

PLANNING COMMISSION MINUTES
August 11, 2014

MEMBERS PRESENT

Mr. Scearce
Mr. Laramore
Mr. Bolton
Mr. Wilson

MEMBERS ABSENT

Mrs. Evans
Mr. Jones

STAFF

Sr. Secretary
Ken Gillie
Renee Burton
Scott Holtry
Clarke Whitfield

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

I. ITEMS FOR PUBLIC HEARING

1. *Rezoning Application PLRZ20130000193, filed by Danville Pittsylvania Regional Industrial Facility Authority requesting to amend the Year 2020 Land Use Plan from Economic Development to Heavy Industry and to rezone from S-R, Suburban Residential to M-I, Industrial Manufacturing District, parcel ID #75066, otherwise known as Grid 3716, Block 001, Parcel 000007 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to rezone the property to add to the Cane Creek Centre and to meet the zoning needs of future industrial clients.*

2. *Rezoning Application PLRZ20130000194, filed by Danville Pittsylvania Regional Industrial Facility Authority requesting to amend the Year 2020 Land Use Plan from Suburban Single Residential to Heavy Industry and to rezone from OT-R, Old Town Residential to M-I, Industrial Manufacturing District, parcel ID #75059, otherwise known as Grid 3716, Block 002, Parcel 000004 of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to rezone the property to add to the Cane Creek Centre and to meet the zoning needs of future industrial clients.*

Chairman Scearce opened the meeting at 3:00pm, Call the roll.

Mr. Holtry read the staff report. Eleven notices were sent to surrounding property owners within 300 feet of the subject property. Zero responses were received. Staff recommends approval of rezoning application *PLRZ20130000193 and PLRZ20130000194.*

Open the Public Hearing.

No one present to speak.

Close the Public Hearing.

Mr. Bolton asked who owns, looking at the aerial map, parcel 2252? Everything else is shaded but that parcel.

Mr. Holtry responded it says James Saunders.

Mr. Bolton asked my question really is, is that encroachment on the property? I know it doesn't matter for us today, but those buildings look like they were encroaching over on the shaded area.

Mr. Gillie responded the one portion of it maybe, and the survey for the property will actually show that but at this point we haven't been notified that it's an encroachment on it so it could be the angle of the photograph or anything else.

Mr. Wilson asked that owner was notified and there was nothing received back?

Mr. Gillie responded that's correct.

Mr. Laramore made a motion to recommend approval of PLRZ20130000193. Mr. Bolton seconded the motion. The motion was approved by a 4-0 vote.

Mr. Laramore made a motion to recommend approval of PLRZ20130000194. Mr. Bolton seconded the motion. The motion was approved by a 4-0 vote.

3. *Request to amend Chapter 41 entitled "Zoning Ordinance" of the Code of the City of Danville, Virginia, 1986 as amended, more specifically Article 15: entitled "Definitions", Section B entitled "Definitions" to amend the definition of lot line and to amend Article 3.Q: entitled "M-I, Industrial District", Section C: entitled "Uses Permitted by Special Use Permit" to allow a cemetery as a use by Special Use Permit.*

Mr. Holtry read the staff report.

Mr. Scarce asked so are you still asking for this to be tabled?

Mr. Gillie responded the one portion we are asking to be tabled, yes. The other part, the cemetery we're asking the board to make a recommendation on.

Closed the Public Hearing.

Mr. Scarce asked if there were any additional comments?

Mr. Laramore stated I'm a little confused by all of this sitting there...

Mr. Gillie stated the Board of Zoning Appeals made a recommendation that staff looks at some changes and then we also had a recommendation to change the cemetery portion of it. Due to pending legal actions, staff is recommending that we pull the portion that the Board of Zoning Appeals made the recommendation on because of the pending court case. The cemetery which is a separate item in itself we are recommending that the Planning Commission changing zoning code to allow for cemeteries in that district. Its two parts of it that's advertised. We're recommending one part the other part we think should be tabled until the outcome of the court case occurs.

Mr. Scarce asked so we can vote today on the recommended?

Mr. Gillie responded correct. You can vote today on the 3Q Section C portion of it.

Mr. Bolton stated I move then that we table.

Mr. Wilson asked do we have that action? Have we read that one yet?

Mr. Scarce asked this is to make the change here right, and then we got the two cases coming up, right?

Mr. Gillie responded correct.

Mr. Wilson asked those are the ones you're referring to?

Mr. Gillie responded those are the ones we have the cemetery questions will allow cemetery in an industrial district, yes.

Mr. Wilson asked but not the legal issue?

Mr. Gillie responded but not the Zoning Board legal issue. The Board of Zoning Appeals made a recommendation to change the definition of a front yard and how it's considered but because of the legal action we don't think we should change that definition at the moment until that court case works itself out. The cemetery is completely separate from that, we think that should be recommended for approval at this point.

Mr. Wilson asked so right now the recommendation is just on the cemetery.

Mr. Gillie responded yes, just on article 3Q section C.

Mr. Scarce responded we need a recommendation to add cemetery on the section right now is.

Mr. Bolton responded I guess I'll know that we tabled the first item dealing with the definition of the lot.

Mr. Scarce asked we will need a second vote on the tabling?

Mr. Laramore responded I second the motion.

Mr. Bolton made a motion to recommend approval of amend Chapter 41 entitled "Zoning Ordinance" on 3rd Quarter, Mr. Wilson seconded the motion. The motion was approved by a 4-0 vote. Mr. Bolton made a motion on tabling the 3Q Section C item and Mr. Laramore seconded the motion. The motion was approved 4-0 on the tabling 3Q section C item.

- 4. Special Use Permit Application PLSUP20140000196, filed by the Industrial Development Authority of Danville, Virginia requesting a Special Use Permit to establish a cemetery in accordance with Article 3.Q; Section C, Item 34 of the Code of the City of Danville, Virginia, 1986, as amended, on a portion of parcel ID #78170, otherwise known as a portion of Grid 3617, Block 001, Parcel 000001 of the City of Danville, Virginia, Zoning District Map. The applicant is requesting to establish a cemetery on a portion of Parcel ID 78170 that will later be subdivided.*

5. *Special Use Permit Application PLSUP20140000197, filed by the Industrial Development Authority of Danville, Virginia, requesting a Special Use Permit to grant a waiver to the minimum lot size in accordance with Article 3.Q; Section C, Item 31 of the Code of the City of Danville, Virginia, 1986, as amended, on a portion of parcel ID #78170, otherwise known as a portion of Grid 3617, Block 001, Parcel 000001 of the City of Danville, Virginia, Zoning District Map. The applicant is requesting a waiver to the minimum lot size requirement of 40,000sf in order to subdivide the property.*

Mr. Searce stated that item numbers four and five will be put through the public hearing together.

Mrs. Burton read the staff report. Seven notices were sent to surrounding property owners within 300 feet of the subject property. Three responses were received, all were unopposed.

Open the Public Hearing

Closed the Public Hearing

Mr. Laramore made a motion to recommend approval of PLSUP20140000196, and Mr. Bolton seconded the motion. The motion was approved by a 4-0 vote.

Mr. Laramore made a motion to recommend approval of PLSUP20140000197, Mr. Wilson seconded the motion. The motion was approved by a 4-0 vote.

6. *Rezoning Application PLRZ20130000201, filed by Marshall Construction Co. requesting to amend the Year 2020 Land Use Plan from Community Service to Multi-Family Residential and to rezone from HR-C, Highway Retail Commercial to M-R, Multi-family Residential, on parcel ID #s 72875 and 72876, otherwise known as Grid 0708, Block 002, Parcels 000006 & 000007 respectively of the City of Danville, Virginia, Zoning District Map. The applicant is proposing to rezone to construct patio apartments.*

Mrs. Burton read the staff report.

Open the Public Hearing.

Mrs. Phyllis Marshall appeared on behalf of Marshall Construction Company.

Mrs. Marshall stated she is here today to ask to please consider our request to build approximately sixteen to eighteen apartment homes on the Mount Cross Road property. As you know we are a property management company business with rentals in the city of Danville as well as Pittsylvania County. My in-laws have been in the business for over 65 years, and we are proud to be locally owned and operated. In the past few years we have noticed a demand for senior housing. We have primarily built apartment homes that are all one level with very few steps. I'll pass this picture around. We built several of these as many of you know out on Franklin Turnpike. We market these rental units to older persons looking to downsize. We have rented to many seniors who are not quite ready for assisted living

and they are happy to keep their independence at our apartment homes. We go the extra mile to take care of their maintenance needs, from changing light bulbs, to replacing filters, to adding hand rails as they need them for use in and out of their homes. Our tenants have varied reason for moving into our apartments. They often want to give up their large costly homes after losing their spouses. They may be tired of keeping up a yard and making repairs to aging homes. It was said that our rental company, in one of the negative comments you got back that apartment dwellers are low income. We control who goes in and out the apartments and we are not government subsidies. We also have strict criteria for our rentals. The other comment made was that apartment destroys property values. In our minds we are improving the neighborhood when we make a huge investment in the community by building nice rentals units. We're pretty sure that the City of Danville appreciates the additional tax revenue also. Last year alone in the City of Danville we paid over \$100,000.00 in property taxes. While I'm not able to change the perception of home owners about apartment dwellers, I would like for you all to consider a few comments made by a few of our tenants.

Mrs. Marshall read two letters from their tenants. We thank you for your consideration and if anyone has any questions at this time, I would be glad to answer them for you.

Mr. Bolton In your letter you stated that for senior living, I know you legally specified 55 and older in other words once you say it's 55 and older complex you can't put anybody in there less than 55, except under certain conditions. Are you saying that you're willing to do that, it's definitely 55 and older patio homes or are you just saying enlightenment of senior citizens.

Mrs. Marshall responded we wouldn't designate it as such. We would not. What we are finding when these apartment homes go up, that's primarily our target market. That's who moves under these one level apartments.

Mr. Bolton stated but you're not willing to specifically say 55 and older.

Mrs. Marshall asked would that be a condition of the rezone?

Mr. Bolton responded well my thought is, they're saying its spot zoning and usually in their comments it's like: could be, maybe, might be. It sounds almost definite in this case is spot zoning. You seem more definite in this than previous. So my concern is, if we don't have a community service or it helps the community that it is spot zoning. My point would be if you would designate 55 and older, I think there is a need for 55 and older apartments. Most apartments, if you look, have younger people, I think downtown and those apartments. The younger folks will go in down there, but there is a need for a for 55 and older. Without that I don't see where we would get around spot zoning, but with that I would question if we could or couldn't.

Mr. Gillie responded spot zoning is in effect in the eye of the beholder. The reason staff is recommending denial in this case and we've supported the Marshall's on multiple other projects, is for the city, we feel that this is our next major commercial corridor. Piedmont Drive is one, and Piedmont Drive is almost occupied. Piney Forest Road is almost completely occupied as well. The next spot in working with the county is Mount Cross Road out to Mill Creek, where you have the funneling of traffic from the county to come into the city. We already have the highway retail commercial zoning in place which we feel fits that commercial corridor, so we feel it's setup and then with the road improvements that we

would like to eventually see occur, we just feel that apartments aren't necessary appropriate for this area, we already set our land use plan, we've set the zoning. That's why we feel it's spot zoning, nothing against the Marshalls, they do a great job with their apartments and we'd love to see them build some more apartments. Staff just feels that this isn't the right location for them to build those apartments. If planning commission feels otherwise you can make that recommendations up with City Council on what they consider spot zoning or not, it does have to have a benefit for the community. Would providing more senior housing be a benefit? Definitely! We're always in the need for senior housing. We've had multiple projects for senior housing here in the city. Would it change staff's mind on the recommendation? No, we still don't feel that this is an appropriate place for apartments to be built. I would like to work with them on finding them another spot and build those apartments somewhere else. So that's up to you. Does that answer your question?

Mr. Bolton answered it does.

Mr. Wilson asked have you all already had these conversations, so when you came in you were aware that basically the recommendation was going to get denied?

Mrs. Marshall responded to be honest with you no, I was on vacation last week, and got the email this morning that it was considered spot zoning although Renee may have brought it up, she said that would be a possibility that that subject would be brought up of spot zoning. But my question back to Kenny, I'm not trying to put you on the hot seat, within half a mile of this property there are 32 apartments.

Mr. Gillie responded those were built prior to annexation of the City, the ones right beside Wal-Mart. We didn't have the opportunity to plan for those. Those came into the city as they were. At this time would I recommend for additional apartments to be built there, no, no I wouldn't, because we feel that this road again is in the long range plan to be a five lane commercial corridor to catch the traffic from the county into the city and also those from the city out to the county. I just feel that the traffic is going to increase in that area, the numbers are already up, as we see, and residential development is usually not conducive to that amount of traffic, so we feel this area just based on our plans as well as the county's long range plans, I've discussed this with my counterpart in the county who said yes we have commercial designation out to Mill Creek. They're envisioning the same things we are, that this will be a major commercial corridor for both them and us. That's why we don't feel it's appropriate for apartments. I think you got a great piece of property. I think you can build something really nice and commercial on it, and I loved to support you on that. The apartments I don't think it's really appropriate for long term on that site.

Mrs. Marshall responded addressing the traffic issue, if we were to put a spritz center on the property, which we could do with all various businesses that could go on the property. We felt like it would be more traffic with various businesses that could potentially be open 24 hours a day. The other side to that, when you build apartments people want to live in a good location. They want to be close to shopping, doctors, banking and restaurants. So that in our mind is why we felt that would be a good apartment location.

Mr. Wilson asked when you guys decided to do this did the long term managed plan, the commercialization of that corridor, were you all aware of that and planned in accordance with that or did information come since you began this project?

Mrs. Marshall responded this kind of came about in the last couple of years, people have requested to be in that particular area. Mr. Marshall has owned the property for about 13 years now, at that time we knew it would be commercial, we were not thinking at that time of purchase of apartments, but because of the demand people wanting to be near Wal-Mart and their doctors we felt like it would be a good property to build apartments on.

Mr. Wilson stated well I have couple of initial issues here, and that is one it still seems like there are outstanding questions that may need to be worked on although I think they've said pretty clearly that placing apartments in that area is something they are not fully seeing as a great idea long term, they have to go through and be developed and its impact and things like that. Also the fact that we don't really have a plot of that area and the placement of the apartments or a picture of that. We have pictures of apartments and floor plan, but we really don't know, we would be ask to vote on something that we really can't imagine how it's going to sit on that property. So for us to override a recommendation of staff without details of this, without actually seeing how it would set on the property is a little bit of a concern to me personally. I want to be supportive of this, nobody knows better than I do about senior housing and you guys will be fantastic property owners. I'm not uncertain about that, but there's a couple of areas here I think we don't actually have, I don't know who is helping provide that plot.

Mrs. Marshall responded we had considered that Mr. Wilson actually we have done that, The County requires it before you go through this process. To actually put that on paper would run about \$10,000 to \$12,000 by the time you pay a surveyor and engineer and it's unfortunate that would be the cost, but we just looked at it that we would try to get the property rezoned without it.

Mr. Bolton asked how big is that lot?

Mrs. Marshall responded I know its 250 ft. wide, probably about 500-600 ft. deep.

Mr. Wilson responded about 1.75 acres

Mr. Bolton asked how much of it widening that road does that take?

Mr. Gillie responded that's a hard question to answer because the design of the road hasn't been done yet, so I'm not sure if it will dead center of the right of way, or if it's going to shift over and then at that point with the angle of the road way, this would only be a guess, and it a guess at the best, I would guess only about 50 ft. of additional right of way, maybe. Then again that's a guess based on absolutely no scientific or engineering work. I'm just from the top of my head trying figure how the lane comes through and everything else and what we would need.

Mr. Bolton asked that would still be 450 ft. How far are you thinking about setting those patio homes back?

Mrs. Marshall responded Mr. Marshall and I have looked at it and we're thinking about 60 - 100 ft. back no more than 100 ft. back.

Mr. Bolton asked so a good distance from the road?

Mrs. Marshall responded yes

Mr. Bolton stated kind of going back to my original question of 55 and older, and I have in mind the traffic issues too that someone else had brought up. With 55 and older you are probably going to have one or two cars max, for those folks 55 and older their children are grown so and you may have one driver maybe two, so that would eliminate some of the concerns some of the neighbors have had with traffic and their concerns with traffic too. So I think in my mind there are some things that might be able to happen if you would promise to 55 and older a definite complex to 55 and older. I still don't know that that would do it because I trust them when they say this is spot zoning but I'd like to find a way, I mean I in larger towns a long area like Riverside Drive and both areas there are apartment complexes, so the commercial and that land doesn't bother me as much as it being just apartments only if you promised 55 and older. It would give me a better sense of calm.

Mr. Wilson stated part of our position is to try to be the citizen's voice in between the difference aspects to this. In often times for us, like citizens might do have the information, so even a rough picture, maybe not engineering drawings but some kind of roughed out idea of where this will sit on the property give us some idea to what that 60 – 100 ft. back as we try to imagine where that would be on the property.

Mrs. Marshall asked when would we offer that up Mr. Wilson, at the next meeting?

Mr. Wilson responded well either we're going to take a vote here and deny this, then it goes to city council.

Mr. Scarce responded even if we deny this it still goes to city council and they can still override that decision they so choose of course they will be pulling the staff recommendation too.

Mrs. Marshall asked can I come back to your next meeting with the site plan, as Mr. Wilson suggested?

Mr. Gillie responded the applicant can request it to be tabled or planning commission can vote that.

Mr. Laramore asked do you have any other properties in the area? Do you have anything else that would serve your purpose and accomplish what the city is trying to do with this ??? keeping it from HRC?

Mrs. Marshall responded we do have additional properties but they actually would be better suited for commercial uses like the strip center, convenience store, gas station or grocery stores.

Mr. Wilson responded we have a recommendation from the staff we have taken that seriously. I personally concerned about when they say there's going to be development along there we don't think the long term is going to be compatible to put an apartment complex. So that leads me to the next thing so if we were to say ok with this having more information on our part something that makes us feel a little more confident that we would be willing to step over that. So sounds to me like one of those cases that happens once in a while where a little more information, it may turn out the same decision I don't know if it's a risk there, but a little more information a little more work on it to help put us in a better position to think through a request where we actually have a recommendation.

Mrs. Marshall responded certainly

Mr. Bolton asked is it appropriate to ask them if they would rather have a vote today so they can get on the council with it?

Mr. Searce responded we can vote, but my hands are kind of tied and feel like we almost have to vote no, still goes to city council and they can vote no or yes.

Mrs. Marshall asked or we can table it until your next meeting if we were to change it?

Mr. Searce responded you can do that but there's still no guarantee.

Mr. Laramore stated I don't know whether changing it to 55 or older makes a big difference from the two major standpoints.

Mr. Searce asked do you think a 55 and older property with a diagram would soften the position from staff?

Mr. Gillie responded at this point I have nothing, really to go on. You got all the information that I have. A month, will it give us a chance to work any of the details out, I don't. At this point we're think commercial corridor on that area and I never thought I'd say this but the commercial piece strip center may be a better option on that piece of property, but we can work with her on it and see. That gives us a time to go back and look things over. I haven't had a chance to discuss in much detail at all with Mrs. Marshall so possibly that time wouldn't hurt. If you make a recommendation to deny it goes in front of city council and they deny, I'm just concerned that she can't come back for a certain period of time and if we could work anything out it would hold up a lot of things. If it's up to the planning commission and Mrs. Marshall, hold it for a month and give us a chance to see if we can work something out, I don't know, but we can come back and see maybe there are some conditions or something else the concern with the commercial widening of the street other things like that we haven't discussed.

Mr. Searce stated if you want to ask us to table we will vote for that, and then you will work with staff and at that point you feel like between talking with staff you feel like you have a 50/50 chance with the new information you can bring it back next month and if he just says it's not going to work here you can with draw. Ok?

Mrs. Marshall responded ok, that's what I would like to do.

Mr. Wilson responded I think what he said here is really important here. It's kind of like Jimmy said If we deny its like we almost have our hands tied. then you've got a waiting period and try to resubmit. If the table rest on it work on it for a month then if its gets through you go for it.

Mrs. Marshall responded that's what we would like to do.

Mr. Wilson stated may be no different.

Mrs. Marshall responded we understand, we'll take a chance with them. To mention to you also Kenny a strip center on that property we'd love to build one but their kind of hard to rent

in Danville now because there's lots of empty spaces around so we're a little hesitant to put that in but we know for certain that we could rent the apartments there.

Mr. Gillie stated okay.

Mr. Bolton responded well and too he's indicated he's a little synthetic to me.

Mr. Marshall stated I have looked at this property a dozen times and the entrance and exit would have to be on the lower end. The traffic up on Mount Cross Road is terrible, I'm not denying that, but according to the ordinance you can put a service station there, and these would not be as much traffic as a service station. When we apply for the permit we get with Mr. Kenshaw sit in there and make sure we are off set from the right a way enough. I think in the long range plan for the city, Mount Cross Road is going to be wider. It was in the paper about two years ago and I called Mr. Shelton at that time and he said there were still no definite plans. Anything we do we would certainly abide by the city to make sure we're in good shape.

Close the Public Hearing

Mr. Wilson made a motion to table PLRZ20130000201. Mr. Bolton seconded the motion. The motion was tabled by a 4-0 vote.

II. MINUTES

Mr. Searce stated the next thing on the agenda is the approval of the minutes from July 7 meeting. City attorney said we can just do a vote back.

Mr. Gillie responded yes.

Mr. Searce stated there were no comments or changes on the minutes and a motion to be accepted.

Mr. made a motion and Mr. Bolton seconded the motion of approval of the meeting.

III. OTHER BUSINESS

With no further business, the meeting adjourned at 4:35 p.m.

APPROVED