

**PLANNING COMMISSION MINUTES
JUNE 8, 2015**

MEMBERS PRESENT

**Mr. Scearce
Mr. Dodson
Mr. Garrison
Mr. Wilson
Mr. Bolton
Mrs. Evans**

MEMBERS ABSENT

Mr. Jones

STAFF

**Shanta Hairston
Ken Gillie
Renee Burton
Scott Holtry
Alan Spencer**

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

I. ITEMS FOR PUBLIC HEARING

1. *Special Use Permit Application PLSUP20150000140, filed by Phillips Edison Company requesting a Special Use Permit to allow the operation of a gasoline sales establishment in accordance with Article 3.N; Section C, Item 7 of the Code of the City of Danville, Virginia, 1986, as amended at 211 Nor Dan Drive, otherwise known as Grid 1808, Block 004, Parcel 000077 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate a gasoline sales establishment at this location.*

Mr. Holtry read the staff report. 73 notices were sent to surrounding property owners within 300 feet of the subject property. 15 responses were not opposed; six responses were opposed.

Mr. Scearce opened the Public Hearing.

Present on behalf of the request was Mr. Tony Haslinger with Phillips Edison Company in Cincinnati, Ohio.

Mr. Haslinger stated thank you and good afternoon. Thank you for hearing our request. I'm Tony Haslinger the president for Phillips Edison Company; we are based out of Cincinnati, Ohio. We have owned Nor Dan Shopping Center for quite some time and what we are presenting today is a request for a special use permit for the fuel center. It is attached to the proposed Walmart Neighborhood Grocery Store which would involve tearing down the former existing Piggly Wiggly and building a brand new store. As part of that package we would also demolish the existing 7,000 square foot out parcel building which was recently a Chinese restaurant that's been vacant for several years, then replace that with this proposed fuel center. The grocery center does not require any special use as shown, but obviously the fuel does; but they are interconnected. In order to do this proposed review we need to have the fuel along with the grocery center. I would like to introduce John Wright with Bowler Engineering; he did the design on this project and will walk you through the special use and fuel components.

Present on behalf of the request was Mr. John Wright with Bowler Engineering.

Mr. Wright stated good afternoon. I'll take a moment now to kind of walk you through the site plan over here and show you some of the key elements of the fuel station. The fuel station is going to be up here in the northeast corner of Piney Forest and Nor Dan Drive. As you see here's the 750 plus or minus square foot that they've proposed here and approximately nine parking spaces with one ADA accessible parking space. Out here are the fuel tanks. That's where the tanks would be located. This will mainly be a green area that's left over after the demo is executed. Access to the fuel station will be from the same access points we see today. Looking back at the fuel station, there are sidewalks in front of the parking spaces and this will all be asphalt paved and utilities will be provided. Do you have any specific questions?

Mr. Wilson asked are there any larger plans for the shopping center in general?

Mr. Wright stated we are proposing to overlay the pavement on the remainder of the shopping center as well as aligning upgrades so it blends. The façade I believe it was 1997 when we did the existing façade from the Big Lots around to the World of Pet so maybe an update on the paint but as far as anything beyond that, that's all we're planning to do right now.

Mr. Scarce asked any other questions by the Commissioners?

Mr. Scarce closed the Public Hearing.

Mr. Bolton made a motion for approval as submitted. Mr. Dodson seconded the motion. The motion was approved by a 6-0 vote.

2. *Special Use Permit Application PLSUP20150000147, filed by Kathryn Trakas requesting a Special Use Permit to allow the manufacture of ice in accordance with Article 3.K; Section C, Item 26 of the Code of the City of Danville, Virginia, 1986, as amended at 633 Newton St., otherwise known as Grid 2713, Block 019, Parcel 000008 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to operate an ice manufacturing and distribution facility at this location.*

Mr. Holtry read the staff report. 28 notices were sent to surrounding property owners within 300 feet of the subject property. Four responses were not opposed; zero responses were opposed.

Mr. Scarce opened the Public Hearing.

Present on behalf of the request was Mrs. Kathryn Trekas.

Mrs. Trekas stated hi I'm Kathryn Trekas and I appreciate your hearing me this afternoon. My son and I are starting a new business, Southside Ice Express, and we would like to use the facility at 633 Newton Street. As it has already been stated, part of that building is already occupied and we would occupy the left side of the building. Primarily we would have trucks coming in and out of there; right now we have three- two large and just a large pickup truck. It would not be a lot of other traffic in terms of people purchasing ice on that property; it would just be distributed from that property. Any questions at this point?

Mrs. Evans asked just regular ice or dry ice?

Mrs. Trekas stated not dry ice, just the packaged ice you would buy at a convenience store. It would be well filtered.

Mr. Searce stated that's good.

Mr. Bolton asked how many employees do you see at that facility?

Mrs. Trekas stated right now there would just be three of us- just family. I can't imagine that we would increase to more than ten in five years. The way it's structured is very mechanical in terms of process and the machines do all of the work. It's mainly just the delivery folks and one or two people in the office.

Mr. Searce asked any other questions?

Mr. Searce closed the Public Hearing.

Mr. Wilson made a motion for approval as submitted. Mrs. Evans seconded the motion. The motion was approved by a 6-0 vote.

3. *Zoning Code Amendment Request PLCA20150000148, to amend Article 15, entitled "Definitions", Section B entitled "Definitions" to amend the definition of agriculture, car wash, and create new definitions if needed, Article 3.E: entitled "Old Town Residential District" Section C: entitled "Uses permitted by Special Use Permit" to allow for agriculture, and other Articles and Sections of the Code if needed to address urban farming.*

Mr. Holtry read the staff report.

Mr. Searce asked before I open the Public Hearing, where does the car wash go?

Mr. Gillie stated it's just a definition change. The use of a car wash is already permitted in various districts, there's just been a question on the definition of it; so we've changed the definition to better define it. That part's already allowed in there.

Mr. Searce stated okay.

Mr. Searce opened the Public Hearing.

Present on behalf of the request was Mr. Joshua Hearne with Grace and Main Fellowship.

Mr. Hearne stated good afternoon, my name is Joshua Hearne and I'm here with Grace and Main Fellowship. It's an intentional fellowship community here in Danville. We were gifted an acre and a half up on Moffet Street off of North Main for the use of hopefully an urban farm in the north side to address hunger issues in a neighborhood that is especially familiar with hunger and hunger needs. We are aware that the Planning Commission would need to adopt a new definition in code to be allowed this work, but that's why we're here today.

Mr. Searce asked questions by the Commissioners? I would just say that I'm all for it. I think that's a good thing. I guess I just have some concerns about swine and some degree with the poultry as far as health issues and how that would be dealt with. I think we just need some conversation about it- maybe an adjustment to the definition or so. Any comments?

Mr. Bolton stated I had a question just for staff in the definition that's been written. For urban agriculture- which I guess is what his lot would fall into with the one and a half acres- it says this is for lots under two acres but the raising of livestock should be no more than one form of livestock animal or five poultry per three acres. So if mine is less than two is it going to be prorated since he's got one and a half then he might could have two chickens?

Mr. Gillie stated our choice was to prorate it based on because somebody could buy a lot for say an acre and a half, if the adjacent becomes available he may start off with an acre and a half but it could potentially grow. So we left ourselves a little wiggle room in that. We were going to do the prorating of it but also the special use permit would limit the numbers; we were just trying to set a baseline. So it's kind of a moving target per say depending on what they begin with and what we end up with going through the process.

Mr. Bolton asked so if he has one and a half acres, could he have one swine and one horse?

Mr. Gillie stated if by special use permit. They have to ask for it and Planning Commission would have to grant that.

Mr. Wilson asked so if we didn't feel like it was appropriate for a particular neighborhood as a Planning Commission then we could deny it but in another neighborhood in the city because of the way neighborhoods were it could be granted? That's the idea behind that?

Mr. Gillie stated right that's the idea.

Mr. Wilson stated I guess my question goes along here- is this definition something we've come up with or is this definition of urban agriculture throughout the state? Has this been tested in other places?

Mr. Gillie stated there is no common definition throughout the state that I've been able to find. Every locality seems to do things slightly differently. We had an existing agriculture definition; I looked at what other people were doing and how they wrote theirs up. What we had on the books and we said alright we already have one, we'll just modify ours to match our current situation. There is no consistent common definition where everybody says this is what it should be and this is what we should use.

Mr. Wilson asked there's a lot of animal part in here, but is that written that way so we can have a lot of flexibility when it comes time to do the special use permit?

Mr. Gillie stated our intent was yes. We left it in there because we have a definition for agriculture which is allowed in certain areas already by special use permit. So certain places if you have a lot big enough, you can come in and ask for it. Since we're going into urban with smaller lots, we left that flexibility in there; but if people are concerned with those animals on small lots, we can strike that from the definition. This was just staff taking the one we already had, modifying it based on the situation and bringing it to you. We're urban planners; we're not agricultural planners so we kind of do it the best we can. Then reaching out to others- some localities allow for pretty much nothing but plants and chickens. Other places allow plants, chickens and maybe a cow or two and a goat, but nothing more than that. Some people will get into the pigs and others don't. It's all over the board depending on where you're at and what we want. When we had our conversation, they were looking at doing plants on a small lot and potentially chickens. Right away I said no because chickens we've never allowed before. So people looked into doing them. Then I thought we've got

cows at the Loves – they’ve had a farm for years up in that area. So you’ve got cows in a neighborhood. Then you’ve got all that stuff out on Westover for what used to be the area we annexed twenty years ago. So there are some livestock here in the City in various spot; there’s a gentleman who raises goats on Elizabeth Street and he’s had his goats for 20 years in a semi-urban neighborhood. So they can fit in depending on if it’s handled correctly. That’s the other reason we didn’t cut all that out, but if we think we should we are not opposed to changing the definition. We just tried to get something out there that covered everything and figured we could talk about it some more.

Mr. Wilson asked so really part of the decision we’re going to make here is whether to have a broad definition that we limit by special use permit, right? We can give it from neighborhood to neighborhood or we go ahead and limit it right now. But that’s not going to stop somebody from coming back again and asking for another change in the future that would allow that goat or something.

Mr. Gillie stated right.

Mr. Bolton asked if we leave the definition broad like it is then someone came for a special use permit, could we condition it just to plants? In other words, we could do all of this but special use permit will be issued on the condition that he not have all the livestock or the poultry? It would just simply be for crops and plants. Leave it broad so we wouldn’t have to change it every time, then limit it by special use request to just the crops.

Mr. Scarce stated I guess the main thing I’m thinking about is density. Do we want to have something to start off with that’s even that broad where something could slip through the cracks in the future generation or something. I’m thinking if it’s in town and you’ve got houses side by side that happen to have an acre and a half lot or something that want to have swine, you’ve got odor and all sorts of things to deal with that your neighbors are not going to like. Whereas via Westover Drive and you’ve got over 50 acres, then we could consider it again. That’s my issue mainly.

Mr. Wilson asked wouldn’t we deal with that because of special use on case to case basis because you’re actually making an argument for me that makes me all the more encourage it. In fact I own property out on Westover Drive and I have the space, this definition really allows me.

Mr. Scarce stated I’m speaking on this just to get conversation going so we can talk about it.

Mr. Wilson stated I guess as long as the Planning Commission and City Council will use the special use permit as it was designed to be use, we should be okay. And of course my assumption is if we’re able to change the code here, in the future if this got to be misused anywhere along the way it could be altered again.

Mr. Gillie stated correct it can be altered again. As Planning Commission you can recommend any conditions and as City Council they adopt those conditions. If someone comes in and says I want five chickens and three goats, if you condition it to that; and Council adopts it, that’s the max they would be able to have on whatever that piece of property is. If they add additional land, they would have to come back through the process to modify those conditions. It’s kind of a checks and balances system on there. We did leave it kind of broad; but if you’re concerned with the potential, you could narrow it down and

then if we continue to have people ask – and it's not like we have people ask every day- we figured while we have it out there we would leave it out there.

Mr. Scarce asked is there a way to pass it like it is broad, but insert something that reflects on density of some sort?

Mr. Gillie stated where we have the limited where it says one form of livestock animals and poultry for every three acres, we could go back in there and rewrite that section's wording to get more specific for each individual animal because the chickens don't take up as much space as a goat does versus a pig versus a cow versus a horse. We have been able to gather that from everywhere else. Even that there's no consistent listing like a horse takes X and a cow takes Y.

Mr. Wilson stated I live in the neighborhood where the cows are over in the Grove Park area. Will this change have any impact on those who are already doing this?

Mr. Gillie stated no, those are legal nonconforming. They've been there prior to the annexation. Same thing with the goats out on Elizabeth Street and the various things we have out on Westover and other places. This will only be for new operations, new folks who want to do something. Again, their plan for the urban farm up on Moffett would kind of be our first test case to see how this truly works. We've had other people in the City who have brought residential neighborhoods and we've sited them for violations and had them remove the animals. We may have a few more people come in once they find out this is an option asking for the keeping of certain livestock; not so much the crop growing but the chickens we've probably had five or so within the past year or two that we've sited for violations. The special use permit process would probably work very well in that case because I figured they would ask for it then the people who complained about it would probably come in and offer an opposition to it so we'd have that checks and balance system to see what would and would not be granted.

Mr. Wilson stated even in this particular case, all we're doing is defining this. They still haven't made an application yet and it goes to the neighbors. That process still has to happen. Then if we wanted to limit them at that point, we can.

Mr. Scarce asked does staff feel comfortable about this?

Mr. Gillie stated the under two acres we have the one form of livestock or five for three acres. We probably should change that to two to match what we have above or put "a portion thereof" somewhere in that definition so we can do the prorating based on if it's five chickens per two acres. If you have three quarters of an acre, you take five times whatever and that roughly sets your number. I'm not sure what he was proposing on his acre and a half so that number may not match what he was thinking. This is a chance for you to say how many you were planning to have.

Mr. Hearne stated we are working with the Cooperative Extension and a number of others to figure out how can we do that in the best way that maintains health and safety, that handles noise levels, handles sanitation and compost and everything else. I don't have a great number and I don't know if Matt has a number of chickens you were thinking.

Present on behalf of the request was Mr. Matt Bailey with Grace and Main Fellowship.

Mr. Bailey stated I'm a part of Grace and Main too. I've been doing a lot of work down there on Moffett Street. I worked on an organic farm last year, getting training on raising chickens and goats and things like that. I think that five chickens on three acres is an enormous amount of space. I know it's in a different setting, but where we were working there were probably 50 chickens and they may have had an acre and a half. Then they were let out to go on the property too, but they had plenty of room. It's management practices. If you manage the waste well by composting and keeping the cage clean, then smell is not an issue. I understand it's different and this is new, but this is happening all over the place. All big cities are doing this. This is not something new. It's not something that's way out there. Our neighbors are saying we used to do this a long time ago; this is great. It's not like this is new to Danville. It might be new to the code but it's not new to Danville.

Mr. Gillie stated we've found that everybody is treating it differently so for me to say X or Y, I don't have an X or Y definition I can put in there. With your acre and a half, do you have a rough idea?

Mr. Bailey stated we had looked on the Unicode website and we had found on the website it says that as long as you're enclosure is 125 feet away from another residence you can have at least ten chickens. So we were thinking of having at least ten or twenty depending on what we would have to do. We've already built the chicken coop.

Mr. Searce stated some of these lots in Danville aren't that big.

Mr. Bailey stated right but this one is. The way we have it situated, it is 140 feet from any residence right now. There are no chickens in it; it's just the enclosure.

Mr. Garrison stated but now we're talking about a specific case rather than talking about the general definition so let's not get off track. We're talking about the definition that we're going to apply whenever he applies for a special use permit.

Mr. Gillie stated there's a section in animal control ordinance, not the Zoning ordinance under the City code that regulates the keeping of chickens because in certain areas especially the Sandy River residential district which Mr. Garrison is very familiar with, that area we do allow the keeping of it which is really the only area that does. That is where the 125 feet everything falls into. So if we adopt this in other areas, this section will also apply to it and they do mention a ten in there for 125 feet as he stated. There's a second provision that would allow a certain number of distances, but the Zoning code would in fact trump that number of ten based on the size. You have a secondary ordinance as well. The definition of numbers, I'm going to leave that up to you guys.

Mr. Wilson stated now I'm confused. So are we limiting by this definition the number of like poultry than we were before by the other?

Mr. Gillie stated before they could not have them at all in old town residential district and suburban residential district and some of these others. They were allowed in the Sandy River residential district. Sandy River was our pseudo agricultural district and then under that Section 532 of the code regulated placement of the houses and the number of houses they could have so you didn't overload the areas in Sandy River that already had that number. The new definition that we're proposing would have a limit on the number if for some reason they had a lot of ten or 15 acres or something, then 532 would also come into play. We're still going to regulate it. It'll be less based on this definition and what's allowed under 532.

Mr. Wilson asked so any future development in the Sandy River area would have to apply?

Mr. Gillie stated no, they would not have to apply for special use because they would be the regular agriculture district and it's already allowed in that area.

Mr. Scarce stated I'm not nearly as concerned about the Sandy River district as I am your street or your neighborhood where you've got hundred foot lots and your neighbors want to raise chickens in the backyard. Should there be some kind of minimum amount or density brought into this definition?

Mr. Wilson stated maybe I'm still not understanding. There is another set of rules related to raising animals in the City that would still place those houses and things a proper distance away and if they couldn't meet that then they couldn't do it.

Mr. Gillie stated only if they're raising more than ten. If you have nine or less under 532 you can place those buildings and residential properties, but you have to have a maintenance plan and some other things.

Mr. Wilson stated but that already exists.

Mr. Gillie stated that exists but again for Sandy River where you allowed to have- and usually for Sandy River you don't have lots that are 50 by 100. They are five acre plus lots.

Mr. Scarce stated I'm just wondering since we've got to have a work session on parking if we ought to – and I'm all for passing the first part of it about plants and so forth but maybe hold off on the animals- have a little more discussion about it.

Mr. Wilson asked can we do that?

Mr. Gillie stated you have the option recommending approval of the B portion of it and just deal with the crop portion. We can strike through all of that, then make the recommendation to City Council then look at modifying the definition again in the future. That would give us a chance to work a little further on whether they want to allow the swine, goats and chickens. That would potentially allow you guys to work on your planting, but we still have to work out the livestock portion of it. If that's Planning Commission's recommendation then we can strike that portion of it.

Mr. Scarce stated we can go ahead and pass that part where they can plant. I think we ought to talk about that.

Mrs. Evans stated I would rather see you move forward with this stuff and then go back and tweak the livestock piece because right now if you take all that out, you're limiting them and they can't do anything.

Mr. Scarce stated we're not saying that, we're limiting them to the crops part.

Mrs. Evans stated I know but they can't even do the chickens that they built the chicken coop for if we take that out.

Mr. Gillie stated that is correct. If we take that out, they cannot do the chicken coop at this time.

Mr. Wilson stated here's my thing. We still have to do special use permit so even if they come back next month and we aren't satisfied with the chicken part and we have neighbor input and all those things that can happen, then we could say no chickens at that point because it still fits into that definition. Then we can still have the work session and work out further details at that time.

Mr. Gillie stated that is correct.

Mrs. Evans stated I have a couple more questions. I know this has to do with agriculture, but does this affect people who have had emus as a pet in their backyard in my neighborhood? It certainly wasn't an acre on their property.

Mr. Gillie stated I'm unaware of someone having an emu. If you want to tell me their address I will gladly go see.

Mrs. Evans stated they don't anymore but they did for several years.

Mr. Hearne stated for the record I think we're uninterested in emus.

Mrs. Evans stated or llamas or whatever. How do you deal with those people because they're not in the Sandy River district? It was just a pet. Then my other thing is you have under two acres and over two acres, but where is the equal to two acres? Is it equal to or greater than two acres or equal to or less than two acres? Somebody's going to come up with two acres.

Mr. Gillie stated I haven't thought about that but it's a good one. I would say urban agriculture is equal to or less than two acres. We should change that definition to include equal to or less than two acres.

Mr. Bolton asked if we can do it all by special use permit like Bruce is saying and put the conditions at that time, are you comfortable with the definition you've come up with or would you like more time to look at it now that you've had more discussion about it? Because if we can limit it to special use on a case by case, I could go forward today but if Mike is uncomfortable with it or Bruce is then maybe we should. But are you comfortable with the definition now?

Mr. Gillie stated I am comfortable with whatever City Council adopts.

Mr. Wilson stated let me ask this question another way. Is it a practical working definition if we have an exercise of power of the special use permit as people come in and ask for these things? Is it something that makes you all's job doable?

Mr. Gillie stated yes it does and that's why most of the recommendations we've been making is to put things in by special use permit because it gives a chance to get the neighborhood involved. Then the conditions can be worked out to address any concerns of the neighborhood. Us just sitting there telling someone yes or no based on what the book says is possible but we like to get everyone else involved if something is a good idea and then work it out. So special use permit is a very good thing and that's why we do that recommendation. Leaving it broad, we can go with that; if people are uncomfortable with that, then we can narrow it down and come back and change it later. As it stands right now if everyone is okay with that portion of it and it still has to go through the special use process, there is that check and balance still out there.

Mr. Scarce asked does anyone else wish to speak on the matter?

Present on behalf of the request was Mr. Bruce Hendricks from 250 Halifax Road.

Mr. Hendricks stated I have one question regarding the language of an agricultural ordinance and wondering if you have a conflict that would limit the portion to under two acres but you still have the threshold of one form of livestock animal or five poultry for every three acres. We've got a conflict between the less than two acres part and the definition of every three acres which leaves a conflict.

Mr. Gillie stated we talked about that earlier. We said we're going to add that "or a portion thereof" to it.

Mr. Hendricks stated the rounding as well too, would that be rounded down to backyard chickens? I also ask the Planning Commission to recognize the City of Martinsville about four months ago have gone through the exact same problem with people wanting a backyard chicken ordinance on there. I have some issues with that.

Mr. Gillie stated the rounding would be rounded up and Martinsville also did it similar with the special use permit process.

Mr. Hendricks stated finally the questions on these apiary products. Is that currently encouraged in all residents due to the lack of bees or is that just for the urban agriculture section?

Mr. Gillie stated it is under the agricultural section already and we are putting it under the urban agricultural to not necessary address that; we read an article about lack of bees so we put that out there. We didn't put any special conditions on them again because we feel that with special use permits as they come through, that could be handled that way.

Mr. Hendricks asked is that for urban threshold and residential?

Mr. Gillie stated Sandy River as well. It's not in the attached residential, multifamily residential or mobile home park districts. We have very little land for mobile home parks or multifamily residential and attached residential due ot the extreme density so those are places we didn't feel you should be keeping bees.

Mr. Hendricks stated I also ask Planning Commission to look at the shortage of bees to review the situation in Reidsville North Carolina where they did adopt the ordinances to include it into attached residential and there have been some beekeepers to pick that up as well.

Mr. Scarce closed the Public Hearing.

Mr. Wilson made a motion for approval with conditions per staff but to also make the item available in the next work session. Mrs. Evans seconded the motion. The motion was approved by a 6-0 vote.

II. MINUTES

Mr. made a motion to approve the May 11, 2015 minutes. Mr. Wilson seconded the motion. The motion was approved by a 6-0 vote.

III. OTHER BUSINESS

Mr. Gillie informed the Commission that City Council approved all items on the agenda from Planning Commission.

Mr. Gillie informed the Commission that they have no applications for July. The Commission will still meet for a work session to discuss urban agriculture and parking changes.

With no further business, the meeting adjourned at 3:49 p.m.

APPROVED