UNAPPROVED MINUTES
PLANNING COMMISSION

February 16, 2011

A regular meeting of the Planning Commission of the City of Salem, Virginia, was held in Council Chambers, City Hall, 114 North Broad Street, at 7:00 p.m., on February 16, 2011, there being present all the members of said Commission, to wit: Terrance D. Murphy, Jimmy W. Robertson, Vicki G. Daulton, Bruce N. Thomasson, and Samuel R. Carter III; with Terrance D. Murphy, Chairman, presiding; together with James E. Taliaferro, II, Assistant City Manager and Executive Secretary, ex officio member of said Commission; Kevin S. Boggess, City Manager; Melinda J. Payne, Director of Planning and Development; Charles VanAllman, City Engineer; Benjamin W. Tripp, Planner; Judy L. Hough, Planner; and William C. Maxwell, Assistant City Attorney; and the following business was transacted:

ON MOTION MADE BY COMMISSION MEMBER DAULTON, AND DULY CARRIED, the minutes of the joint work sessions with Salem City Council held on November 3, and December 1, 2010, and January 5, and February 2, 2011, were approved as written – the roll call vote: all aye.

ON MOTION MADE BY COMMISSION MEMBER CARTER, AND DULY CARRIED, the minutes of the regular meeting and work session held on January 12, 2011, were approved as written – the roll call vote: all aye.

Chairman Murphy noted that the Commission has a busy agenda for the evening and due to the number of people who will probably speak on the first item, this item has been moved to Item #6 since this will take longer than the other items.

In re: Request of Brown Properties LLC, property owner, and Tonie's RVs, lessee, for the issuance of a Special Exception Permit to allow recreational vehicle sales and service on the property located at 1102 Tennessee Street (Tax Map #199-4-1)

The Executive Secretary reported that this date and time had been set to hold a public hearing to consider the request of Brown Properties LLC, property owner, and Tonie's RVs, lessee, for the issuance of a Special Exception Permit to allow recreational vehicle sales and service on the property located at 1102 Tennessee Street (Tax Map #199-4-1); and

WHEREAS, the Executive Secretary further reported that notice of such hearing had been published in the February 3 and 10, 2011, issues of The Roanoke Times, and adjoining property owners were notified by letter mailed February 4, 2011; and

WHEREAS, staff noted the following: at last month's Commission meeting, the Commission approved a change to the HM Heavy Manufacturing District zoning to allow recreational vehicle sales and service with the approval of a Special Exception Permit; Tonie's RVs, lessee, has submitted an application for the required permit so they can proceed with the proposed addition to the business; and

WHEREAS, Joe Childress of Tonie's RVs, lessee, appeared before the Commission in support of the Special Exception Permit request; he noted that the business currently offers parts and service, and the only change will be recreational vehicle sales; he stated there was a question on how many units they wanted to keep for sale; they presently have a storage lot in the rear that holds approximately 37 units, and he noted he had pictures if anyone wanted to see those; Chair Murphy noted that he thought everyone had the opportunity to view the site but if anyone had questions or wanted to take a look, they were welcome to do so; and

WHEREAS, Commission Member Daulton asked Mr. Childress if he knew how many vehicles he would have available for sale; Mr. Childress noted that at the present time they are really limited to 15 for sale with the units that are in storage in the back of the property; and

WHEREAS, Commission Member Robertson questioned if most of the units stored on the lot are awaiting sales, and Mr. Childress noted that the units stored in the back are customers' units stored for the winter; Mr. Childress noted that if anyone is familiar with the building, there is no space in the front of the building or on the side to park units for sale; further, everything would have to go behind the building in the fenced-in area; he noted that the units available for sale would go in the back; and

WHEREAS, Commission Member Carter noted that if the petitioner obtained any additional property for this use, it would require them to come back before the Commission to request another Special Exception Permit; and

WHEREAS, Commission Member Daulton asked staff if the 15 units Mr. Childress mentioned would be a proffered condition of the request, and Commission Member Carter noted that he thought the space would limit the number of units for sale; and

WHEREAS, Assistant City Attorney noted it was his understanding that practically he is limited to 15 at this point, but he guesses if he did not do any more storage, he could put 37 units available for sale; Mr. Childress noted that this was true; it was noted that regardless there would be the same number of vehicles sitting on the lot whether they were for sale or in storage;

Commission Member Carter noted that he was referring to the fact that if he acquired additional property adjacent to this property, then he would have to come back for another Special Exception Permit; and

WHEREAS, no other person(s) appeared related to said request;

ON MOTION MADE BY COMMISSION MEMBER ROBERTSON, AND DULY CARRIED, the Planning Commission of the City of Salem doth recommend to the Council of the City of Salem that the request of Brown Properties LLC, property owner, and Tonie's RVs, lessee, for the issuance of a Special Exception Permit to allow recreational vehicle sales and service on the property located at 1102 Tennessee Street (Tax Map #199-4-1) be approved -- the roll call vote: all aye.

In re: Request of Harry J. & Brenda B. French, property owners, for rezoning the property located at 1535-1541 Apperson Drive (Tax Map 249-1-6) from LM Light Manufacturing District to HBD Highway Business District; also, included in the request is the following property: Lester K. Jr. & Frances W. Stover and Russell E. & Roy S. II Nelson, property owners, 1507 Apperson Drive (Tax Map #249-1-3.1).

The Executive Secretary reported that this date and time had been set to hold a public hearing to consider the request of Harry J. & Brenda B. French, property owners, for rezoning the property located at 1535-1541 Apperson Drive (Tax Map 249-1-6) from LM Light Manufacturing District to HBD Highway Business District; also, included in the request is the following property: Lester K. Jr. & Frances W. Stover and Russell E. & Roy S. II Nelson, property owners, 1507 Apperson Drive (Tax Map #249-1-3.1); and

WHEREAS, the Executive Secretary further reported that notice of such hearing had been published in the February 3 and 10, 2011, issues of The Roanoke Times, and adjoining property owners were notified by letter mailed February 4, 2011; and

WHEREAS, staff noted the following: the subject properties consist of two parcels currently zoned LM, and located along Apperson Drive, east of the intersection with Route 419; the eastern parcel is approximately 10,430 square feet, and the western one 15,000 square feet; both are located between Apperson Drive and the Norfolk and Southern Railway; the eastern parcel is currently occupied by two attached retail spaces; the western parcel is occupied by a vacant one-story retail space; this request is to rezone the properties from LM to HBD in order to allow commercial uses by right; commercial uses have existed in these locations for some time, as

grandfathered uses; and this request would bring the zoning into compliance with the current use; and

WHEREAS, Brenda French, property owner, appeared before the Commission in support of the rezoning request; she noted that her husband, Harry, was also in attendance; she stated that the building is divided into three parts, but they are only renting two spaces in the building; the back portion of the building is basically a storage area because it is not rentable; they have been renting out the building for the last three or four years; they recently found out that the building is zoned for light manufacturing, and this limits what the property can be used for; they are requesting to rezone to Highway Business District; and

WHEREAS, no other person(s) appeared related to said request;

ON MOTION MADE BY COMMISSION MEMBER THOMASSON, AND DULY CARRIED, the Planning Commission of the City of Salem doth recommend to the Council of the City of Salem that the request of Harry J. & Brenda B. French, property owners, for rezoning the property located at 1535-1541 Apperson Drive (Tax Map 249-1-6) from LM Light Manufacturing District to HBD Highway Business District; also, included in the request is the following property: Lester K. Jr. & Frances W. Stover and Russell E. & Roy S. II Nelson, property owners, 1507 Apperson Drive (Tax Map #249-1-3.1) be approved -- the roll call vote: all aye.

In re: Request of Salem Presbyterian Church, Salem, VA, Inc., property owner, and Roanoke Valley Interfaith Hospitality Network, lessee, for the issuance of a Special Exception Permit to allow general offices on the property located at 37 East Clay Street (Tax Map #106-5-4)

The Executive Secretary reported that this date and time had been set to hold a public hearing to consider the request of Salem Presbyterian Church, Salem, VA, Inc., property owner, and Roanoke Valley Interfaith Hospitality Network, lessee, for the issuance of a Special Exception Permit to allow general offices on the property located at 37 East Clay Street (Tax Map #106-5-4); and

WHEREAS, the Executive Secretary further reported that notice of such hearing had been published in the February 3 and 10, 2011, issues of The Roanoke Times, and adjoining property owners were notified by letter mailed February 4, 2011; and

WHEREAS, staff noted the following: the subject property consists of one parcel currently zoned RMF, and located on East Clay Street, directly behind the Salem Presbyterian Church; the property is approximately .1 acre and is currently occupied by a two-story residential structure;

currently, the property is being used, on occasion, by the church to house homeless families at night as part of their affiliation with the Interfaith Hospitality Network; under this proposal, that use would discontinue, and Interfaith would use the residence as administrative offices to serve and assist its clients by providing services and resources to help homeless families find jobs and permanent housing; and if approved, no clients will be housed at the facility. The only improvements proposed are renovations to the interior of the property, and the enclosing of the screened porch; and

WHEREAS, Commission Member Carter noted that he would need to abstain from voting on this matter since his son is an employee of Salem Presbyterian Church, and he does not feel he should participate; and

WHEREAS, the Assistant City Attorney noted that he had a conflict of interest in this matter so he needed to excuse himself as well; and

WHEREAS, Will Robinson of 842 Academy Street, Pastor of Salem Presbyterian Church, and John McDowell of 1811 Grandin Road, Roanoke, representing Roanoke Valley Interfaith Hospitality Network, appeared before the Commission in support of the Special Exception Permit request; Pastor Robinson noted that they look forward to housing Roanoke Valley Interfaith Hospitality Network in the property they own at 37 East Clay Street; and

WHEREAS, Commission Member Daulton asked what were the plans for the building; Mr. McDowell noted that the Interfaith Network is a nonprofit that works with homeless families; the families are housed in their network of congregations; the building at 37 East Clay Street, which is located in the back of Salem Presbyterian, would be used for their offices and some common rooms for the families, such as kitchen, bathrooms, etc.; they have case management meetings during the day for the families, and the hours the building would be used is approximately 8 am to 5:30 pm; Mrs. Daulton asked if any homeless families would be living in the residence, and Mr. McDowell noted that no one would be living here – the families are housed overnight in a network of 12 host congregations located in Salem, Roanoke County, and Roanoke City; and

WHEREAS, Chair Murphy noted that previously the house was used for housing families overnight, but it is his understanding that this will be discontinued, and it will be primarily used as administrative offices; Mr. McDowell noted that this building was used as one of the host congregations previously, but now it will only be used for the day time portion of the operation; and

WHEREAS, no other person(s) appeared related to said request;

ON MOTION MADE BY COMMISSION MEMBER THOMASSON, AND DULY CARRIED, the Planning Commission of the City of Salem doth recommend to the Council of the City of Salem that the request of Salem Presbyterian Church, Salem, VA, Inc., property owner, and Roanoke Valley Interfaith Hospitality Network, lessee, for the issuance of a Special Exception Permit to allow general offices on the property located at 37 East Clay Street (Tax Map #106-5-4) be approved -- the roll call vote being as follows: Mr. Carter – abstaining; Mr. Thomasson – aye; Mrs. Daulton – aye; Mr. Robertson – aye; and Mr. Murphy - aye.

In re: Consider amending Chapter 106, Article VI Definitions and Use Types, Section 106-602.3 Residential Use Types of THE CODE OF THE CITY OF SALEM, VIRGINIA pertaining to residential human care facility

The Executive Secretary reported that this date and time had been set to hold a public hearing to consider amending Chapter 106, Article VI Definitions and Use Types, Section 106-602.3 Residential Use Types of THE CODE OF THE CITY OF SALEM, VIRGINIA pertaining to residential human care facility; and

WHEREAS, the Executive Secretary further reported that notice of such hearing had been published in the February 3 and 10, 2011, issues of The Roanoke Times; and

WHEREAS, staff noted the following: currently, residential human care facilities are "single family" group homes designated for 8 or fewer mentally ill, mentally retarded, or other developmentally disabled persons to be licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services; Section 15.2-2291 of THE CODE OF VIRGINIA was amended to allow this designation to also apply to "single family" group homes of 8 or less aged, infirm or disabled persons to be licensed by the Department of Social Services:

PROPOSED CHANGES:

Article VI Definitions and Use Types

Sec. 106-602.3. Residential use types.

Residential human care facility. A building (1) used as a group home where not more than 8 mentally ill, mentally retarded or other developmentally disabled persons, not related by blood or marriage, reside with one or more resident counselors or other staff persons and for which the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services is the

licensing authority, pursuant to Sec. 15.2-2291(A) of the Code of Virginia, or **(2) used as a group home where not more than 8 aged, infirm or disabled persons, not related by blood or marriage, reside, with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing authority, pursuant to Sec. 15.2-2291(B) of the Code of Virginia;** excluded from this definition are drug or alcohol rehabilitation centers, half-way houses and similar uses; and

WHEREAS, Melinda Payne noted that the code currently refers to the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services as the licensing agency for a residential human care facility and now the Department of Social Services has also been added as a licensing authority; and

WHEREAS, Chair Murphy noted that from time to time the City has to adopt code changes in order to bring our code into compliance with the state code; and

WHEREAS, no other person(s) appeared related to said request;

ON MOTION MADE BY COMMISSION MEMBER CARTER, AND DULY CARRIED, the Planning Commission of the City of Salem doth recommend to the Council of the City of Salem that Chapter 106, Article VI Definitions and Use Types, Section 106-602.3 Residential Use Types of THE CODE OF THE CITY OF SALEM, VIRGINIA pertaining to residential human care facility be amended as follows:

Sec. 106-602.3. Residential use types.

Residential human care facility. A building (1) used as a group home where not more than 8 mentally ill, mentally retarded or other developmentally disabled persons, not related by blood or marriage, reside with one or more resident counselors or other staff persons and for which the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority, pursuant to Sec. 15.2-2291(A) of the Code of Virginia, or **(2) used as a group home where not more than 8 aged, infirm or disabled persons, not related by blood or marriage, reside, with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing authority, pursuant to Sec. 15.2-2291(B) of the Code of Virginia;** excluded from this definition are drug or alcohol rehabilitation centers, half-way houses and similar uses;

-- the roll call vote: all aye.

In re: Consider amending Chapter 106, Article II District Regulations, Section 106-202.2 (A), Article III Use and Design Standards, Section 106-316.3(B), and Article VI Definitions and Use Types, Section 106-602.3 Residential Use Types of THE CODE OF THE CITY OF SALEM, VIRGINIA pertaining to temporary healthcare structures

The Executive Secretary reported that this date and time had been set to hold a public hearing to consider amending Chapter 106, Article II District Regulations, Section 106-202.2 (A), Article III Use and Design Standards, Section 106-316.3(B), and Article VI Definitions and Use Types, Section 106.602.3 Residential Use Types of THE CODE OF THE CITY OF SALEM, VIRGINIA pertaining to temporary healthcare structures; and

WHEREAS, the Executive Secretary further reported that notice of such hearing had been published in the February 3 and 10, 2011, issues of The Roanoke Times; and

WHEREAS, staff noted the following: temporary healthcare structures are a new variation of an ongoing issue of caretaking in the home; these pre-manufactured units are small detached structures limited to one occupant; Section 15.2-2292.1. of the CODE OF VIRGINIA allows a homeowner/occupant to install a temporary cottage-type building in their rear yard as a permitted accessory use in single family residential district; the following code changes are proposed to bring our ordinance in compliance with the State Code:

PROPOSED CHANGES:

ARTICLE II DISTRICT REGULATIONS

Sec. 106-202.2 (A). Permitted uses.

(A) 2. *Residential Use Types*

Home Occupation*
Manufactured Home, Emergency*
Residential Human Care Facility
Single Family Dwelling, Detached
Temporary Family Health Care Structure*

ARTICLE III USE AND DESIGN STANDARDS

Sec. 106-316.3. Accessory Uses: residential use types

(B) (1) Temporary family health care structures, as defined herein, shall be a permitted accessory use in RSF – Residential Single Family District if such structures (i) are used by a caregiver in providing care for a mentally or physically impaired person, and (ii) are on property owned or occupied by the caregivers as his or her residence. For purposes of this

section, "caregiver" and "mentally or physically impaired person" are defined in Section 15.2-2292.1 of the Code of Virginia.

(2) In addition to the specific requirements of a temporary family health care structure found in Section 106-602.3 herein, such structures must meet the following requirements:

(a) Any person proposing to install such a structure shall first obtain a permit from the City for which such applicant may be charged a fee up to $100.00. The City may not withhold such permit if the applicant provides sufficient proof of compliance with the requirements herein and the requirements found in Section 15.2-2292.1 of the Code of Virginia.

(b) Only one such structure shall be allowed on a lot or parcel of land.

(c) The applicant must provide evidence of compliance with this section to the City one year from the date of installation, and every year thereafter, as long as such structure remains on the property. Such evidence will include inspection by the City of such structure at reasonable times.

(d) The applicant must comply with all applicable requirements of the Virginia Department of Health.

(e) **No signage advertising or otherwise promoting the existence of the structure shall be permitted anywhere on the property.**

(f) Such structure shall be removed within 30 days of the time from which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.

(g) The Zoning Administrator may revoke any permit granted hereunder if the permit holder violates any provisions herein or any provisions in Section 15.2-2292.1 of the Code of Virginia. In addition to any other remedies, provided in Chapter 106 herein, the City may seek injunctive relief against the permit holder or other appropriate legal proceedings to ensure compliance.

(h) Such structure shall be subject to the standards as provided in Section 106-202.3 herein.

(i) Any such structure shall connect to any water, sewer and electric utilities that are serving the primary residence on the property.

(j) Such structure shall comply with all requirements as set forth in Section 15.2-2292.1 of the Code of Virginia.

ARTICLE VI DEFINITIONS AND USE TYPES

Section 106-602.3 Residential use types

Temporary Family Health Care Structure. A transportable residential structure providing an environment facilitating a caregiver's provision of care for mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, (iv) complies with the applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code, and (v) is not placed on a permanent

foundation. For purposes of this definition "caregiver" and "mentally or physically impaired person" are as defined in Section 15.2-2292.1 of the Code of Virginia; and

WHEREAS, Melinda Payne noted that this is another change to bring our code into compliance with the state code; she further noted that the temporary healthcare structures are a new variation to the ongoing issue of caretaking in the home; and the structure will allow an aging person a means to stay at home;

ON MOTION MADE BY COMMISSION MEMBER THOMASSON, AND DULY CARRIED, the Planning Commission of the City of Salem doth recommend to the Council of the City of Salem that Chapter 106, Article II District Regulations, Section 106-202.2 (A), Article III Use and Design Standards, Section 106-316.3(B), and Article VI Definitions and Use Types, Section 106.602.3 Residential Use Types of THE CODE OF THE CITY OF SALEM, VIRGINIA pertaining to temporary healthcare structures be amended as follows:

ARTICLE II DISTRICT REGULATIONS

Sec. 106-202.2 (A). Permitted uses.

(A) 2. *Residential Use Types*

Home Occupation*
Manufactured Home, Emergency*
Residential Human Care Facility
Single Family Dwelling, Detached
Temporary Family Health Care Structure*

ARTICLE III USE AND DESIGN STANDARDS

Sec. 106-316.3. Accessory Uses: residential use types

(B) (1) Temporary family health care structures, as defined herein, shall be a permitted accessory use in RSF – Residential Single Family District if such structures (i) are used by a caregiver in providing care for a mentally or physically impaired person, and (ii) are on property owned or occupied by the caregivers as his or her residence. For purposes of this section, "caregiver" and "mentally or physically impaired person" are defined in Section 15.2-2292.1 of the Code of Virginia.

(2) In addition to the specific requirements of a temporary family health care structure found in Section 106-602.3 herein, such structures must meet the following requirements:

(a) Any person proposing to install such a structure shall first obtain a permit from the City for which such applicant may be charged a fee up to $100.00. The City may

not withhold such permit if the applicant provides sufficient proof of compliance with the requirements herein and the requirements found in Section 15.2-2292.1 of the Code of Virginia.

(b) Only one such structure shall be allowed on a lot or parcel of land.

(c) The applicant must provide evidence of compliance with this section to the City one year from the date of installation, and every year thereafter, as long as such structure remains on the property. Such evidence will include inspection by the City of such structure at reasonable times.

(d) The applicant must comply with all applicable requirements of the Virginia Department of Health.

(e) No signage advertising or otherwise promoting the existence of the structure shall be permitted anywhere on the property.

(f) Such structure shall be removed within 30 days of the time from which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.

(g) The Zoning Administrator may revoke any permit granted hereunder if the permit holder violates any provisions herein or any provisions in Section 15.2-2292.1 of the Code of Virginia. In addition to any other remedies, provided in Chapter 106 herein, the City may seek injunctive relief against the permit holder or other appropriate legal proceedings to ensure compliance.

(h) Such structure shall be subject to the standards as provided in Section 106-202.3 herein.

(i) Any such structure shall connect to any water, sewer and electric utilities that are serving the primary residence on the property.

(j) Such structure shall comply with all requirements as set forth in Section 15.2-2292.1 of the Code of Virginia.

ARTICLE VI DEFINITIONS AND USE TYPES

Section 106-602.3 Residential use types

Temporary Family Health Care Structure. **A transportable residential structure providing an environment facilitating a caregiver's provision of care for mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, (iv) complies with the applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code, and (v) is not placed on a permanent foundation. For purposes of this definition "caregiver" and "mentally or physically impaired person" are as defined in Section 15.2-2292.1 of the Code of Virginia.**

-- the roll call vote: all aye.

WHEREAS, Chair Murphy noted that a Boy Scout Troop and their leader were in attendance at the meeting for their community service requirement; Chris Wassum, Scout Master; Brenton Canale, Jacob Canale, Cameron Wassum, Mark Garner, Jarrett Garner, and Darin Wassum of Troup #149 introduced themselves to the Commission and the audience.

In re: Request of City of Salem, property owner, for the issuance of a Special Exception Permit to allow primary/secondary educational facilities on an approximate 3.9 acre tract and an approximate 1.8 acre tract located at 1150 Kime Lane/1130 Lynchburg Turnpike (P/O 148-1-2)

The Executive Secretary reported that this date and time had been set to hold a public hearing to consider the request of City of Salem, property owner, for the issuance of a Special Exception Permit to allow primary/secondary educational facilities on an approximate 3.9 acre tract and an approximate 1.8 acre tract located at 1150 Kime Lane/1130 Lynchburg Turnpike (P/O 148-1-2); and

WHEREAS, the Executive Secretary further reported that notice of such hearing had been published in the February 3 and 10, 2011, issues of The Roanoke Times, and adjoining property owners were notified by letter mailed February 4, 2011; and

WHEREAS, staff noted the following: the subject property consists of two parcels zoned RSF, and situated on opposite sides of Corporate Drive, near the Salem YMCA; the eastern parcel is approximately 3.9 acres, and the western is approximately 1.8 acres; both properties are currently vacant; and this request is to issue a special exception permit to allow primary/secondary educational facilities; and

WHEREAS, Commission Member Thomasson noted that he would need to abstain from voting on this matter since he has a family member who he believes is interested in investing in this property, and he does not want there to be any thoughts of impropriety involved on his behalf; and

WHEREAS, Kevin Boggess, representing the petitioner, appeared before the Commission in support of the Special Exception Permit request; he noted under normal circumstances the City of Salem typically would not be the petitioner for a request such as this one; however, because the City is running both the decision of whether or not to sell the property concurrently with the decision to grant a Special Exception Permit for the proposed use on the property, the City is still the property owner, and there is not a true contract

purchaser for the property at this time; the City is in negotiations with a purchaser, but the contract has not been executed; however, the City is presenting the Special Exception request on behalf of a proposed purchaser of the property; he noted that when the City sells property it must hold a public hearing prior to that sale; City Council held the public hearing on Monday night, February 14, and directed staff to begin negotiations on a contract; then at the appropriate time, the City would sell the property; he stated that these are being run concurrently because of the time constraints of the prospective petitioner who is interested in building a Montessori school at this location; further, the proposed purchaser would like to have that school opened and operating by September of this calendar year so obviously there is a considerable time crunch in order to build a structure in that time frame; thus this is the reason why we are uncharacteristically running these concurrently; he further noted that the City has received interest for the purchase of the property from two other parties as well; one of the neighbors, Mr. Mullins, has submitted a written offer to purchase one acre of the 3.9 acre tract, and he believes that another residential real estate developer may be submitting an offer prior to City Council taking any formal action on the sale; the City was approached by the Salem Montessori School to locate a new school building on this piece of property, which is zoned Residential Single Family District; the use of a school whether it is private or public is a use that is allowed in this zoning district, however, it does require the approval of a Special Exception Permit; he noted that there has been a lot of discussion among staff, former administrators, and some of the people here in attendance about the use of the property and its residential character and what promises were made in the past about the residential use of the property; staff has reviewed the minutes very carefully and talked with previous administrators, and there were promises made that the property would be developed as residential; however, looking at it from a land use perspective and not considering what had been said in the past, staff feels a school use in a residential district is an appropriate use, and this would be an suitable use from a land use perspective for this piece of property; he stated that the Montessori School has a representative at the meeting to discuss the proposed building, access, type of operation, etc.; and

WHEREAS, Barney Horrell of Brushy Mountain Engineering, representing Salem Montessori School, appeared before the Commission in support of the Special Exception Permit request; he

noted that Mrs. Valerie VanderHoeven, owner, was in attendance if there were questions that she needed to address; he noted that he wanted to discuss several things with the Commission; he noted that he wanted to focus on the issue that this is a residentially-zoned property, and their use is residential in nature; why they are building a new school, they are not planning to take down the existing school, which is located on the Boulevard across from the General Electric plant; this is a very successful facility, and they have been there for 18+ years; they need room to expand because they have run out of room, and they are planning to change the focus of the existing school to infants and toddlers; the new facility will allow them to meet the growing demand within the community for quality child care and early education; why this site – they looked at several sites around the community and even outside the city, and they settled on this site largely because of the proximity to their existing facility and because the YMCA is right next door; the YMCA has wonderful cross-programming opportunities, and they have gotten a lot of strong encouragement from the staff at the Y about being able to utilize their facility during their off-peak times; this will benefit both them and the Y; he further discussed the site for the proposed school and the surrounding neighborhood; he noted that a residential feel is very important to the Montessori philosophy and teaching style; he further noted the layout of the school and the individual learning spaces that make the school much more of a homey feel; they have worked hard to develop an exterior that matches the residential character of the neighborhood; he stated the hours of operation are Monday through Friday from 7 a.m. to 6 p.m., and those are the outside limits of the hours; he noted most of the students that attend their school have older siblings in the public school system or other nearby schools and usually the parents pick up the older children and then come by the Montessori School to get the younger ones and take them home; so, the numbers start declining around 3:30 p.m.; the proposed building would have six classrooms with a maximum of 25 children in each, which is the maximum; the maximum number of students would be 150; further, there is no bus service as the parents drop off the children; there will not be 150 vehicles coming to the site as most families drop off more than one child; he noted that he had several exhibits displayed and also had several packets of information to share, if anyone wanted one; they have gone to great lengths to try and meet with the neighbors at the direction of the City; he noted that they had met with all but two of the residents and have tried to enter into dialogue about what they are proposing to do and also asked about their concerns; he noted the issues that had been brought up by the neighbors and how they have tried to address those issues; first, the area is

supposed to be a residential development area, and they feel their development will fit within the residential nature of the community; they also feel that this use will be a transitional buffer kind of use between the residential single-family homes down to the commercial uses along Texas Street; the next big concern is traffic along the Turnpike, and the fact that this is a residential neighborhood; after hearing the concerns about the traffic, they came up with a site plan that only has access onto Commerce Drive; the whole idea is to limit as much as possible the access and traffic on the Turnpike; he noted that they feel the bulk of the traffic will come in off of Texas Street; another concern was protecting the view; the site topography drops off quite a bit from the Turnpike, and their site plan takes advantage of the topography and allows them to drop the building down to not obstruct the view of the neighbors; he noted that the building height at the peak is about 23'; he went out to the site and had a companion hold up a 20' pole, and then he walked to several driveways along the Turnpike and took pictures to show what a 20' high building would look like; the photos show that the building does not block any of the horizon or mountain views; another concern they heard was potential noise; he believes there may be a misconception of the nature of a Montessori school compared to a more traditional day care facility or school setting; he noted that he keeps pointing to the fact that the hours of operation are from 7 am to 6 pm and after that the site will be dark and quiet; it will not be like residences where the quiet time will be from 7 to 6, and then people would come home and mow their yards, etc. in the evening hours; a couple of neighbors voiced concerns about outdoor basketball courts and other outdoor facilities which could be utilized by neighborhood youth; he noted with the Y located next door, they will not need any of these facilities as they are already there; another issue was preserving existing trees and also what type of landscaping would they provide; he noted that there are quite a few existing shrubs and trees along the Turnpike and they are working with their architect to come up with a landscaping plan that includes some retaining walls so they can preserve all the existing trees; he also discussed the new landscaping they are proposing for the site; he noted the interior of the site would be full of flower beds and a vegetable garden; he noted that it would be a very attractive site from a landscaping standpoint; and he further discussed the rendering of the building and the building materials; and

WHEREAS, Commission Member Daulton noted that she had not seen the rendering of the building; she asked if this would be a one-story building; Mr. Horrell gave Mrs. Daulton a copy of the rendering and noted that it would be a single story building; also, a big goal is to get as much

natural light into the building as possible; so there is a clear story over the central lobby area and alot of windows; he also discussed the additional parcel of land they are requesting to purchase, which is the wooded area; their intentions for the wooded area is for an outdoor exploring area for the children; they have heard several citizens requested that the trees be preserved, and he noted it is their desire to preserve them as well; and

WHEREAS, Doug Hale of 1155 Lynchburg Turnpike appeared before the Commission in opposition to the request; he commended Barney Horrell on his nice presentation, and he noted if all of us lived in a glass house, then he guesses it would be a nice thing; he noted that he is opposed because it is a residential area and because of his personal investment; he is located across from where the building would be situated, and therefore he feels it is part of his front yard; he asked if the Special Exception Permit for educational facilities applied to a profit earning school versus a public school in the residential zoning; the Assistant City Attorney noted that they do have the same rights as a public school in the Residential Single Family zoning district, and he read the definition of primary/secondary educational facilities in the City code; Mr. Maxwell noted that it would be permitted with the Special Exception permit; Mr. Hale asked other than the initial payment that the City would receive if they decide to sell the property to the particular individuals we are referring to tonight, would there be potential revenue from real estate taxes in the future; it was noted that there would be revenue from real estate taxes; Mr. Hale noted that had the City pursued the development of this property before the bottom fell out of the economy, we probably could have housed five residences along the area that would have brought approximately $1,500 to $2,000 per house per year for real estate taxes likewise; so, we did have a potential to retain that residential appearance by having additional homes built in the area; he noted that he wondered if we have considered all the options with regards to the position of the school and the parking lot, etc.; he presented the Commission a copy of a drawing showing an optional layout; he further discussed the water retention pond the City expanded when the Y was built; if the parking were placed on the property as he has it drawn, it would be closer to the retention pond; he discussed the water issues that still occur when we have a large rainfall; his point is if we add additional parking we are obviously going to dump additional water onto the area, and this is a consideration that the City needs to think about; if the school decides to close in the future, would the property convert back to a straight Residential Single Family zoning or would it be a doorway for some other activity other than a private school; Chair Murphy noted that the Special Exception permit would

stay with the property; if another user wanted to use the property for something other than a school or the other permitted uses in RSF Residential Single Family district, then it would have to come back before the Commission and City Council; he noted that there is an expansion of activity on the Turnpike with the College building additional sports fields and the YMCA has certainly exceeded its capacity; so, with this continuous growth, safety is a concern; he noted that this is a residential area, and the speed limit is 25 miles per hour; he further discussed the additional traffic that is going to be generated with the proposed school, and he feels there will be a safety factor in increasing the amount of traffic in this particular area; he noted that he hopes the City will look at this more closely; and he does not have a problem with this school just not at this location; and

WHEREAS, the City Engineer noted that the current stormwater management pond located there is designed to drain 52 acres; this includes a substantial portion of the tennis courts and Roanoke College property; he further discussed the pond, and the fact that the pond was designed in excess of the standards required by the state and the city; and

WHEREAS, Eddie Mullins of 1208 Lynchburg Turnpike appeared before the Commission in opposition to the request; he noted that he has a copy of the unapproved minutes from the November 11, 1998, Planning Commission meeting; he noted that he thought the Commission needed to read them; the Commission at that time noted that the property would be residential, there was to be a park and also a track around the field; he further added he has the City Council meeting minutes from November 23rd, and he said he thought it would be nice if they read those too because City Council promised the neighbors the world; he noted that he believes that we need to keep residential homes on this property; he has spoken to eight of his neighbors and seven are against the proposal; he noted that if he had known the City was going to sell the land, he would have asked them to sell him some so he could build a patio home; he further discussed the traffic issue in this area and noted that according to the minutes, there was not supposed to be access from Corporate Drive to Lynchburg Turnpike; he noted that there is a lot of speeding on the Turnpike and a lot of trouble with parking when there are meets; he noted that he had spoken with former City Manager Forest Jones many times about the land, and he told him that the City would talk to them before they decided to let anybody do anything with the property; he noted that the first he heard of this was when the school came around to talk to them; further, he stated that if the city is going to let the school go here, then he feels we should rezone it all to industrial and sell

for $150-200,000 an acre and make money on it; we should not sell it cheaper; he would just as soon have a manufacturer beside him as he would the school; and

WHEREAS, Chair Murphy noted that the Commission did review the minutes at the work session earlier in the day; he also reminded everyone that regardless of the location in the city, this is the appropriate process to utilize for an approval for a school in a residential area; Mr. Mullins noted that he understood that but the neighbors were promised, and he believes that the city should keep its promise; and he does not think this is right; and

WHEREAS, Nora Smith of 1135 Lynchburg Turnpike appeared before the Commission in support of the request; she noted that she was also speaking for her daughter, Lucy Koons, who is also an owner of the residence; she noted that she did not get the opportunity to speak to the people from the school, but she heard about the plan second hand; however, she personally believes that this is the best thing that could happen on this property; her house faces the proposed location of the school, and she feels it will preserve the property and save it from being developed; she is familiar with the Montessori school concept as she has a Masters Degree in Education and her granddaughter attended a Montessori school in Lebanon; she likes the idea that the stand of trees will be preserved; she noted that she and her parents moved to this house in approximately 1958 when she was nine years old, and she has always admired the trees; this is another reason she is in favor of this request; she further noted that a Montessori school is not like a regular school; she believes that it is prestigious and will be good for the neighborhood; and there is a campus environment there already with Roanoke College and the Y, and she thinks it will fit right in; and

WHEREAS, Chair Murphy noted that Mr. Horrell has handouts of the items he is displaying tonight for anyone who has not had the opportunity to see what is being proposed; he noted as a matter of clarification the Commission is primarily responsible for land use issues and is charged with making a recommendation on the matter to City Council; and

WHEREAS, Inez Good of 1203 Lynchburg Turnpike appeared before the Commission noting that she has lived here for almost 50 years now; when she moved into this house, it was not only a residential area, it was a rural area; they cows in the front and horses in the back; this changed when the Civic Center and the ballparks were built; now, they have noise and glaring lights, and anyone who would build a home there would be out of their mind; they have suffered with it because they have always been there; the final straw was when the city built the water tower; her husband planted a tree to preserve them from the view of the monstrosity; she thinks the school is

the best solution for the property because she does not feel that they will get any high class residential buildings there; she noted that her only concern about the proposed school is that there will be more noise, but the owner has assured them that the children are well behaved and under control; she hopes that this is the case, and she is in support of the request even though it is contrary to what her neighbors think; and

WHEREAS, Brad Graham of Graham Construction, life-long Salem resident, appeared before the Commission; he noted that his father-in-law was Mayor at the time when all of this controversy was going on, and he would tell you that the neighbors were promised homes on the parcel; he noted that before former City Manager Forest Jones retired he tried to meet with him to talk about the property, but Forest did not want to deal with it; as soon as Mr. Boggess came on board, he set up a meeting with him to discuss, and he indicated to him that he was not ready to deal with this yet; he told Mr. Boggess to get back to him when he was ready; the first he heard about the request was in the past week or so; he does not think residential would be crazy in this location; it is a great thing throughout the country – people are building homes near Ys so that they have that connection; his company is more than happy to make a proposal to purchase the property, and he believes that the city should sell it to whoever is going to pay the most; he again noted that homes were what was called, and if it will bring a higher and better use and more money for the city, then how can we not put homes here; and he further noted that City Council needs to think about what is best for the property; and

WHEREAS, Chair Murphy noted that the Commission has to make a decision related to the current petition before them; Mr. Graham noted that he understands this, and if he were sitting on the Commission this evening, he would vote yes for the request; there is no question that he would vote in favor because it might bring the city more money for the property; it may get into a bidding war, and the proposed purchaser may be willing to pay more than they are willing to pay; but he still has a strong feeling that homes connected near a Y will sell well; he works out there three times a week and sees all the empty nesters that he thinks would love to just walk down the street to their home; he thinks the city needs to look at this and say how can we get more money for the property; it is a little disturbing that we are trying to push this through so fast; it is kind of scary; he does not see how in the world they think they are going to get a building ready for next year; if they were trying to build houses here, they would have to go through three or four months going back

and forth to get an approved plan; at the very least, the process needs to be slowed down and make the right decision that we can live with; and

WHEREAS, Chair Murphy asked Mr. Horrell if he wanted to respond to the neighbors and also if he could address the lighting for the proposed building; Mr. Horrell noted that because they will not be using the facility after 6 p.m., they do not have a lot of use for lighting for the security of people walking to their cars, etc. so the outdoor lighting will be very minimal; he again noted that the hours of operation are from 7 am to 6 pm, which is your typical daylight hours even in the winter time; the lighting will be minimal, and it will be downward facing; he noted the covered area at the front of the building will probably have a light to shine down over the entryway; this would be completely shielded by the roof and building so that the neighbors behind would not see it; the whole focus of the conceptual plan has all the traffic being on the south side of the building and he believes that with the circulation pattern of the driveway as shown, car lights will be shielded by the building; he feels that light pollution from the facility will be minimal; he noted in regards to Mr. Graham's comments that they are drawn to the property for the same reasons that he can see benefits for residential, such as the proximity of the Y, etc.; they feel like this decision should not be made purely on a financial basis and they feel that what they will be bringing to the community is an additional alternative educational experience in child care; they hope the city will consider their use as a benefit to the community – a benefit other than a financial gain; he noted that Mrs. Good's concerns were lighting and the water tower; obviously they have nothing to do with the water tower; he noted that he was sorry that they did not have the chance to meet with Mrs. Smith in person; and they do plan to preserve the trees, which she mentioned; he noted to Mr. Mullins that he could not relieve his feelings of being betrayed by the city, but he promised that they would be a good neighbor to him, if the project is approved; he hopes that over time they will win his respect; with regards to Mr. Hale, he commends him for creating an alternative layout instead of just coming out and offering constructive criticism; he noted that he has looked at the layout; with regards to his concerns about stormwater, the layout he drew has a little more pavement; they will have to capture the stormwater on their site using the storm sewer; he further noted that the impervious surface area for their building and parking lot will be less than six residential houses with roof tops and driveways so the runoff created will be much less; further, the incorporation of landscaping will improve the quality of the water runoff; and

WHEREAS, Commission Member Carter noted that he agreed with Mr. Horrell regarding to the stormwater issue related to putting houses with roofs, driveways, etc. rather than the single structure as proposed; he stated that this facility is one that lends itself very perfectly to thinking about porous pavement; he feels that it could be designed with no additional or very little stormwater runoff; with regards to the traffic on Lynchburg Turnpike, he realizes that they would have any control in this matter, but he feels they would have the perfect opportunity to suggest to their clientele that whenever possible that they use Texas Street to access the building; Mr. Horrell noted that they are going to want people to be driving 25 miles per hour as much as the neighbors since there will be children here; and

WHEREAS, Chair Murphy noted that he appreciates the neighbors' patience in this area when there are swim meets, etc.; he asked if the school might consider allowing parking for these events in their parking lot; Mr. Horrell noted that they would prefer not to have the general public parking here for liability reasons and upkeep;

WHEREAS, Commission Member Robertson noted that he was involved in the planning for this property initially, and he recalls quite vividly some of the things that were proposed for the property; with regards to land that was left as residential, he personally does not recall anyone saying that houses would definitely be built on this land; all he knew was that it was zoned residential, and as has been mentioned earlier, the City's zoning ordinance clearly permits schools in a residential area subject to the Special Exception Permit being obtained; he noted that he has tried to listen as closely as he could to the speakers and to take into consideration everyone's thoughts, but he is left with the feeling that we should approve this request based on the fact that it is residential, and it is a permissible use; he noted that if the request is approved, he would fully expect that the final plans should be very, very close to, if not exactly, what has been discussed this evening; and Mr. Horrell noted that is their intent;

ON MOTION MADE BY COMMISSION MEMBER ROBERTSON, AND DULY CARRIED, the Planning Commission of the City of Salem doth recommend to the Council of the City of Salem that the request of City of Salem, property owner, for the issuance of a Special Exception Permit to allow primary/secondary educational facilities on an approximate 3.9 acre tract and an approximate 1.8 acre tract located at 1150 Kime Lane/1130 Lynchburg Turnpike (P/O 148-1-2) be approved -- the roll call vote being as follows: Mr. Carter – aye; Mr. Thomasson – abstaining; Mrs. Daulton – nay; Mr. Robertson – aye; and Mr. Murphy - aye.

There being no further business to come before the Commission, the same on motion adjourned at 8:33 p.m.

_____
Executive Secretary

_____
Chairman