Mr. Weaver stated thank you for your time. First off I would like to diffuse some of this conversation we have had here today.

Mr. Griffith stated will you please introduce yourself.

Mr. Weaver stated I am Bill Weaver, owner of what was previously Trade Street and now is Auto Cycle, so it is not another company. It is just under a different name. It is the same people that have been there for twelve (12) years. Has staff ever had a complaint in twelve (12) years about Auto Cycle or Trade Street?

Mr. Gillie responded I have received two (2) complaints in twelve (12) years.

Mr. Weaver asked what were they?

Mr. Gillie responded one (1) was tracking mud out onto the road.

Mr. Weaver asked when was that?

Mr. Gillie responded last winter.

Mr. Weaver asked was it during the snow, or bad weather?

Mr. Gillie responded it was during a bad weather event, yes.

Mr. Weaver asked how long did it take us to clean it up?

Mr. Gillie responded my understanding is the next day.

Mr. Weaver stated that is right at the expense of \$4,000 dollars. What was the other complaint?

Mr. Gillie responded I had one (1) complaint that you were accepting materials that you were not supposed to accept, which was unfounded.

Mr. Weaver stated yes, alright that is a good one too. The problem came out of somebody's back yard. We are working today. We start actually in about two (2) weeks. We are going to have what you might want to call a sting operation. We are working hand in hand with the Danville Police and the Pittsylvania County Sheriff's Department at my request. I do not want to go into the details of what we are doing over there; but if it is hot, you better not bring it to us. I want to address the people that are opposed to it to make sure they understand what we are doing. We are proposing to expand behind a residence, which they will reside in until such time they decide not to by our contract. After that, I might even be living in that house. It is absolutely gorgeous. Behind that facility, which is probably going to start about a hundred (100) yards behind the street and maybe seventy-five (75) yards behind the house, we are going to store cars only. We are growing our business. All due respect to these people, but yes there will be more traffic; because we have gone a hundred time of growth since we have been there. We have grown a hundred (100) times in two (2) years. We started a new business, which is the same as what we were doing before. It is called a new hope facility. Because the business had expanded so rapidly, over the last two (2) years, we just came up with a different concept. We are now crushing more vehicles every day. Under the previous agreement with the Special Use Permit, our agreement was that we would never had more than three hundred (300) hulks in our yard at that time. To do that, we have to crush them. A hulk is a car that no longer has value. To us it is parts. We are rotating our yard around, approximately eight hundred (800) vehicles every ninety (90) days or sooner. That is good, but it is bad. It is bad because we cannot realize the money off of the cars in just ninety (90) days. In fact, we do not have

three hundred (300) hulks ever. We take the hulks off daily. We ship off approximately two (2) loads a day, which is thirty-two (32) vehicles a day. The trucks that these people are seeing they did not see two (2) years ago. They are there today. We cannot control traffic. We cannot control noise. In our previous agreement with the City, I believe we had operating hours of 8:00 to 5:00. It is a rare day that we are crushing before 8:00, and it is a rarer day that we crush after 5:00. As far as the animals running in the backyard or into the woods, give me any morning and I will take pictures of the deer in the planted food plots that we planted in the back of our eco-friendly facility while the equipment is operating. I will show you literally pictures, video, whatever you want of the deer behind the crushers during the day. You are going to see signs on the front of our building just as soon as they give us the word from the Police Department that we are working closely with the police. We convicted two (2) last week. We are working on five (5) more. They are coming believe me, but we are catching them. I have cut St. James' grass when the City does not. You are required to cut your grass at a certain point. I know the law. We have cut your grass.

Mr. Wimbush asked approximately where have you been cutting it?

Mr. Weaver responded right in front of the fence.

Mr. Wimbush and Mr. Weaver had discussion about the grass cutting.

Mr. Weaver stated let me tell you what else I am doing. This expansion is strictly for the storage of cars. So, for Rosetta that is a good thing. What she is hearing is not tearing up her house. Have you had an engineer look at that house?

Ms. Ferguson responded I do not need one. I am the engineer.

There was discussion about Ms. Ferguson's house.

Mr. Wilson asked is it normal procedure for them to interact with one another?

Mr. Griffith responded no. We would like to ask if you will just conclude your comments, and address those to the Commission.

Mr. Weaver stated the ones that are immediately affected; we can continue to operate by law the way we are operating. We are trying to improve our facility. We need more storage space opposite of Rosetta's house and the other ones down Robinwood. I did have a question of staff. It seems to me that some of these are way further than three hundred (300) feet. We can check that later. Should we be granted the request, we will put the cars behind the house. All it is going to be is storage. It is not going to increase anything else, no noise or anything. In fact, the operation that Rosetta is referring to is in the pictures right there. That is her house. That is the concrete pad. You will see two (2) metal dumpsters right there. When they bring in the light weight aluminum and the non-ferris, which is copper and stuff like that, they put them in those containers. What she is referring to, what she says is shaking her house, is when we bring in the crane. He comes up about once every two (2) days. He pushes it down, and when it is full they haul it off. The truck that comes and gets that has more impact on the ground, believe me. As far as our landscaping, screening, and all of that, I think we are totally up to par. There are no snakes. We found two (2) snakes this year, and they came in on the trucks. They were black snakes, and they were in the truck with the people. There are no weeds in the yard. You cannot see anything from the street. I want it to continue to be what we think is a good neighborhood. I have never heard these complaints before. Nobody has ever come to me other than Rosetta, which was a water issue. We put a fence along that property line. We did not have to do that, but I put up a wood fence. I also put in a ditch

that I did not have to do. She has one in her back yard. I also understand that the property right on the other side of the fence, she told me that it is not hers. Thank you very much. Do you have any questions?

Mrs. Evans stated when I rode by yesterday there were two (2) tractor trailer trucks parked in the parking lot.

Mr. Weaver asked were they up against the tree line?

Mrs. Evans responded yes.

Mr. Weaver asked where we border Cornelius' house, right in the driveway?

Mrs. Evans responded correct.

Mr. Weaver stated those are loaded in the evening just before they get off of work, which is about 4:00. They will usually start loading around 3:00. They are parked out there, so the drivers can simply get in them and go. Those are leaving around 7:30 in the morning every day.

Mrs. Evans stated but I guess they were there over the weekend.

Mr. Weaver stated yes.

Mrs. Evans stated you could see them.

Mr. Weaver stated that is a scrap truck that is usually parked in the back.

Mrs. Evans stated it is just in my opinion, needs to be hide in foliage.

Mr. Weaver stated when you see it roll up and down the highway every day; it is not something you have to hide. If that is something you like, and the neighbors like it, we will do it. Somebody has got to tell us if they are not happy. This is the first time hearing this.

Mr. Scarce asked so; I understand that this is not going to increase any noise?

Mr. Weaver responded none.

Mr. Scarce asked it is going to add buffer space?

Mr. Weaver responded definitely. That is what I am hearing. I have got to put trees in there.

Mr. Scarce asked is that my understanding, that by adding the additional lot it will increase the buffer?

Mr. Gillie responded they will have to provide additional buffer on the west side of the property.

Mr. Weaver stated I talked with Renee and there is a couple different ways, and I will get on that later. I am willing to put in Arborvitae or Leyland Cypress or Cryptomeria down the entire line wherever you want them. They are evergreen. We have had problems with Leyland Cypress dying.

Mr. Wilson asked someone asked if you had access or had any plans to access the rear of your property?

Mr. Weaver responded absolutely.

Mr. Wilson asked do you own property back there?

Mr. Weaver responded no, sir. We do not want to go back there. There is a creek, which means a bridge etc. and environmental issues. Everything will come off of Halifax. There was some opposition that you saw about traffic. Bermuda has only been a three (3) street. I have never seen a scrap truck come off through Bermuda to find their way into our facility. Traffic comes in on 729, Airport, and some on Crestview. I encourage all of the neighbors to see me if they ever have any problems.

Present in opposition to the request was Ms. Connie Barksdale. Ms. Barksdale stated I grew up in the neighborhood as well. I want to state my opposition because until that place became the business that it is now, we were able to live in the neighborhood peacefully. We had lawn furniture at my parent's house for over thirty (30) years. Nobody has bothered it until this place came. Someone stole our lawn furniture and took it down to the auto recycling place. We called the police and they took a police report. We went down to this auto recycling place to do our own investigation, and yes it was turned into their place. They did not have a record of who turned it in. My parents' furniture was stolen and taken to the auto recycling place, but they had no record of who brought it in. As far as the noise level, the noise is atrocious. It is on all day, the crushing. You cannot hang your clothes on the line for the dust. They had this promotion where you pull it, tow it, bring it in, and cash and carry. Traffic was backed up for miles and miles. People were gathering what they could to take it to their place to get money for the scrap metal. It is just a problem for the neighborhood. We do not want that in our neighborhood, because it is no value to us as a community. I too can feel the shaking in my parents' house. It is no good for any of our community. It is just like an eye sore: the traffic, the noise early in the morning, late at night the noise is going on, the school children are affected by it too; school buses have to wait because of the tractor trailers, cars coming in and out, the dust, the red dirt from that place. That is all I have to say. I just want it removed from the neighborhood, because it is atrocious and it has no value to the community. It is decreasing the property of the land owners.

Mr. Jennings stated I have a question for Mr. Deshazor. My question to you is, of course you said that you are a builder, contractor, and what not, if he has got this kind of business going on now, which we can do nothing about, how is the expansion going to hurt when he is only going to use the space for storage. Of course there is a buffer zone tied with this as well. Does that make any difference to you as a community person?

Mr. Deshazor responded to me it does make a difference and even with his comments on how the business has increased. As the business increases, the problems of an industrial site being in a residential area are going to increase. Yes, it has put me to a halt. I do not think that I will be able to build those other houses with that there. Yes, I do see that as it increases, the problems are going to increase.

Mr. Jennings asked can you see it decreasing problems?

Mr. Deshazor responded yes, if he can do something about the noise, the vibration of the houses that I am talking about. Yes you can see it from a location right on Robinwood Drive. During the fall

you can see most of the cars. You can see the operation from my dining room table. Is it going to increase? Yes.

Mr. Jennings asked the fence that is being proposed to go around the property, what is that of?

Mr. Gillie responded it is up to us to decide upon. Usually it is an eight (8) foot tall solid wood fence similar to what they have now. They could use a metal material, but it has to be solid. It cannot be a slatted chain link fence that you can see through.

Mr. Jennings asked you cannot see through it?

Mr. Gillie responded you cannot. It has to be a solid fence. It cannot be a chain link fence that has the slats placed inside the chain link. It has to be some solid material either board on board wood or solid metal type.

Mr. Deshazor asked what about these cedar trees type of fence?

Mr. Gillie responded it can be treated wood as long as it is board to board, not a staggered board system that has slats in between it.

Mr. Deshazor stated no, I am talking about the evergreen trees.

Mr. Gillie stated oh, the trees. We have a list of trees that are approved. I cannot say it is going to be a cedar, because we have a long list of different materials that can be used on the landscaping. I think he mentioned a few that he could use that are on our list, but there are additional ones.

Mr. Deshazor stated the owner has invited us to speak with him outside of this building. I will as a business person, speak with him about some of my concerns. What we are concerned with here, what is your concern; the expansion I think is going to be a problem. We do not want that.

Mr. Wilson asked if you all are willing to talk with one another, is there any imaginable way of coming with a meeting of the minds apart from us?

Mr. Deshazor responded I would hope, because if it is nothing that we can do to change what has already been done; we definitely need to have a meeting of the minds.

Mr. Wilson stated one of the things that seems clear to me is that we cannot change what has already been done. That is in place. We are really talking about the expansion.

Mr. Deshazor stated the special use permit issued some years ago is a question that I will ask Mr. Gillie.

Mr. Gillie stated here are the minutes from where it was approved before. It was allowed back then. I have a copy if anyone would like to see them.

Mr. Deshazor asked do you have a copy for everyone?

Mr. Gillie responded not for everyone, but I do have a copy in case anyone wants to see what was approved before.

Mr. Deshazor asked can I keep this?

Mr. Gillie responded yes, I can make more.

Mr. Jennings asked regarding the complaints that the community have, do you see anything else that you can do to quiet those complaints?

Mr. Weaver responded the closest complaint is Rosetta that resides next door. Those containers that she hears being loaded are loaded by hand, but they are mashed down with a crane. Our plan, which will be implemented within three (3) or four (4) weeks, we are pouring a concrete slab in the back and those containers are going in the back. The area where the noise is coming from is behind her house. We are taking those containers from that point and putting them behind the building. You will not see them anymore, and you will not hear them anymore. As far as cracks, I cannot speak to all of that. I plan includes coming up behind Stanley Cornelius' home. There will be a new parking area for our "you pull it facility." This is growing rapidly, which puts a lot of cars out in the parking lot never in the street. For the lady who said she could see cars, that was a whole lot of exaggeration. When we had "you pull it" we had six hundred (600) people coming a day. I talked to the Barretor's who own the piece of property across the street, which I maintain. They allowed us on four (4) occasions when we had these special events to park the cars there. There is never a car in the road. I am talking about backed out in the road like you see at Hayes', Don's and places like that. There is no problem staging. What I am hearing about the cars backed out into the street, and down the street, buses cannot go to school, come out and see at my next open house and you will see what I am talking about.

Mr. Jennings asked is there anything that you can do about the noise?

Mr. Weaver responded the hours of operation, which they say they are hearing at 8:00 o'clock at night, we do not work in that environment at night. We cannot see. We have to see what we are doing. As far as the noise, I do not know. Ms. Blair was out there the other day. We had a comment about it sounding like a war zone. I told her to listen as we were at total operating capacity. I think she was there about 11:00 or 11:30, so ask her about the noise. I am obviously bias.

Close the Public Hearing.

Mrs. Evans asked would this be considered spot zoning?

Mr. Gillie responded no, the current facility is already zoned I-M Industrial Manufacturing. We have that zoning in place. Expanding it would not be considered spot zoning.

Mrs. Evans asked Ms. Blair was there a lot of noise when you were there? Did you hear the noise?

Ms. Blair responded when I was there, they were recycling. I guess the aluminum cans recycling is where we stood. You can hear the cans, yes. I did not hear the crushing, and that type of thing that I know others have stated. I did not hear that.

Mr. Weaver stated that is something that we can do. We can move that can machine.

Mr. Griffith stated as a comment, one thing we ought to keep in mind is that the request that we have: the Rezoning application and the two (2) Special Use Permits has nothing to do with limiting the current operation of the business, moving the current business, putting Mr. Weaver out of business, or requiring him to move to another location. The business is there. What he is asking to do based on this is to rezone one (1) piece of property to be consolidated with his current property.

The Special Use Permit is to increase what he currently has is my understanding. Is that correct Mr. Gillie?

Mr. Gillie responded that is correct.

Mr. Griffith stated it is not going to change the operation.

Mr. Wilson asked if we give approval to this, is there any reason once we do all three (3), let's say we do all three (3), for them not to be able to crush on what now is being designated as just storage? Are there actual limitations in our approval? Could it be moved over there just because it is a joint property now? In other words, could things be moved around in that property freely now?

Mr. Gillie responded there could be limits placed on that. In the issuance of any Special Use Permit, Planning Commission can place any conditions that they deem necessary to protect the interest of the public. That is why you see we have recommended conditions, hours of operation, and a few other things regarding landscaping. Planning Commission could add an additional condition that the western portion of the property, the western hundred (100) feet, two hundred (200) feet, three hundred (300) feet, whatever you decided upon not be used for that area. It keeps the operation currently only on the property he already has. Once he consolidates, it becomes one (1) large piece of property. Without the condition he would be free to move around within the lines of that property. That is a condition that you could put on it. The rezoning itself, we cannot put conditions on. It has to be offered from the applicant, but the special use permit is the point where you can put conditions on it.

Mr. Wilson asked currently, as it is worded that is not in there?

Mr. Gillie responded we did not put that as a condition, no.

Mr. Wilson stated one thing that came up was about the Comprehensive Plan and the 2020 vision for the area. What is the long term plan for this area? I am just curious. We have already pointed out that Halifax Road is quite challenging.

Mr. Gillie responded she read from page 53 of the Comprehensive Plan. There are other portions within that section that talk about other uses for that area. One of them was in upwards of a million square feet of economic development expansion, which is what this would be. Mr. Gillie read the uses recognized on page 21. Mr. Gillie stated this type of use is recognized in that zoning district in that area. Halifax Road as the plan says is a mixture of things. We have got residential, we have got mobile homes, potential sites for future churches, and you have a little bit of everything. It is an area that was annexed into the City back in the eighties (80's). The plan does call for continued residential growth. It also recognizes the industrial areas that are there and that they are allowed to expand. That is where that recommendation is on certain uses. It could go there in upwards of a million square feet of potential for that. He is not asking for a physical footprint expansion, but he is asking for a site expansion, which in our opinion, does apply to what that planning area calls for.

Mr. Wilson asked what happens here if you are still uncertain? Is there a way to go and assess this more?

Mr. Griffith responded it could be tabled if there is a motion, a second, and they vote to table it.

Mr. Gillie stated Planning Commission has ninety (90) days to act on a request. Based on the time that this was submitted, we are running out of time for Planning Commission to take action. The

applicant can ask for it to be tabled. The applicant can table it in effect of perpetuity. That is where it can be tabled, tabled, and tabled. Planning Commission is required statutorily to make a recommendation to City Council one way or another within a ninety (90) day time frame. You would not be able to table it at this meeting, and still have it come back and still be within those ninety (90) days according to my calculations. If the applicant is willing to do that, then it is fine. I do not believe that you can just table this. It has to be one way or another. If you fail to take action, it is an automatic recommendation of approval from Planning Commission for failure to take action.

Mr. Laramore stated Mr. Weaver is proposing to add this additional land, so whatever he does will be further away from everybody. It is further away from Robinwood and everybody who has addressed a problem. I would hesitate to limit what he can do back in the back corner. That really does not have much to do with what we are doing here today. It does look like he is expanding and going away from the population.

**Mr. Scearce made a motion to approve Rezoning Application PLRZ20110000250 with conditions per staff. Mr. Jennings seconded the motion. The motion was approved by a 6-0 vote.**

**Mr. Scearce made a motion to approve Special Use Permit Application PLSUP20110000293 with conditions per staff. Mr. Laramore seconded the motion. The motion was approved by a 5-1 vote (Mr. Jennings voted in opposition).**

**Mr. Scearce made a motion to approve Special Use Permit Application PLSUP20110000294 with conditions per staff. Mr. Laramore seconded the motion. The motion was approved by a 5-1 vote (Mr. Jennings voted in opposition).**

Mr. Scearce stated I would recommend to the applicant that when he goes to City Council to maybe have some thoughts in your mind that you could suggest about anything that may be done to reduce the noise. I realize that is not our issue today. I understand and feel there concern, although that is not really what we are here about. If there is anything that you can do, I would just pass that on to City Council.

Mr. Weaver stated thank you very much. If anybody has any concerns, come see me and I will do my best to address them.

- 4. Rezoning Application PLRZ20110000283, filed by Edwards Commercial Properties, LLC, requesting to rezone from N-C, Neighborhood Commercial to HR-C, Highway Retail Commercial, 0.22 acres at 715 Park Avenue, otherwise known as Grid 0715, Block 011, Parcel 000016 of the City of Danville, Virginia, Zoning District Map. The applicant is requesting to rezone in anticipation of a retail operation.***

Miss Scolpini read the Staff Report. Twenty-five (25) 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 Attorney Robert Whitt. Mr. Whitt stated I am here on behalf of the owner Edwards Commercial Properties, LLC. I will give you a little bit of background about this. My client is a commercial airplane pilot. He is pretty much gone all of the time. The people of TLC approached him about using this property for their business. The City deems it retail. It is really a showroom. It is a place where people can go in and look at tile. They do not carry anything out of the building. They go in and look at it. If they do the job, then they go and they put the tile

in. The City considers that retail. They say that it does not conform to the zoning. Mr. Jones basically told these folks to get the building up to speed, you do what you need to do to make it happen. He has not charged them any rent during this time that they have been doing work. Unfortunately, he got some bad advice about overlooking some of this stuff. Basically all of these issues they are talking about are not his fault. He basically put it up to the tenant to do what they needed to do to be able to move in there. Yes, they did a lot of things they were not supposed to. Mr. Edwards thought someone was kind of looking over his back and they were not. The sign has been taken down. As far as the structural things, he lined up a contractor last week and they will begin very soon. Those issues will be taken care of regardless of what happens here today. That is really a side issue as far as what we are talking about today. Everyone is very familiar with where this property is. It used to be the Triangle Cleaners. It is right there on the corner of Park Avenue and Westover Drive. God's Storehouse is right across the street. Goodman's Rentals is just up the street. I guess there is a difference in whether you rent something to somebody or whether you sell it to them as to whether it is retail or not. They have got a ton of stuff out there. As Mr. Edwards said that whole area, as you look back, this was a commercial area of Park Avenue and Westover at one time. You had the cleaners, the restaurant, and I think there was one (1) other business there as well. I realize the opposition from the City being that it appears to be spot zoning. I am not a genius when it comes to this stuff, but it seems to me that what they are proposing to use the property for is certainly not going to have any impact on that area particularly from a traffic standpoint or anything of that nature. It is a retail area. It is a commercial area now. It has three (3) different zones within three hundred (300) yards of the place. I am open to any suggestions the City might have or that this Commission has as to other ways of getting around this, if they feel that this is spot zoning that would be inappropriate, for this man to be able to use this building in that community out there. If you go a hundred (100) yards, you have Piedmont Drive and all of that stuff there. It is not like the City is not expanding commercial out there. It is kind of like this Halifax Road situation. There is a whole lot of stuff out there. It is a little bit of everything. It is not going to change. That is my take on it. I will glad to answer any questions that I can.

Mr. Scarce stated I know we cannot zone it Highway Retail Commercial (HR-C), because that would be spot zoning. There is nothing anywhere around it HR-C. Is there some way that it could fit into the Neighborhood Commercial (N-C) and operate with what they are going to do, show tile samples?

Mr. Gillie responded not to show tile samples and the way that is set up. That does not meet our definition. There are twelve (12) uses permitted by right in Neighborhood Commercial. Mr. Gillie read the permitted uses. All we would suggest is that he market to a different clientele than the one (1) he had. There are plenty of other uses that could go into this facility as it is zoned now.

Mr. Scarce asked what about the rental place? Is that grandfathered or something?

Mr. Gillie responded yes.

Mr. Griffith stated that is what I was going to ask you. The other pieces of property have different types of supposedly retail or semi-retail businesses that are already there.

Mr. Gillie stated correct.

Mr. Griffith stated I mean there is a gas station, a convenience store, and across the street is the Sunrise Market with several retail stores in there.

Mr. Gillie stated the convenience store itself is the one (1) retail type facility that can go in an N-C district. The rest of retail sales does not fall under what is allowed in that district. You can have a convenience store. You can have a gas station with a special use permit with City Council and Planning Commission approval on that. There are a multitude of uses that can go into that facility. The use that he wanted to put in there did not work, but they went in anyway. Our recommendation is that they can try and rezone the property to see if they will allow that or to find a use that does work in that facility. Again it has been various commercial uses. I am not saying no, it cannot be commercial period. I am just saying that it cannot be the commercial that they are asking for.

Mrs. Evans asked how do you define Waterloo Music that used to be in that same area?

Mr. Gillie responded Waterloo was legal nonconforming. It was retail sales in the strip center, but it was not zoned for it. Now that it is closed they would have two (2) years to put a similar operation in that facility. After that time frame they would have to go in with something that would meet the requirements.

Mrs. Evans asked so, this company could go in there?

Mr. Gillie responded they could move across the street and go in Waterloo's facility, yes.

Mrs. Evans asked and that would be ok?

Mr. Gillie responded that would be ok to them. It would not be ok to his client. From a City zoning perspective, yes it would be ok.

Mr. Scarce asked is there any, I know in your mind you are the driving force in this, do you think that there would be any opening to expand the uses within the Neighborhood Commercial for situations like this? I think about Keister's down the road. That is probably a similar situation.

Mr. Gillie responded that is something that Planning Commission could recommend; a modification to the Zoning Code if that is something you feel is necessary and want staff to look into. Make that recommendation and we can go back and study that. When we initially devised the Zoning Code it was not something that we considered. We have, and I will admit this, a number of cases that have asked for this type of thing. As it stands right now, we do not have that flexibility to say yes or no.

Mr. Scarce stated I understand the Neighborhood Commercial intent. We have probably had four (4) cases like this. There may be others, but they do not come to mind right of way. Could we do something where we can still have some kind of control over it? What is your recommendation? Can we go with a special use permit on some additional items?

Mr. Gillie responded the old C-1 district, and I am aging myself here, had a limitation on square footage. That was kind of one (1) of the triggers. They would allow certain retail if the facility was under a certain square footage. If it was something that Planning Commission was interested in, and you had us look at it; I could almost guarantee you that my recommendation would be that if we allowed it, it would be very small retail, maybe no more than one (1) or two (2) per strip center and limited to a certain number of square feet. The questions on retail are if you get someone who turns over a lot of parking spaces. These small centers do not have that. This facility has very limited parking. Having someone like Waterloo having a lot of cars potentially coming in and out of it, it would have been a problem. If we are going to think about allowing retail in Neighborhood Commercial areas that is some of the things that we would look at. We are not adamantly opposed

to it if that is your question. We just have not went that route, because it is not in the Code now, we have other areas for it, and that is where we have focused up until this point.

Mr. Scarce stated uses like this particular one are not going to have a lot of traffic.

Mr. Gillie stated I do not think they would have a lot.

Mr. Griffith stated Mr. Whitt I do not know, because of coarse you are representing the owner and not the tenant. My understanding is that TLH Tile is a contractor. Don't they have a contractor's license? I thought they were a contractor.

Mr. Gillie responded they are an interesting hybrid according to the Zoning Code. One (1), they are a contractor in that they do the service. You also have facilities that have show rooms. Technically you could consider Lowe's as a contractor because when you go into Lowe's you are going in to buy sinks and other things. You can also have them install the product.

Mr. Griffith stated TLH installs what they sell. I mean you go in there and if they have what you want, they come and install it. They are not selling retail. You do not go in and go out with a grocery bag full of items.

Mr. Gillie stated our understanding is that you could go into the facility purchase them and install them yourself, or you could go in and have them do it. That became the retail if you walked in and out with it. Contractor's offices are not permitted within the N-C district either. They had it coming and going. The option based on what Mr. Scarce said with the rezoning, staff's recommendation is to deny. This case has to go forward or has to be withdrawn. Planning Commission could recommend that we look at a Code change. You could do that today and that would come back next month with staff's recommendation of possibly amending the Zoning Code. That may or may not take care of his client's needs based on what we are going to do. Our recommendation is probably going to be if we allow it, it is going to be limited in square footage. That may fit what he is looking for and be a cleaner way to do this and not be spot zoning.

Mr. Scarce stated I definitely want to do that whether it helps this case or not. I think it is something that we need to look at for the overall plan. It may help. Are you saying to follow the right order of events, that we cannot rezone this Highway Retail Commercial. Should we table it and make him reapply or change their application?

Mr. Gillie responded you could table this request, and next month we come back with possible Code changes if that is your recommendation for staff to look at. They could review those during the same period that we are going through that to see if that meets their needs in what they are asking for. They could then withdraw their rezoning request. If the rezoning request is denied, they cannot come back with a similar request for a year. You are stating that you cannot support recommending it. We do not know what City Council would do. They usually follow your recommendations. It may be cleaner for him to wait especially if his plan is not in a huge rush to get this done to see what staff can come up with, and then proceed on with his case. That would give you ninety (90) days externally to do this. We are well within the ninety (90) day period. It would not trigger any immediate action.

Mr. Scarce stated I would like to make that motion. I think that is the fair thing to do. It gives us a chance to look at the Code change. If this tenant stays there or goes, this owner is going to want to know what other uses he can put there that he cannot do now. I would like to make that motion that we table this item on the agenda and ask staff to look into a Code change.

Mr. Whitfield stated it might be cleaner to do them in separate motions. Do the recommendation for a Code change, have that voted on; and then if you are looking at a motion to table then do that next.

Mr. Whitt asked do I need to make the request that this be tabled?

Mr. Griffith responded you may do so.

Mr. Whitt stated I will be quiet until you all get that first one done.

Mr. Griffith stated the first thing we need to do if you would like to request that to be tabled, again we need to close the public hearing.

Mr. Whitt stated I would request that it would be tabled at this point.

Close the Public Hearing.

Mr. Griffith stated at the request of the applicant, the request has been tabled.

Mr. Whitfield stated it still needs to be voted on.

**Mr. Searce made a motion to table Rezoning Application PLRZ20110000283 per the applicant's request. Mr. Jennings seconded the motion. The motion was approved by a 6-0 vote.**

**Mr. Searce made a motion to expand the Neighborhood Commercial District uses. Mrs. Evans seconded the motion. The motion was approved by a 6-0 vote.**

5. *Rezoning Application PLRZ20110000284, filed by Robert T. Marshall, requesting to rezone from HR-C, Highway Retail Commercial to A-R, Attached Residential, approximately 0.44 acres of a 4.7 acre tract fronting on College Park Drive and South Main Street, otherwise known as Grid 1620, Block 001, Parcel 000002.00 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to construct attached single-family dwellings for sale along College Park Drive.*
6. *Special Use Permit Application PLSUP20110000292, filed by Robert T. Marshall, requesting a Special Use Permit to allow for a waiver of the minimum district size in accordance with Article 3.F; Section C, Item 18 of the Code of the City of Danville, Virginia, 1986, as amended, on approximately 0.44 acres of a 4.7 acre tract fronting on College Park Drive and South Main Street, otherwise known as Grid 1620, Block 001, Parcel 000002.00 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to construct attached single-family dwellings for sale along College Park Drive.*

Miss Scolpini read the Staff Report. Twenty-one (21) notices were mailed to surrounding property owners within three hundred (300) feet of the subject property. Three (3) respondents were unopposed to the request; three (3) were opposed to the request.

Open the Public Hearing.

Present on behalf of the request was Ms. Phyllis Marshall. Mrs. Marshall stated I am here for my father-in-law Mr. Robert Marshall. We are asking that you please approve these two (2) additional

units. The Planning Commission has previously rezoned the adjoining property with the identical floor plan. I am keeping it short and sweet to cut to the chase. Do you have any questions?

Mr. Scarce asked do you understand what they just read, recommending approval with conditions?

Mrs. Marshall responded yes.

Mr. Scarce asked does that work for you?

Mrs. Marshall responded yes.

Mr. Whitfield stated you probably need to nail down which conditions.

Mr. Scarce stated the conditions under the permitted uses by staff.

Mr. Griffith stated staff listed several items, or uses that would not be permitted. They are in agreement with those.

Mr. Wilson stated basically, on that same topic, you are recommending denial; but then if we changed the word to conditional with those conditions you would recommend that.

Mr. Gillie stated we would recommend approval of a conditional rezoning. Staff cannot put conditions on a rezoning in Virginia. The applicant has to proffer them. Just asking to change the zoning to A-R, staff would be opposed to that. If the applicant is in agreement to remove certain uses, staff can recommend approval. This is the same thing we have done on a previous case with them. Mrs. Marshall is in agreement with what we have done in the past, so she is in agreement with the conditional rezoning. Staff is ok with the conditional rezoning. That is what we would recommend.

Mr. Wilson asked are you ok with that?

Mrs. Marshall responded yes, sir.

Mr. Wilson stated this just deals with the line of houses that goes to College Park Drive.

Mrs. Marshall stated correct.

Mr. Wilson stated but you all own the property all of the way down to South Main.

Mrs. Marshall stated correct. From 86, the best use would be commercial development on the front part of the property.

Mr. Wilson asked is there a future plan related to that?

Mrs. Marshall responded certainly we would like to see commercial development along the lines of maybe a fast food or retail in the area. Since we have acquired the property, we have sold to Dollar General. They have placed a store over there. Also, American National Bank has a kiosk on the front part.

Mrs. Evans asked is there a buffer zone?

Mr. Gillie responded there is both topography and landscaping that was placed in.

Mr. Jennings asked does this make both requests somewhat similar, identical?

Mr. Griffith responded the first one is to rezone the piece of property, and the second one is for a special use permit to issue a waiver for the piece of property so it can be rezoned.

Mr. Gillie stated correct. The rezoning if they agree to it, and City Council and Planning Commission agrees to it, allows them to build the houses they want. There is a certain minimum size. This will make the minimum size smaller, but as they are doing it they are going down the street down College Park. They are rezoning it, and then asking for that waiver for building it. If they would have done them all at one time they would not have needed it; but it is kind of market driven. They are building houses as they can sell them. It is the same thing we have done in the past.

Mr. Wilson asked is there no way this can spill down the hill?

Mrs. Marshall responded no, we are finishing out the property. If you look at the very far corner of the property, there will be no more land to build on.

Mr. Gillie stated they could turn. It is hypothetical that they could build towards South Main Street and place them there, but as she said the highest industry for the property along South Main Street is going to be a commercial category. They would have to come back and rezone certain portions for that. In the plans with discussing with them and the way the storm water and everything else has been engineered, that portion will eventually be commercial.

Mr. Wilson stated and that is really my question. Is what we are approving today, would that open up the door? I am not saying that they will do it. I am just asking will that open up the door where we are actually giving them permission for the whole thing to go to residential?

Mr. Gillie responded it could, yes. The way it is, it could and that would not be a bad thing. The City is need of this type of housing. They have had success and other developers have had success in building this. That is one of the reasons that staff is recommending approval of this, the potential that it has. It is kind of win-win. If they build them, sell them all, and then turn around and want to build them on South Main Street that would still be a win for the City. We would get additional housing. Realistically it is probably not going to happen, because there is more value in building commercial. From a City end, we feel that we are winning either way.

Close the Public Hearing.

**Mr. Searce made a motion to approve Rezoning Application PLRZ20110000284 with conditions proffered by the applicant. Mr. Jennings seconded the motion. The motion was approved by a 6-0 vote.**

**Mr. Searce made a motion to approve Special Use Permit Application PLSUP20110000292 as submitted. Mr. Wilson seconded the motion. The motion was approved by a 6-0 vote.**

## II. MINUTES

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

#### IV. OTHER BUSINESS

Mr. Gillie stated you have cases for next month, so there will be a meeting. There is some potential training. I think each one of you is a member of the Citizens Planning Association. They are looking at having some training coming up in September. If anyone is interested in going for Planning Commission training please just get with me and let me know.

Mr. Griffith asked do you know where the training is going to be?

Mr. Gillie responded I do not know where the training is going to be. I just received an email today stating that training was going to be going on, but it has slipped my mind as to where it is going to be located. I will find out. If you are interested I will look into it.

Mr. Griffith stated I have been to one of the training sessions. They are very worthwhile and the City pays for it. They have money to take care of it. I went to two (2) days of it in Richmond, and one (1) day in Charlottesville. It was very worthwhile and very interesting. Anybody that is interested, I can recommend it. It has been quite a few that have gone.

Mrs. Evans stated I know that you are planning to bring someone here to train BZA. Have you thought about doing the same thing for Planning Commission?

Mr. Gillie responded yes. The person that does the Planning Commission training would be the person who would come in to do the BZA. I am in discussions with the surrounding localities on their Board of Zoning Appeals in having a large group to do Board of Zoning Appeals training, Planning Commission training, and I am not sure if they do it in the same type; because they have a separate class for that. I will check into it, but it is the same person who does the both.

Mr. Griffith stated he is excellent.

Mr. Gillie stated yes, I attended the Virginia Statewide Planning Conference three (3) weeks ago and sat down with Mike and talked to him. I have also talked to the counterparts in some of the surrounding localities. I am looking at the Board of Zoning Appeals having just one (1) large group training. The Planning Commission Academy is a little more involved, so I do not know if he can come here and do it or not. I will discuss that with him as I go further on the BZA stuff.

With no further business, the meeting adjourned at 5:11 p.m.

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APPROVED