

PLANNING COMMISSION MINUTES

September 9, 2019

MEMBERS PRESENT

Mr. Wilson
Mr. Dodson
Mr. Garrison
Mr. Jones
Mr. Bolton
Mr. Searce

MEMBERS ABSENT

Mr. Petrick

STAFF

Lisa Jones
Ken Gillie
Clarke Whitfield

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

I. ITEMS FOR PUBLIC HEARING

1. *Rezoning application PLSUP20190000326, filed by LE&D Professionals PC on behalf of Daniel Group Inc, requesting to rezone from PS-C, Planned Shopping Center Commercial to HR-C, Highway Retail Commercial District, a portion of 3311 Riverside Dr, otherwise known as Grid 1713, Block 004, Parcel 000002 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to consolidate the portion with adjacent land.*

Mr. Searce opened the Public Hearing.

Mr. Searce closed the Public Hearing.

Mr. Ryan Gatewood stated I work for LE&D Professionals and I'm here on behalf of the Daniel Group. Mr. Gatewood stated they have been working with Ken in the Planning Department to rezoning this property to consolidate with the property at Western Sizzlin. Currently the Western Sizzlin parking isn't within their zoning and they are trying to combine these two lots to bring it up to standards.

Mr. Bolton made a motion for approval for the Rezoning application PLSUP20190000326 as submitted. Mr. Garrison seconded the motion. The motion was approved by a 6-0 vote.

2. *Special Use Permit application PLSUP20190000294, filed by Jagjit Singh on behalf of Suhasons Inc., requesting a Special Use Permit for commercial recreation (indoor) in accordance with Article 3.M, Section C, Item 4 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended at 395 Mt. Cross Rd., otherwise known as Grid 1709, Block 004, Parcel 000002 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to have indoor gaming.*

Mr. Searce opened the Public Hearing.

Mr. Jagjit Singh spoke on behalf of Suhasons Inc. Mr. Singh stated we don't understand what the issue is regarding those games or that they may cause hazardous situations.

People spend a lot of time when they come in to play the lottery. It is inaccurate that standard parking turn around rate is at my store. Another issue that I have is the limited hours for operation. Why is that not applied to Virginia Lottery because it is the same cash flow? I also question the proposal to limit stores to no more than one machine for every three people allowed by the maximum occupancy. On the issue of parking the government shouldn't step in to make that decision for me. Everyone that comes to the store to play the games they enjoy them and there is a skill to play them and not a chance which is considered gambling.

Brent Jackson, stated I am an attorney who represents two of the applicants that use machines from Grace Technologies. The games involve deductive reasoning to improve both the chances of winning and the potential amount to be won. You are now controlling your chances, and that is not gambling. Gambling is strictly chance. I have been dealing with the gaming industry for over a decade. So, gaming under the laws of the Commonwealth of Virginia is strictly putting money forth for something of value and allowing the fortunes to determine whether or not you will receive a prize. The validity of the violation notices the businesses received into question, saying they were inappropriate and not specific. We need to have a basic understanding of what the problem is.

Ken Gillie cited the city code for special use permits and said the notices were specific because they stated the need for the business to obtain a special use permit. I haven't done anything that is out of the ordinary. I'm following procedure.

Brenda Lewis, stated I am a citizen of Danville. I am retired here in 2015 and I am very active in the community. Gaming is something that I consider fun and I am here not as an owner and not a legal expert but just as a person that enjoys the game. My favorite gaming spot was Quick N Plenty. I found that it was well managed and I never faced a parking problem there. Most of the people that came and used the machines were retired people. We did not see any criminal activity and it was quiet. I consider myself as a reasonable person and I certainly hope that you will understand it just adds to the one thing that we consider fun to the retired people of Danville. It is a safe and well managed place to go.

Chris Petersen, affiliated with the Virginia Charitable Gaming Council, said the lack of regulation and oversight on these skill games are eating into the receipts of both the Virginia Lottery and the Charitable Gaming Associations. The games we're talking about here are not reviewed by anyone, are not approved by anyone.

Mr. Gillie stated we are not focusing on the legality of the machines, just the machines are there. The parking issue that we have had the neighbors say that they can work it out, but as a Government our job is to protect those that don't sometimes speak for themselves. They call us and say "I have a parking problem can you do something about it" because they don't want to be bad neighbors. So, when there are issues, and yes, they can find some where to park but finding somewhere to park is on someone else's property. We have had issues where the number of people that are using these are exceeding the limit to park on site. We have some concerns that these buildings have limited occupant load based on the size of the building and as they said this may exceed that. We are looking at health safety and welfare issues and trying to protect the interest of the community not whether they are legal or not and that is why we are sticking by our recommendations and feel that some of these need some additional time to address some of the concerns that have come up. I don't have certification for all of these properties yet. A lot of them don't have marked parking and we can't determine if they comply with what they are supposed to have with the

property. We need some time to work with the owners of the facility to come up with a true parking plan to have the facility surveyed for occupancy. If the exit lights and emergency lights they should have them, but based on the age of these buildings and the annexation, I don't know. These are the things that we feel to protect the welfare of the folks coming in and out of them need to be done.

Mr. Jones asked just for my clarification your recommendation of postponing is more for addressing these items than postponing to see what comes of the case in Charlottesville?

Mr. Gillie stated correct. The Charlottesville case is something completely different from this, we just want you to be aware of the fact that this is out there. There are people out there that are concerned if this is legal or not. I'm not the guy to do that, that's the Commonwealth, Attorney. I just look at it from a zoning aspect.

Mr. Garrison made a motion to table this until we have the information needed for this special use permit PLSUP20190000294. Mr. Wilson seconded the motion. The motion was approved by a 6-0 vote.

3. *Special Use Permit application PLSUP20190000295, filed by Jagjit Singh on behalf of Kaur & Sons LLC, requesting a Special Use Permit for commercial recreation (indoor) in accordance with Article 3.M, Section C, Item 4 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended at 103 Franklin Tpke, otherwise known as Grid 2806, Block 009, Parcel 000010 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to have indoor gaming.*

Mr. Scarce opened the Public Hearing.

Mr. Jagit Singh spoke on the owner's behalf. Mr. Singh stated I don't agree with the hours of operation; that should be left for the business owner to decide.

Mr. Scarce closed the Public Hearing.

Mr. Garrison made a motion to table this until we have the information needed for this special use permit PLSUP20190000295. Mr. Bolton seconded the motion. The motion was approved by a 6-0 vote.

4. *Special Use Permit application PLSUP20190000320, filed by Abdul Wahid Khan on behalf of Catbird Properties LLC, requesting a Special Use Permit for commercial recreation (indoor) in accordance with Article 3.J, Section C, Item 2 of the Code of City of Danville, Virginia 1986, as amended at 1225 Franklin Tpke, otherwise known as Grid 1916, Block 003, Parcel 000005 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to have indoor gaming.*

Mr. Wilson opened the Public Hearing.

Fielding Douthat, Attorney, stated I am with Woods-Rogers in Richmond and I represent Items 4, 5 and 12. We have talked a great deal today about parking issues and generally I think what we are talking about concerns safety and parking. Convenience stores have a long history of any number of uses whether it is food, quick purchases like milk, or nabs, or whatever it may be, and video games have been in stores for as long as I can remember. I remember playing pinball and pac man, whatever they may be. Any number of other people

there, all the time playing those games. As time has evolved, you have ATM machines in there now and you have people coming in there to use the fax. When you have the lottery sometimes you have lines out the door. It's the same potential issues for all of those and none of that ever comes up when you are talking about these issues. When we are talking about these games at this particular time, and these games are games of skill, they are just like any other game and there is no difference here. In terms of the parking and the conditions of the light and the information that is out there. I have some documents that I would like to pass out to everyone. These games are prevalent throughout the Commonwealth of Virginia and you see them in localities all over the place. These kind of games are in stores all over Richmond. So, what you have here are photos of the parking lot and the inside of the store and the three stores that I represent. Those pictures there were taken on a Saturday afternoon and you will see that there are no parking issues. There is plenty of parking for everybody and there are not that many people using the machines. Let's talk about 1225 Franklin Turnpike that's what we are here to talk about now. This picture was taken about 4:00 on Friday afternoon and you can see that there is plenty of parking all throughout, and there are marked spots. A few cars there but not many and the parking goes all the way around the building. If you look inside you will see the one machine in the store and there is nobody playing that game. There is plenty of parking and there are no cars there and nobody is playing the game. The point is that you can look at the parking lot and see that there is plenty of parking and you can see that there is cars there and you know the time of day and you can look inside and nobody is actually playing that game.

Mr. Scarce stated was this taken before last Friday?

Mr. Douthat stated your right, nobody would be playing the games. The point being that there is plenty of parking and there is no one playing the game.

Mr. Scarce stated so they comply with the ordinance?

Mr. Douthat stated there is only one game in their store and there is plenty of parking there and parking would not be an issue. In looking at the proposed conditions and limiting the hours and I'm not sure why it would make more sense if your store is opened you can simply play a game if you wanted to. However, it's not that big of a deal. The parking lots, certificate of occupancy and the lights it is a difficult concept to understand. We are requesting a Special Use Permit be granted and as far as some kind of governance on what is going on and maybe it makes more sense to have four machines of something like that. My clients have spent money and time out of the opportunity to make business and make money in what is at present a legitimate business. There is no need for them to be delayed.

Mr. Scarce closed the Public Hearing.

Mr. Bolton made a motion to table this until we have the information needed for this special use permit PLSUP20190000320. Mr. Jones seconded the motion. The motion was approved by a 6-0 vote.

- 5. Special Use Permit application PLSUP20190000319, filed by Inam Qazi on behalf of UHA Inc, requesting a Special Use Permit for commercial recreation (indoor) in accordance with Article 3.M, Section C, Item 4 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended at 1354 Westover Dr, otherwise known as Grid 0710, Block 001, Parcel 000006 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to have indoor gaming.*

Mr. Searce opened the Public Hearing.

Mr. Fielding Douithat spoke on behalf of Inam Qazi. Mr. Douithat stated we have the same basic position that I expressed before, as you, if you wouldn't mind to turn to 1354 Westover Drive. Again, this goes to the parking issues that we seem to be discussing here. The conditions, coming up with a math equation to try to determine how many parking spaces is makes more sense to look at what you got to see what is there and make a recommendation on that. They have four machines and you have a small store that is sitting on a large lot.

Mr. Searce stated I got one question, this store has a restaurant behind it and I don't think it is being used right now.

Mr. Douithat stated I'm not sure.

Janie Lundsford stated I do not live in Danville but my husband and myself, own six rental properties around this community store. I disagree that there is a lot of parking there, that picture makes it look like there is a lot of parking. In the front Wade Street that goes down beside this convenience market is a very narrow street. To get two cars down that road as you turn in is hard to do. I just don't think that it has enough parking. All that parking in the back did go with the restaurant. It is very hard to get out of Wade Street and there is a lot of housing and residential on that. If they put fifteen machines in that store there should be a concern too. I just know by going in and out of my property that it is hard to get out and with the cars parked in front of the store it is very hard to see. I think that parking should be a consideration and the number of games that they can have. I just can't imagine having fifteen games in there.

Keith Fields stated I am an adjacent property owner about 300 feet from there. My biggest concern is residential, going back to the health and safety issue of this. This is a very busy stretch of road, if you can't see it on the complete map. You have several streets that all are emptying to this remote area probably within a matter of thousand feet. I am a resident and I live right off Wade Street and it is very difficult to turn off of Westover Drive West Bound to get in there when there is traffic at this convenience store. If you look at everything considering the traffic pattern goes from four lanes to two lanes, which is right there, we are highly blessed with some good businesses. There are a bunch of automotive, gas houses and dollar general. If you look at the proximately of where all of those are and how they dump into Westover already and it is like a nightmare. I can't really imagine having more traffic as we have talked this afternoon, adding to that.

Mr. Searce closed the Public Hearing.

Mr. Jones made a motion to table this until we have the information needed for this special use permit PLSUP20190000319. Mr. Dodson seconded the motion. The motion was approved by a 6-0 vote.

6. *Special Use Permit application PLSUP20190000290, filed by Hewa Jayawardena on behalf of Jerry Davis, requesting a Special Use Permit for commercial recreation (indoor) in accordance with Article 3.M, Section C, Item 4 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended at 4800 Riverside Dr.,*

otherwise known as Grid 0709, Block 002, Parcel 000019 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to have indoor gaming.

Mr. Searce opened the Public Hearing.

Mr. Hewa Jayawardena spoke on behalf of Jerry Davis. We don't have any parking space problem or any kind of traffic problem.

Brent Jackson, Attorney stated he is actually one of my clients. I realize we have to set a precedent with regards to the other decisions. I respect that, but I just want to add that my client and some of the others have said that they have adequate parking and no problems today as far as overcrowding or hazardous conditions. How are we to determine a situation that is not hazardous? This gentleman has over twelve parking spaces are we to use an equation to determine the x amount of parking spaces?

Mr. Searce closed the Public Hearing.

Mr. Wilson made a motion to table this until we have the information needed for this special use permit PLSUP20190000290. Mr. Garrison seconded the motion. The motion was approved by a 6-0 vote.

- 7. Special Use Permit application PLSUP20190000297, filed by Satjeet Kaur on behalf of River Penny Saver LLC, requesting a Special Use Permit for commercial recreation (indoor) in accordance with Article 3:K, Section C, Item 5 of the Zoning Ordinance of the Code of the City of Danville, Virginia 1986, as amended at 642 Worsham St., otherwise known as Grid 2710, Block 016, Parcel 000010 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to have indoor gaming.*

Mr. Searce opened the Public Hearing.

Mr. Bob Vaughan spoke on behalf of River Penny Saver LLC. Mr. Vaughan stated of course we wish for the Planning Commission to approve the application. I want to point out that the machines at this location, were there for a period of time just like the other cases. When it became apparent that there was some objection to them, they stopped using them and complied with that and applied for this application. Again, if the machines are indeed lawful I suggest that the permit should be granted. The only comment I have basically their circumstances are just like all the others but there are a few unique characteristics of this particular location that you ought to be aware of, she has approximately twenty two to twenty five parking spaces. Interestingly enough for forty two notices to be sent out at this location of those six responded positive and three negative. We are willing to abide by whatever reasonable conditions that the Commission adopts for the allowance of these machines once it is determined.

Mr. Searce closed the Public Hearing.

Mr. Wilson made a motion to table this until we have the information needed for this special use permit PLSUP20190000297. Mr. Dodson seconded the motion. The motion was approved by a 6-0 vote.

8. *Special Use Permit application PLSUP20190000299, filed by Shahid Javid on behalf of MKM Partners, requesting a Special Use Permit for commercial recreation (indoor) in accordance with Article 3.M, Section C, Item 4 of the Zoning Ordinance of the Code of the City of Danville, Virginia 1986, as amended at 1501 W Main St. otherwise known as Grid 0611, Block 004, Parcel 000001 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to have indoor gaming.*

Mr. Searce opened the Public Hearing.

Mr. Searce closed the Public Hearing.

Mr. Garrison made a motion to table this until we have the information needed for this special use permit PLSUP20190000299. Mr. Bolton seconded the motion. The motion was approved by a 6-0 vote.

9. *Special Use Permit application PLSUP20190000309, filed by Samir Patel on behalf of Dutta Inc of Virginia, requesting a Special Use Permit for commercial recreation (indoor) in accordance with Article 3.M, Section C, Item 4 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended at 2100 W Main St, otherwise known as Grid 0610, Block 004, Parcel 000001 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to have indoor gaming.*

Mr. Searce opened the Public Hearing.

Mr. Brent Jackson stated I represent Mr. Samir Patel and he just asked that I address this condition on his behalf. He currently has five machines at this location and he also has ten front parking spaces as well as two in the rear. He feels that he has more than adequate parking and he has never had any problems with regards of parking issues and there does not appear to be any hazardous conditions. People that come and engage in skill games, and what surprised me, the groups of people that engage are of all ages. The majority of the people that do play are usually the people that live in the area of the convenience store. The older patronage play them and they turn it in to a meeting place. There are never any issues and they are people that live in the area and they are normally of an older age.

Mr. Searce closed the Public Hearing.

Mr. Wilson made a motion to table this until we have the information needed for this special use permit PLSUP20190000309. Mr. Dodson seconded the motion. The motion was approved by a 6-0 vote.

10. *Special Use Permit application PLSUP20190000311, filed by Danny Graves on behalf of Larry Soyars, requesting a Special Use Permit for commercial recreation (indoor) in accordance with Article 3.M, Section C, Item 4 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended at 688 Mt Cross Rd Suite B, otherwise known as Grid 0708, Block 001, Parcel 000012 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to have indoor gaming.*

Mr. Searce opened the Public Hearing.

Mr. Danny Graves, owner and operator of Graves Auto and Detailing. Mr. Graves stated I do a lot of detailing around the area for multiple dealer ships. My case might be a little bit different, because above me is a convenience store and my detailed shop is on the bottom. I have been there for thirteen years. I feel like it would be a great contribution to my business because a lot of people that I deal with are senior citizens. On the front upper level is a service station and convenience store and that is their business but I'm on the back side and we are separated. I would like you to take in consideration that I think it would help my business to have those machines because people can relax while we are detailing their vehicle. I feel like if I add them to my business that it would add more customers and add more revenue for me.

Mr. Searce closed the Public Hearing.

Mr. Garrison made a motion to table this until we have the information needed for this special use permit PLSUP20190000311. Mr. Bolton seconded the motion. The motion was approved by a 6-0 vote.

11. Special Use Permit application PLSUP20190000312, filed by Chase Reeves on behalf of Jerry Davis, requesting a Special Use Permit for commercial recreation (indoor) in accordance with Article 3.M, Section C, Item 4 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended at 2846 Riverside Dr, otherwise known as Grid 1710, Block 006, Parcel 000001 of the City of Danville, Mr. Garrison made a motion to table this till we have the information needed for this special use permit PLSUP20190000295. Mr. Bolton seconded the motion. The motion was approved by a 6-0 vote. Virginia Zoning District Map. The applicant is proposing to have indoor gaming.

Mr. Searce opened the Public Hearing.

Mr. Chase Reeves, stated I'm here representing this special use application. I understand that we are here today just for zoning. I currently manage and operate a large amount of locations in North Carolina as well as Virginia. A lot of money is going to North Carolina and everyone that plays is going to North Carolina. Some people that go to the gas stations and there is a large amount that are traveling outside of Danville to play these games. In Virginia we pay taxes so we would like to have ten to twenty machines at this location as well as pay taxes. We have over twenty parking spaces and I don't see any problems with parking. If there are problems with parking then we would speak to the businesses owners to resolve that. We would actually run from 8:00 am to 8:00 pm and we don't have any issues with the time.

Mr. Garrison stated are you planning on putting a convenience store in or just machines?

Mr. Reeves stated just machines.

Mr. Searce closed the Public Hearing.

Mr. Garrison stated this is a huge space, it's the old payless store.

Mr. Bolton made a motion to table this until we have the information needed for this special use permit PLSUP20190000312. Mr. Jones seconded the motion. The motion was approved by a 6-0 vote.

12. *Special Use Permit application PLSUP20190000317, filed by Abdul Nasir on behalf of HRNA LLC, requesting a Special Use Permit for commercial recreation (indoor) in accordance with Article 3.M, Section C, Item 4 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended at 1371 Piney Forest Rd, otherwise known as Grid 1920, Block 013, Parcel 000092 of the City of Danville, Virginia Zoning District Map. The applicant is proposing to have indoor gaming.*

Mr. Searce opened the Public Hearing.

Mr. Fielding Douthat spoke on behalf of Abdul Nasir. Mr. Douthat stated I know where we are going to end up here and thank you all for your time. Just a couple of things to consider as we move forward that each one of these applications needs to be looked at individually and considered on its own merits. We have heard a lot about safety concerns but I would ask as we are moving forward but we haven't actually heard any safety issues raised today. We have talked about parking and I have provided information on parking. There is no evidence of parking issues here. This store has two machines and there are plenty of parking there. We are trying to get to the issue here do we have a parking issue or is there a limit on machines that are in a store. What are we talking about here? The evidence that I have presented to you from each of these cases demonstrates parking and there is no real issue here. I understand where I think we are going with this and Thank you very much for your time.

Mr. Searce closed the Public Hearing.

Mr. Garrison made a motion to table this until we have the information needed for this special use permit PLSUP20190000317. Mr. Bolton seconded the motion. The motion was approved by a 6-0 vote.

IV. MINUTES

The August 12, 2019 minutes were approved by unanimous vote.

V. OTHER BUSINESS

With no further business, the meeting adjourned at 6:20 p.m.

APPROVED