



**REVISED**

## **DANVILLE CITY COUNCIL REGULAR MEETING AGENDA**

### **MUNICIPAL BUILDING**

**July 7, 2020**

**7:00 P.M.**

**PRESIDING** Alonzo L. Jones, Mayor

**CITY COUNCIL  
MEMBERS:** James B. Buckner  
L.G. "Larry" Campbell, Jr.  
Barry P. Mayo  
Dr. Gary P. Miller, Vice Mayor

Sherman M. Saunders  
J. Lee Vogler, Jr.,  
Madison J. Whittle

**STAFF:** Ken F. Larking, City Manager  
Earl B. Reynolds, Jr., Deputy City Manager

W. Clarke Whitfield, Jr., City Attorney  
Susan M. DeMasi, City Clerk

The City Council is the City of Danville's legislative body and is composed of nine Council members. Council members are elected to serve a four year term of office and elects one of its own to serve as Mayor and presiding officer for a two year term.

#### Time and Place of Meeting

The public is invited and encouraged to attend and participate in the City Council meetings. The City Council meets in the City Hall, Fourth Floor, Council Chambers at 7:00 p.m. on the first and third Tuesday of each month. All meetings of the Council are open to the public.

#### Communications from Visitors

*Communication from Visitors* is an opportunity for citizens to address Council on matters not on the agenda. Citizens who desire to speak on agenda items will be heard when the agenda item is considered. Each speaker shall clearly state his or her name and address. Each individual speaker shall have five uninterrupted minutes. A representative of a group may have up to ten uninterrupted minutes to make a presentation. The representative shall identify the group and a group may have no more than one spokesperson. Time will be kept using the electronic timer on the podium.

#### Guidelines for Public Hearings

For Public Hearings the applicant or his or her representative shall be the first speaker(s). There shall be a time limit of ten (10) minutes for the applicant's or his or her representative's presentation. The presiding officer shall then solicit comments from the public, asking those in favor of the proposal to speak first, and then those opposed to the proposal. Each speaker must clearly state his or her name and address. There

shall be a time limit of three (3) minutes for each individual speaker. If the speaker represents a group, there shall be a time limit of five (5) minutes. A speaker representing a group shall identify the group at the beginning of his or her remarks. A group may have no more than one spokesperson. The presiding officer may limit or preclude comment which is repetitive, redundant, cumulative, or irrelevant to the subject of the public hearing. After public comments have been received, in a land use case, the applicant or the representative of the applicant, at his or her discretion, may respond with a rebuttal. There shall be a five (5) minute time limit for rebuttal.

***Due to ongoing concerns related to COVID-19, the City of Danville will continue to accept comments for Communications from Visitors and for Public Hearings via their on-line portal at: [danvilleva.gov/council](http://danvilleva.gov/council) or by phone using this number: (434) 857-3348, until further notice. Comments submitted via these formats will be collected and distributed to all City Council members, and published with the minutes of the July 7, 2020 meeting. Comments will be collected through July 6, 2020 5:00 p.m.***

## **MEETING CALLED TO ORDER**

## **ROLL CALL**

## **INVOCATION - Sherman M. Saunders**

## **PLEDGE OF ALLEGIANCE TO THE FLAG**

## **APPOINTMENTS**

- A. Consideration of Appointing Samuel A. Kushner as an Interim Member of Danville City Council.  
Council Letter Number CL - 2361.

## **COMMUNICATIONS FROM VISITORS**

*Citizens who desire to speak on matters not listed on the agenda will be heard at this time. Citizens who desire to speak on agenda items will be heard when the agenda item is considered.*

## **MEETING MINUTES**

- A. Consideration of Approval of Minutes from Regular Council Meeting held on June 2, 2020.  
Council Letter Number CL - 2349.

## **NEW BUSINESS**

- A. Consideration of Vacating a Right of Way on Westminster Court.  
Council Letter Number CL - 2340.
  - 1. Public Hearing
  - 2. An Ordinance Vacating Approximately 0.06 Acres of Public Right-of-Way on Westminster Court.

- B. Consideration of Rezoning from OT-R Old Town Residential to "Conditional" HR-C Highway Retail Commercial, 215 Ash Street.  
Council Letter Number CL 2353.
1. Public Hearing
  2. An Ordinance Rezoning from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), Otherwise Known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map.
- C. Consideration of Granting a Special Use Permit for a Commercial Kennel at 215 Ash Street.  
Council Letter Number CL - 2354.
1. Public Hearing
  2. An Ordinance Granting a Special Use Permit for a Commercial Kennel in Accordance with Article 3.M, Section C, Item 7 of the Zoning Ordinance of the Code of the City of Danville, Virginia 1986, As Amended, at 215 Ash Street (Parcel Id# 73005), Otherwise Known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map.
- D. Consideration of Authorizing the City Manager to Amend the 2016 PSEG Agreement.  
Council Letter Number CL - 2332.
- A Resolution Authorizing the City Manager to Amend the 2016 Public Service Enterprise Group (PSEG) Electric Capacity Hedge to Include New Terms for Scheduling the Capacity Within Other Zones Within the PJM Interconnection System.
- E. Consideration of Approval of Filing a Writ of Special Election.  
Council Letter Number CL - 2355.
- Resolution of the Council of the City of Danville Approving and Authorizing the Filing of a Petition of Special Election with the Circuit Court of the City of Danville to Elect a Person to fill the Seat Vacated by Adam Tomer.

#### **COMMUNICATIONS FROM:**

- A. City Manager
- B. Deputy City Manager
- C. City Attorney
- D. City Clerk
- E. Roll Call

#### **ADJOURNMENT**

# Council Letter

## City of Danville, Virginia



**CL-2361**

**Appointments A.**

**City Council Regular Meeting**

**Meeting Date:** 07/07/2020

**Subject:** Appointment of Interim City Council Member

**From:** Susan M. DeMasi, City Clerk

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### **COUNCIL ACTION**

Business Meeting: 07/07/2020

### **SUMMARY**

The Council of the City of Danville, Virginia agreed to appoint Samuel A. Kushner to serve as an interim City Council member due to the resignation of Council Member Adam J. Tomer.

### **BACKGROUND**

Adam J. Tomer was elected to Danville City Council for a term beginning July 1, 2018 and ending June 30, 2022; Mr. Tomer resigned his position on Council effective June 30, 2020. Council Members have asked Samuel A. Kushner to serve as an Interim City Council Member until a special election can be held on November 3, 2020, to elect a candidate to fill that unexpired term ending June 30, 2022.

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### **Attachments**

Resolution

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PRESENTED: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

RESOLUTION NO. 2020 – \_\_. \_\_

**A RESOLUTION APPOINTING SAMUEL A. KUSHNER AS AN INTERIM  
MEMBER OF THE DANVILLE CITY COUNCIL.**

BE IT RESOLVED by the Council of the City of Danville, Virginia, that Samuel A. Kushner be, and he is hereby appointed as an Interim Member of the Danville City Council pursuant to § 24.2-228 of the Code of Virginia 1950 as amended.

AND BE IT FURTHER ORDAINED that Mr. Kushner shall serve until such time as the qualified voters of the City of Danville fill the vacancy by the November 3, 2020 special election, pursuant to § 24.2-682 of the Code of Virginia 1950 as amended, and the person so elected has qualified.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

Approved as to  
Form and Legal Sufficiency:

\_\_\_\_\_  
CITY ATTORNEY

# Council Letter

## City of Danville, Virginia



**CL-2349**

**Meeting Minutes A.**

**City Council Regular Meeting**

**Meeting Date:** 07/07/2020

**Subject:** Consideration of Approval of Meeting Minutes

**From:** Susan M. DeMasi, City Clerk

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### **COUNCIL ACTION**

Business Meeting: 07/07/2020

### **SUMMARY**

Consideration of Approval of Minutes from Regular Council Meeting held on June 2, 2020.

Council Letter Number CL - 2349.

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### **Attachments**

Meeting Minutes

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June 2, 2020

The Regular June meeting of the Danville City Council was held on June 2, 2020, at 7:01 p.m. in the Council Chambers located on the Fourth Floor of the Municipal Building. The following Council Members were present: James B. Buckner, L.G. "Larry" Campbell Jr., Mayor Alonzo L. Jones, Dr. Gary P. Miller, Sherman M. Saunders, Fred O. Shanks, III, Adam J. Tomer, and Vice Mayor J. Lee Vogler, Jr., (8). Madison J.R. Whittle was absent (1). Council Members attended the meeting via Zoom.

Staff Members present were: City Manager Ken F. Larking, Deputy City Manager Earl B. Reynolds, Jr., City Attorney W. Clarke Whitfield Jr., and City Clerk Susan M. DeMasi. Staff members attended the meeting via Zoom.

Mayor Jones noted, *"I want to thank our citizens who are tuning in tonight to watch our City Council meeting. I want to cover the following items before we begin the meeting tonight. Notice for this meeting was posted on May 22, 2020 in compliance with the Virginia Freedom of Information Act. The Agenda was posted on the City's website on May 27, 2020. The agenda for tonight's meeting may be found online at [www.mysdanvilleagendas.info](http://www.mysdanvilleagendas.info). This meeting is being broadcast live on both River City TV and the City's Facebook page. As you know, declarations of emergency have been declared by the President, Governor, and City Manager. Because of this State of Emergency and the need for social distancing, the Council is conducting this meeting electronically under the authority of the City's Continuity of Operations Ordinance. Public comments and comments for public hearings were solicited prior to the meeting, copies were provided to each Council member before the meeting, and will be included with the meeting minutes. Also, all Council members are attending tonight's meeting electronically via Zoom and I will ask them at any time they wish to make comments to raise their electronic hand to be recognized and to identify themselves when speaking. All votes will be by roll call and recorded in the minutes as usual."*

City Manager Ken Larking made the following statement: "I would like to take this moment to share my thoughts about the protests that are occurring in cities throughout the country. First, I want to say that I am shocked and saddened by what happened to George Floyd and the many others before him who experienced similar tragic ends to their lives. Second, I'd like to acknowledge that, while I have been very bothered by events like these in the past, I've never taken the necessary step to say publically what I am about to say and that is a failure on my part. In my role as City Manager, I have responsibility for the day-to-day operations of the City. This includes the delivery of public services and the hiring of employees tasked with performing those services. I have confidence that most, if not all, of our employees work here because they are public servants who want to do what's best for all the people of Danville. We have many opportunities to interact with the public and each other and it's important to me that these interactions are always handled professionally and respectfully. This is accomplished by creating and maintaining the right kind of culture, hiring good people, and providing training and coaching that encourages all of us to do our best.

I am proud of our City employees, of our Police Chief and the police officers who serve our community. When it came time for me to hire a new police chief, it was important to me to find someone who would be the right fit for Danville. Since beginning his role here, he has implemented a strong community policing program that builds trust and connections throughout the City. The time taken to make these connections has enabled police officers, Council Members, and community leaders to come together over the past few days in a peaceful way to show solidarity and support for those working to fight systemic racism. Thank you to those who have organized these demonstrations and have made sure that they remain peaceful.

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In my role, it is simply not enough to know in my heart that racism exists and that it is bad. Obviously, I condemn it in all its forms. I have a special responsibility to ensure that this institution of City Government works to eliminate barriers of opportunity that disproportionately impact people of color. I am committed to do what I can to break down these inequities. I look forward to taking time to listen and to think about how we can work together to build a stronger community for everyone.”

Mayor Jones shared his prayer for the City, the Country and all its citizens.

### **INVOCATION**

The Invocation was given by J. Lee Vogler, Jr.

### **ANNOUNCEMENTS AND SPECIAL RECOGNITIONS**

Mayor Jones read a Proclamation entitled, *Business Appreciation Week*, noting the week of June 8, 2020 through June 12, 2020, was Business Appreciation Week in the City of Danville.

### **COMMUNICATIONS FROM VISITORS**

All Communications from Visitors are received by telephone or by submission of a form through the City of Danville website. City Clerk Susan DeMasi read one comment received by the City's Website from Gary Uitto, Danville, suggesting Fred Shanks replace Adam Tomer on Council. Three messages from Gordon Lyles were received by phone and played for Council Members. Transcripts of all messages received were distributed to Council Members and a copy was attached to these minutes.

### **AMENDING THE AGENDA**

Mayor Jones noted there was an item to be added to the agenda. Council Member Buckner **moved** to add an item to the Agenda as New Business Item D. The Motion was **seconded** by Vice Mayor Vogler and carried by the following vote:

VOTE: 8-0-1  
AYE: Buckner, Campbell, Jones, Miller, Saunders,  
Shanks, Tomer, and Vogler (8)  
NAY: None  
ABSENT: Whittle (1)

### **MEETING MINUTES**

Upon **Motion** by Council Member Buckner and **second** by Council Member Campbell, Minutes from the Regular Council Meeting held on May 7, 2020, were approved as presented. Draft copies of the minutes had been distributed prior to the meeting.

### **OLD BUSINESS**

### **AMENDING DANVILLE CITY CODE TO MAINTAIN THE REAL ESTATE TAX RATE**

Upon **Motion** by Council Member Campbell and **second** by Council Member Miller, an Ordinance entitled, Ordinance No. 2020-05.04, presented by its First Reading on May 21, 2020, Amending



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and Reordaining Sections 37-27, 37-28 and 37-29 of the Danville City Code thereby Maintaining the Real Estate Tax of Eighty-Four (84) cents on every One Hundred Dollars of Assessed Value Effective July 1, 2020,

was **adopted** by the following vote:

VOTE: 8-0-1  
AYE: Buckner, Campbell, Jones, Miller, Saunders,  
Shanks, Tomer, and Vogler (8)  
NAY: None  
ABSENT: Whittle (1)

### **NEW BUSINESS**

#### **BUDGET AMENDMENT – CONSIDERATION OF AMENDING THE FISCAL YEAR 2020 BUDGET APPROPRIATION ORDINANCE FOR DEPARTMENT OF JUSTICE CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING**

Upon **Motion** by Vice Mayor Vogler, and **second** by Council Member Saunders, an Ordinance entitled:

##### **ORDINANCE NO. 2020-06.01**

AMENDING THE FISCAL YEAR 2020 BUDGET APPROPRIATION ORDINANCE BY INCREASING REVENUE FROM THE UNITED STATES DEPARTMENT OF JUSTICE CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING (CESF) IN THE AMOUNT OF \$110,452 FOR USE IN PREVENTING, PREPARING FOR, AND RESPONDING TO CORONAVIRUS

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

#### **BUDGET AMENDMENT – CONSIDERATION OF AMENDING THE FISCAL YEAR 2020 BUDGET APPROPRIATION ORDINANCE FOR CARES ACT FUNDS FOR MASS TRANSIT**

Upon **Motion** by Council Member Buckner and **second** by Council Member Miller, an Ordinance entitled:

##### **ORDINANCE NO. 2020-06.02**

AMENDING THE FISCAL YEAR 2020 BUDGET APPROPRIATION ORDINANCE BY INCREASING REVENUE FROM THE CARES ACT FUNDS IN THE AMOUNT OF \$2,299,878 TO BE USED TO COVER OPERATING EXPENDITURES FOR THE TRANSPORTATION FUND APPROPRIATION

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

#### **CONSIDERATION OF APPROVING THE BUDGET OF THE CITY OF DANVILLE, THE CSP AND THE BUDGET APPROPRIATION ORDINANCE FOR FISCAL YEAR 2021**

June 2, 2020

APPROVING THE BUDGETS OF THE VARIOUS FUNDS OF THE CITY OF DANVILLE FOR THE FISCAL YEAR ENDING JUNE 30, 2021

Mayor Jones opened the floor for a Public Hearing regarding Approving the Budgets of the Various Funds of the City of Danville. Notice of the Public Hearing was published in the *Danville Register & Bee* on May 22, 2020.

City Manager Ken Larking stated he wanted to make a point of clarification, there was an error in the Ordinance that was attached to the Agenda. Number 18 in the Ordinance should exclude the language regarding the limitation on the amount of carryforward funds that the School System can carryforward. This was shared with Council Members via email this morning; he was making sure the public and Council were aware of that before they move forward with the First Reading. In the next agenda, the corrected attachment will be included.

No one further desired to be heard and the Public Hearing was closed.

Upon **Motion** by Vice Mayor Vogler and **second** by Council Member Campbell, a Resolution entitled:

**RESOLUTION NO. 2020-06.01**

A RESOLUTION APPROVING THE BUDGETS OF THE VARIOUS FUNDS OF THE CITY OF DANVILLE FOR THE FISCAL YEAR ENDING JUNE 30, 2021.

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

**APPROVING THE FISCAL YEAR 2021 CAPITAL AND SPECIAL PROJECTS PLAN FOR THE CITY OF DANVILLE, VIRGINIA**

Upon **Motion** by Vice Mayor Vogler and **second** by Council Member Buckner, a Resolution entitled:

**RESOLUTION NO. 2020-06.02**

A RESOLUTION APPROVING THE FISCAL YEAR 2021 CAPITAL AND SPECIAL PROJECTS PLAN FOR THE CITY OF DANVILLE, VIRGINIA.

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

**BUDGET APPROPRIATION ORDINANCE FOR FISCAL YEAR 2021**

Upon **Motion** by Vice Mayor Vogler and **second** by Council Member Saunders, an Ordinance entitled:

**ORDINANCE NO. 2020-06.03**

BUDGET APPROPRIATION ORDINANCE FOR FISCAL YEAR 2021

was presented by its **First Reading**, as required by City Charter, to lie over before final adoption.

**CONSIDERATION OF THE CITY OF DANVILLE FORMALLY SELECTING CAESARS VIRGINIA LLC AS THE CITY'S PREFERRED CASINO GAMING OPERATOR**

Council Member Shanks **moved** for adoption of a Resolution entitled

**RESOLUTION NO. 2020.06.03**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANVILLE, VIRGINIA, FORMALLY SELECTING CAESARS VIRGINIA, LLC AS THE CITY'S PREFERRED CASINO GAMING OPERATOR, AUTHORIZING THE CITY MANAGER TO EXECUTE A NON-BINDING LETTER OF INTENT WITH CAESARS ENTERTAINMENT CORPORATION AS THE PARENT COMPANY OF CAESARS VIRGINIA, LLC, AUTHORIZING THE CITY MANAGER TO SUBMIT TO THE VIRGINIA LOTTERY THE CITY'S PREFERRED CASINO GAMING OPERATOR AND RELATED INFORMATION, AND FOR OTHER PURPOSES CONSISTENT WITH THIS RESOLUTION.

The Motion was **seconded** by Vice Mayor Vogler and carried by the following vote:

VOTE: 8-0-1  
AYE: Buckner, Campbell, Jones, Miller, Saunders,  
Shanks, Tomer, and Vogler (8)  
NAY: None  
ABSENT: Whittle (1)

**COMMUNICATIONS**

There were no communications from the City Manager, Deputy City Manager, City Attorney or City Clerk.

Council Member Shanks noted regarding the Resolution City Council just passed, it was important that citizens recognize that it was passed by unanimous vote with one absentee who supported the Resolution as well. It was important they understand how much work has been done behind the scenes by City staff, consultants, lobbyists, local legislators and most importantly by the City Manager and what has been accomplished in the last two and half years. Mr. Shanks encouraged the citizens of the City of Danville to come out and support what comes out of this letter of intent.

Vice Mayor Vogler noted there was an historic cemetery in the City, Ms. Patricia White and some of her family, the Southside African American Cemetery Society, took him to the Flippen Family Cemetery on Mayfield Road. It was an eye opening education about the history of that site; there were at least two hundred people buried there, many of whom were slaves. He was interested in seeing if the City can have a role in giving that site the historic designation it deserves. Mr. Vogler noted there were several marches the day before, the one earlier in the afternoon, Mr. Saunders, Mr. Buckner and himself were there along with the City Manager and the Chief of Police. He listened to the young people who were speaking at this event; it was completely peaceful, very inspiring and made him think about what was happening across the Country. There was common decency and respect that people can have and it starts by listening to people. They need to start listening to people who have different life experiences than themselves; that was the beginning of the healing process. Mr. Vogler noted the City was looking at the historic bus wrap for next year for Black History Month; there will be a lot of great suggestions, but one of his would be Council Member Sherman Saunders. Mr. Saunders was one of the longest tenured Council members, has served

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the City for a number of years and that was worth recognition.

Council Member Buckner noted his agreement with Vice Mayor Vogler, yesterday was extremely well done; it was a very peaceful day. A lot of things were said that needed to be said, a lot of good conversations were started, and had, by a lot of people. Mr. Buckner noted he sent Council an email on something people have reached out to him about - the stretch of road between Girard Street and Purnam Woods on Richmond Boulevard. Valerie Cook, the wife of Pastor Adam Cook of Union Church reached out to him stating there were no sidewalks for people to walk on. Mr. Buckner asked the City Manager to look into adding a sidewalk to that stretch of road.

Council Member Campbell commended the City Manager for the outstanding words he expressed to Council this evening from his position as City Manager; he stands with everything Mr. Larking said. They were all praying for the nation, the state and also for the city. Mr. Campbell commended all of the marches, the way they carried themselves peacefully and commended Chief Booth for the outstanding way he has been doing community policing and the relationships he has established within the community. It was disturbing to see what was going on in the nation and Danville was blessed that what was happening in the nation was not happening in Danville. It was not happening in Danville because of the relationships and the work they have done in the past. They must continue this path not only to make good relationships but also to establish more opportunity for all sections of the community.

Council Member Miller noted his agreement with Mr. Shanks on the amount of work and the people who worked to get Danville included in the casino bill, all the efforts from the lobbyists, City people, Council, the hours they spent. Dr. Miller noted Council Members went to Richmond over the last two years to lobby to make sure Danville stayed in the bill as one of the five cities that will be allowed to vote in a referendum this November. The citizens will decide if they want a casino and encouraged citizens to vote in November. In 2017, members of Council worked to get a bike share program in Danville, with 25 bikes and five sites, thousands of rides each month, it was an outstanding success. It became a casualty of the COVID pandemic, not only in Danville, but in Roanoke, Suffolk and other cities across the country; Zagster was not doing well and may go out of business entirely. He has spoken with the Vice Mayor, they have worked before to get the bike share in Danville and will work to get another one. Dr. Miller noted nothing divides this country more than racism and citizens cannot and must not let that happen.

Mayor Jones noted he and the City Manager have been on several Zoom meetings with business leaders, Robert David and the people he has been talking to. Mayor Jones stated to the City Manager, let them start having conversations when talking to business leaders, on some ideas on race relations and how they can better that.

The meeting adjourned at: 7:44 p.m.

APPROVED:

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MAYOR

ATTEST:

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CITY CLERK

# Council Letter

## City of Danville, Virginia



**CL-2340**

**New Business A.**

**City Council Regular Meeting**

**Meeting Date:** 07/07/2020

**Subject:** Vacate Right-of-Way on Westminster Court

**From:** Brian Dunevant, Assistant Public Works Director & City Engineer

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### **COUNCIL ACTION**

Business Meeting: 07/07/2020

### **SUMMARY**

The property owner of 180 Westminster Court has requested that City Council vacate 0.06 acres of City right-of-way on Westminster Court.

### **BACKGROUND**

The owners of the property at 180 Westminster Court (Property Identification Number 24460) are requesting that the unused right-of-way adjacent to their property be vacated. Vacating this right-of-way would eliminate a current encroachment of the house into this right-of-way. Other adjacent property owners have no interest in the proposed vacated right-of-way. All applicable departments have reviewed the request and no concerns were indicated.

The City of Danville has a policy in which applicants can request the City Council to vacate right-of-way. The Applicant is responsible for paying the actual cost incurred by the City regarding the public hearing advertisement plus a fee for processing the application.

### **RECOMMENDATION**

It is recommended that City Council adopt the accompanying Ordinance vacating approximately 0.06 acres of right-of-way on Westminster Court.

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### **Attachments**

Ordinance

Exhibit A

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PRESENTED:\_\_\_\_\_

ADOPTED:\_\_\_\_\_

ORDINANCE NO. 2020-\_\_\_\_\_.\_\_\_\_\_

AN ORDINANCE VACATING APPROXIMATELY 0.06 ACRE OF  
PUBLIC RIGHT-OF-WAY ON WESTMINSTER COURT.

WHEREAS, pursuant to Sections 15.2-2006 and 15.2-2008 of the Code of Virginia, 1950, as amended, the governing body intends to move to vacate a portion of the public right-of-way containing 0.06 acre, more or less, to the abutting property owner at no cost other than the application fee and public hearing advertisement cost, as shown on Exhibit A, a copy of which is attached hereto, and made a part hereof, for a more particular description of said right of way; and

WHEREAS, West Main Baptist Church Trustees has requested in writing that the right-of-way be vacated adjacent to the property identified as Property Identification Number 24460, also known as 180 Westminster Court, to eliminate an encroachment of the building located on that property into the city right-of-way; and

WHEREAS, West Main Baptist Church Trustees has agreed to pay the cost of the application fee and public hearing advertisement cost; and

WHEREAS, the adjacent property owner at Property Identification Number 22821, also known as 178 Westminster Court, owned by Starlette Pollard (Reed) has declined to receive her eligible portion of the vacated right-of-way; and

WHEREAS, the adjacent property owner at Property Identification Number 26706, owned by the City of Danville School Board, has declined to receive its eligible portion of the vacated right-of-way; and

WHEREAS, the City has agreed to vacate the aforementioned right-of-way at no cost other than the application fee and public hearing advertisement cost; and

WHEREAS, it appears to the City Council that due notice of the aforesaid vacation has been given as required by law, and that such vacation would be in the best public interest.

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Danville, Virginia, that a portion of the public right-of-way located on Westminster Court containing 0.06 acre, more or less, as shown on Exhibit A, a copy of which is attached hereto, and made a part hereof, for a more particular description of said right-of-way, is hereby vacated and abandoned to the abutting property owner at Parcel Identification Number 24460 at no cost other than the application fee and public hearing advertisement cost; and

BE IT FURTHER ORDAINED, that the Council of the City of Danville, Virginia, hereby authorizes and directs the City Manager to execute on behalf of the City any required deeds and agreements related thereto; and

BE IT FINALLY ORDAINED that a certified copy of this Ordinance be recorded and indexed in the Deed book at the Clerk's Office of the Circuit Court of the City of Danville, Virginia.

APPROVED:

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MAYOR

ATTEST:

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CLERK

Approved as to  
Form and Legal Sufficiency:

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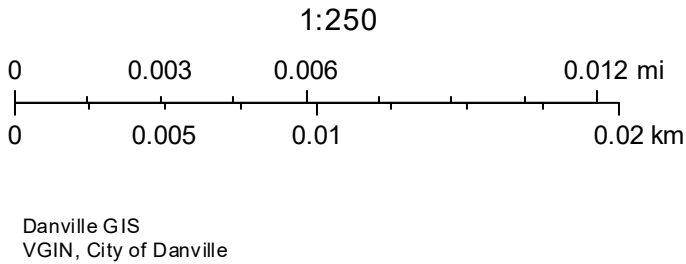
CITY ATTORNEY



Exhibit A - Vacate Request on Westminster Court



May 22, 2020





# Council Letter

## City of Danville, Virginia



**CL-2353**

**New Business B.**

### **City Council Regular Meeting**

**Meeting Date:** 07/07/2020

**Subject:** Request to Rezone from OT-R Old Town Residential to "Conditional" HR-C Highway Retail Commercial, 215 Ash Street

**From:** Kenneth C. Gillie, Jr., Community Development Director

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### **COUNCIL ACTION**

Business Meeting: 07/07/2020

### **SUMMARY**

A request has been filed by Dana Peters, requesting to rezone from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID #000049, of the City of Danville, Zoning District Map. The applicant is proposing to rezone to allow for a discontinued non-conforming use (commercial kennel) to be reused.

### **BACKGROUND**

A request has been filed by Dana Peters requesting to rezone and obtain a Special Use Permit allowing for a discontinued non-conforming use (commercial kennel) to reused at 215 Ash Street.

This property is developed with a structure that was built within Pittsylvania County as a pet kennel. According to City records, the facility was operated until December 2016, but maintained a business license until December 31, 2017. The property is zoned OT-R Old Town Residential district, thus the facility was a legal non-conforming use. City Zoning Code Article 7, Section B Item 3 regulates non-conforming uses. It reads as follows:

*3. Discontinuation of nonconforming use. If a nonconforming use is discontinued or abandoned for a continuous period of more than two (2) years, including any period of discontinuation before the effective date of this ordinance, then that use shall not be renewed or reestablished and any subsequent use of the lot or structure shall conform to the regulations of this ordinance. When any nonconforming use is replaced by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed.*

The applicant has requested to rezone this property to a "Conditional" HR-C district, eliminating all uses except for a commercial kennel. In order to have a commercial kennel in the HR-C district, a Special Use Permit is also required.

This request clearly amounts to spot zoning; it will create one parcel zoned commercial in the middle of a residential district. The applicant has proffered out all uses except for the operation of a kennel. As our Attorney states, not all spot zoning is illegal if it serves a legitimate public purpose. Whether the location of

a kennel in a residential district meets a legitimate public purpose is not a question for staff. This is a question to be answered by City Council with Planning Commission input. Thusly, staff makes no recommendation on this.

At their meeting of June 11, 2020, the Planning Commission voted 6-0 (Commissioner Petrick absent) to recommend approval of the request as submitted by the applicant.

### **RECOMMENDATION**

It is recommended that City Council adopt an Ordinance Rezoning from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map.

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### **Attachments**

Ordinance

Planning Backup

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PRESENTED: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

ORDINANCE NO. 2020\_\_\_\_.\_\_\_\_

AN ORDINANCE REZONING FROM OT-R OLD TOWN RESIDENTIAL DISTRICT TO "CONDITIONAL" HR-C HIGHWAY RETAIL COMMERCIAL DISTRICT, 215 ASH STREET (PARCEL ID# 73005), OTHERWISE KNOWN AS GRID 1807, BLOCK 003, PARCEL ID# 000049, OF THE CITY OF DANVILLE, ZONING DISTRICT MAP.

WHEREAS, in accordance with the Code of the City of Danville, Virginia, 1986, as amended, Dana Peters, has requested to rezone from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map.

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Danville, Virginia, that the report of the Planning Commission recommending approval of "Conditional" Rezoning Application PLRZ2020000058, filed by Dana Peters, requesting to rezone from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map, is hereby received; and

BE IT FURTHER ORDAINED that in accordance with the Code of the City of Danville, Virginia, the conditions proffered by Dana Peters in conjunction with "Conditional" Rezoning Application PLRZ2020000058, filed by Dana Peters, requesting to rezone from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map, as provided in Exhibit "A", attached hereto and made part hereof, be, and the same are hereby, received, accepted, and approved; and

BE IT FINALLY ORDAINED, that in consideration of said report and the public hearing this day held by Council, "Conditional" Rezoning Application PLRZ2020000058, filed by Dana Peters, requesting to rezone from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map, described in Proffer of Conditions by Dana Peters, which is attached hereto as Exhibit "A" and incorporated herein by reference be, and the same is hereby, rezoned subject to said conditions from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, and 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map, be and the same hereby amended from OT-R Old Town Residential to "Conditional" HR-C Highway Retail Commercial District.

APPROVED:

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MAYOR

ATTEST:

---

CLERK

Approved as to  
Form and Legal Sufficiency:

---

CITY ATTORNEY



**City of Danville**  
427 Patton Street, Suite 208  
Danville VA, 24541  
Phone: (434) 799-5260

## ***City Planning Commission***

### **MEMORANDUM**

**DATE:** JUNE 11, 2020  
**TO:** CITY COUNCIL  
**FROM:** CITY PLANNING COMMISSION  
**SUBJECT:** REZONING REQUEST

**REQUEST:**

*Rezoning Application PLRZ2020000058, filed by Dana Peters, requesting to rezone from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map. The applicant is proposing to rezone to allow for a discontinued non-conforming use (commercial kennel) to reused.*

**RECOMMENDATION:**

The Planning Commission voted 6-0 (Commissioner Petrick absent) to recommend approval of the request with conditions per the applicant.

*Harold Garrison (FC6)*

Mr. Harold E. Garrison, Chairman

**RESPONSES**

Ten (10) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. Five (5) responses were received. Three (4) were not opposed (Peters, Danville Pet Resort Inc, Kendrick and JHC Properties LLC). One (1) was opposed (Ackbar).

**COMMENTS:**

I moved to this area of Danville for peace and quiet. Ackbar

Additional written letters attached.

**Jones, Lisa K.**

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**From:** Jones, Lisa K.  
**Sent:** Thursday, June 11, 2020 11:43 AM  
**To:** Gillie, Kenny; 'AnnSasserEvans@gmail.com'; Art Craft; Bruce Hedrick (bhedrick@southsidecentral.com); 'elan@comcast.net'; 'haroldgarrison57@yahoo.com'; 'jbolton@comcast.net'; rqjones\_24541@yahoo.com; 'scearce.commercial@gmail.com'; 'Steve Petrick'; tommydodson@yahoo.com  
**Subject:** FW: Neighborhood Comments  
**Attachments:** Letters for Ash Street.pdf

Tina Oakes just called to say that she hopes the application will get approved.

Thank you  
Lisa

---

**From:** Jones, Lisa K.  
**Sent:** Thursday, June 11, 2020 10:07 AM  
**To:** Gillie, Kenny <GilliKC@danvilleva.gov>; 'AnnSasserEvans@gmail.com' <AnnSasserEvans@gmail.com>; Art Craft <acraft10@yahoo.com>; Bruce Hedrick (bhedrick@southsidecentral.com) <bhedrick@southsidecentral.com>; 'elan@comcast.net' <elan@comcast.net>; 'haroldgarrison57@yahoo.com' <haroldgarrison57@yahoo.com>; 'jbolton@comcast.net' <jbolton@comcast.net>; rqjones\_24541@yahoo.com; 'scearce.commercial@gmail.com' <scearce.commercial@gmail.com>; 'Steve Petrick' <spetrick0521@yahoo.com>; tommydodson@yahoo.com  
**Subject:** Neighborhood Comments

Carol Yeatts and Ranotta Stafford left messages that they are for the rezoning application for Ash Street. Mr. Ackbar left a message that he is concerned about the noise and wanted to know if the dogs could be put up every night at 7:00 pm. Attached are two letters that were emailed to us.

Thank you

Lisa Jones  
Senior Secretary  
City of Danville  
Community Development  
P.O. Box 3300  
Danville, VA 24543  
PH: 434-799-5260, ext. 2513  
Email: [joneslk@danvilleva.gov](mailto:joneslk@danvilleva.gov)

I began using Danville Pet Lodge (previous name) in the mid-80's when it was purchased by Marion Wardle and continued taking my pets there until a few years ago. I even lived along the street for a while. It was a well-run facility and I did not have a problem with noise coming from it.

During the years I took my pets there they had a very strong clientele base. Dogs, cats, birds, ferrets, guinea pigs, and the occasional goldfish were left by the owners while they were away from home.

I understand that the business license was allowed to lapse and that is why the current owner wants the kennel to be rezoned so that it can reopen as a kennel. I feel that if allowed to reopen it will reestablish that clientele base and be of benefit to the community.

Cheryl Dickerson



Jones, Lisa K.

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**From:** Gillie, Kenny  
**Sent:** Thursday, June 11, 2020 9:41 AM  
**To:** Jones, Lisa K.  
**Subject:** FW: June 11, 2020 Rezoning-Dana Peters

**From:** Samantha Lyman <samantha.jp.lyman@gmail.com>  
**Sent:** Wednesday, June 10, 2020 9:42 PM  
**To:** Gillie, Kenny <GilliKC@danvilleva.gov>  
**Subject:** June 11, 2020 Rezoning-Dana Peters

**CAUTION:** This email originated outside the City of Danville's email system.  
Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Gillie,

Per the letter received by Dana Peters I went to [danvilleva.gov/PC](http://danvilleva.gov/PC) but was not able to find a clear place to submit this letter. If I need to send it somewhere else please let me know and I will do so, thank you.

To the Planning Commission,

This letter is in support of Dana Peters request for rezoning the property on Ash Street.

I was both a customer and an employee of Dana Peters at Danville Pet Resort. As a customer I chose her kennel above the others because of the peaceful and open environment for my skittish pup. As an employee I chose to work there because of Dana's values, work ethic, and customer relationships she had built.

Her kennel provided and I hope it will again provide a valuable service for the community who want a safe, loving, home away from home type care for their animals.

Respectfully yours,  
Samantha Lyman  
828-443-6240  
[samanthajplyman@gmail.com](mailto:samanthajplyman@gmail.com)



**City of Danville**  
427 Patton Street, Suite 208  
Danville VA, 24541  
Phone: (434) 799-5260

## ***City Planning Commission***

**City Planning Commission**  
Meeting of June 11, 2020

**Subject:**

*Rezoning Application PLRZ2020000058, filed by Dana Peters, requesting to rezone from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map. The applicant is proposing to rezone to allow for a discontinued non-conforming use (commercial kennel) to reused.*

*Special Use Permit Application PLSUP2020000059, filed by Dana Peters, requesting a Special Use Permit for a waiver to yard setbacks in accordance with Article 3.M, Section C, Item 7 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended, at 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map. The applicant is requesting a Special Use Permit to allow for a discontinued commercial kennel to reused.*

**Background:**

A request has been filed by Dana Peters requesting to rezone and obtain a Special Use Permit to allow for a discontinued non-conforming use (commercial kennel) to reused at 215 Ash Street.

This property is developed with a structure that was built within Pittsylvania County as a pet kennel. According to City records, the facility was operated until December 2016, but maintained a business license until December 31, 2017. The property is zoned OT-R Old Town Residential district, thus the facility was a legal non-conforming use. City Zoning Code Article 7, Section B Item 3 regulates non-conforming uses. It reads as follows:

*3. Discontinuation of nonconforming use. If a nonconforming use is discontinued or abandoned for a continuous period of more than two (2) years, including any period of discontinuation before the effective date of this ordinance, then that use shall not be renewed or reestablished and any subsequent use of the lot or structure shall conform to the regulations of this ordinance. When any nonconforming use is replaced by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed.*

The applicant has requested to rezone this property to a "Conditional" HR-C district, eliminating all uses except for a commercial kennel. In order to have a commercial kennel in the HR-C district, a Special Use Permit is also required.

Ten (10) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. Five (5) responses were received. Three (4) were not opposed (Peters, Danville Pet Resort Inc, Kendrick and JHC Properties LLC). One (1) was opposed (Ackbar).

**COMMENTS RECIEVED:**

"I moved to this area of Danville for peace and quiet." Ackbar

**Staff Analysis and Recommendation:**

This request clearly amounts to spot zoning. This will create one parcel zoned commercial in the middle of a residential district. The applicant has proffered out all uses except for the operation of a kennel. As our Attorney states, not all spot zoning is illegal if it serves a legitimate public purpose. Whether the location of a kennel in a residential district meets a legitimate public purpose is not a question for staff. This is a question to be answered by City Council with Planning Commission input. Thusly, staff makes no recommendation on this.

If Planning Commission deems that this request does not meet a public purpose, then staff would recommend that they vote for denial of both requests.

If Planning Commission deems that this rezoning does meet a legitimate public purpose, then staff can agree with all uses being removed except for the commercial kennel in regards to the rezoning.

In regards to the Special Use Permit request if Planning Commission recommends approval, staff would recommend that the hours of operation be limited to 7 am – 7 pm Monday through Sunday.

**City Planning Commission Alternatives:**

1. Recommend continuation of Rezoning Application PLRZ2020000058 to a future meeting.
  2. Recommend approval of Rezoning Application PLRZ2020000058 as submitted.
  3. Recommend approval of Rezoning Application PLRZ2020000058 with conditions per Planning Commission.
  4. Recommend denial of Rezoning Application PLRZ2020000058.
- 
1. Recommend continuation of Special Use Permit Application PLSUP2020000059 to a future meeting.
  2. Recommend approval of Special Use Permit Application PLSUP2020000059 as submitted.
  3. Recommend approval of Special Use Permit Application PLSUP2020000059 with conditions per Planning Commission.
  4. Recommend denial of Special Use Permit Application PLSUP2020000059.

**Attachments:**

Application  
Property Ownership/Zoning Map  
Data Sheet  
Existing Land Use Map (2019 Aerial)  
Year 2030 Land Use Map



Dana Nielsen (Peters)  
Owner  
434-770-9597  
40 E. 760 N.  
American Fork, Utah 84003

Property for Rezoning/Special Use Permit  
Danville Pet Resort Inc  
215 C Ash Street  
Danville, VA 24540

February 22, 2020

Danville Pet Resort, Inc. has operated as a boarding/grooming facility since 2012. Prior to 2012, the facility was engaged in the same type of operation. It was originally designed and built to be a full-time boarding/grooming kennel. As such, the physical facility itself is limited in scope to such an operation.

I have enclosed documentation showing the physical layout and measurements of the property. I am seeking a rezone and special use permit in order to continue to operate this business for the purpose it was constructed many years ago.

It was grandfathered in when the city expanded and changed the zoning. It was sold to me in 2012 and I operated it until 2017, when I sold the business. That sale fell through and I repossessed the property in 2018. Unbeknownst to me, the purchaser did not acquire a business license. When I attempted to renew this year, I was told it would need to be rezoned due to it not being in operation for over two years, even though he had continued to operate it. Unfortunately, I was unaware of this situation and did not respond before the two years expired.

My hope is to quickly rezone and obtain the special use so that I may reopen for business. This kennel has been in operation for 30+ years and we have many customers who have supported us over the years.

The physical location has limited to no effects on the surrounding neighborhood as they have coexisted for many years. It is a dead-end street with no foreseeable future development in the immediate area.

I appreciate the complexities of maintaining order through zoning and special use requirements. It is my hope to resolve this and resume business.

Thank you for your time. I am available if there are any questions.

Dana Nielsen

## MEMORANDUM

**DATE:** April 14, 2020

**TO:** PLANNING COMMISSION

**FROM:** PLANNING STAFF

**SUBJECT:** RESPONSE FROM NEIGHBORING PROPERTY OWNERS.

**REQUEST:**

1. *Rezoning Application PLRZ2020000058, filed by Dana Peters, requesting to rezone from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map. The applicant is proposing to rezone to allow for a discontinued non-conforming use (commercial kennel) to reused.*
2. *Special Use Permit Application PLSUP2020000059, filed by Dana Peters, requesting a Special Use Permit for a waiver to yard setbacks in accordance with Article 3.M, Section C, Item 7 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended, at 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map. The applicant is requesting a Special Use Permit to allow for a discontinued commercial kennel to reused.*

**RESPONSES:**

Twelve (12) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. Five (5) responses were received. Three (4) were not opposed (Peters, Danville Pet Resort Inc, Kendrick and JHC Properties LLC). One (1) was opposed (Ackbar).

**COMMENTS:**

I moved to this area of Danville for peace and quiet. Ackbar

**Gillie, Kenny**

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**From:** Dana Nielsen <danarnielsen@gmail.com>  
**Sent:** Wednesday, March 11, 2020 11:59 AM  
**To:** Gillie, Kenny  
**Subject:** Re: 215 Ash St

**CAUTION:** This email originated outside the City of Danville's email system.

Do not click links or open attachments unless you recognize the sender and know the content is safe.

I only want it to be a kennel. Can you just strike through everything else please?

On Wed, Mar 11, 2020, 9:51 AM Gillie, Kenny <[GilliKC@danvilleva.gov](mailto:GilliKC@danvilleva.gov)> wrote:

Dear Ms. Nielsen,

Are you proffering any conditions to the rezoning request for 215 Ash Street? Your request to change from OT-R Old Town Residential to HR-C Highway Retail Commercial and allow for a dog kennel would open this site up to a host of other commercial uses that have never been present in that neighborhood. If you wish to limit that property to only the dog kennel, please strike through those uses on the attached HR-C Code section that you would not allow.

If it is your intention to allow for all these use, please let me know so that I can advertise accordingly, as well as let adjacent property owners know when we send out letters regarding this case.

Sincerely,

Kenneth C. Gillie Jr., CFM

Director of Community Development

Zoning Administrator

City of Danville, Virginia

(434) 799-5260 ext. 2501

CITY OF DANVILLE

REZONING APPLICATION

TO THE CITY PLANNING COMMISSION AND THE HONORABLE CITY COUNCIL:  
Application is hereby made for the rezoning as described below:

INFORMATION TO BE PROVIDED BY THE PLANNING DIVISION

CASE NUMBER: \_\_\_\_\_ EXISTING ZONING: \_\_\_\_\_  
PROPOSED ZONING: \_\_\_\_\_ TAX MAP NUMBER: \_\_\_\_\_  
RECEIVED BY: \_\_\_\_\_ DATE FILED: \_\_\_\_\_  
PLANNING COMMISSION DATE: \_\_\_\_\_ CITY COUNCIL DATE: \_\_\_\_\_

INFORMATION TO BE PROVIDED BY THE APPLICANT

Exact legal description of property (Attach if insufficient space). See attached  
Gross Area/Net Area: \_\_\_\_\_ Property Address: \_\_\_\_\_  
Property Location: N S E W Side of: \_\_\_\_\_  
Between: \_\_\_\_\_ and \_\_\_\_\_  
Proffered Conditions (if any, please attach): \_\_\_\_\_

PRESENT OWNER (S) OF ALL PROPERTIES INCLUDED IN APPLICATION (PLEASE TYPE OR PRINT):

1. NAME: Dana Peters (Nielsen) TELEPHONE: 434-770-9597  
MAILING ADDRESS: 40 E. 760 N. American Fork, UT 84003  
SIGNATURE: [Signature] DATE: 2-22-2020  
SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
EMAIL ADDRESS: danarnielsen@gmail.com

APPLICANT (PLEASE TYPE OR PRINT):

If the applicant is not the property owner, written authorization from the property owner must accompany this application.

NAME: Dana Nielsen TELEPHONE: 434-770-9597  
MAILING ADDRESS: 40 E. 760 N. American Fork UT 84003  
EMAIL ADDRESS: danarnielsen@gmail.com  
SIGNATURE: [Signature] DATE: 2-22-2020

## EXPLANATION OF REQUEST:

### 1. NEW COMMERCIAL/INDUSTRIAL DEVELOPMENT:

Please provide ten (10) sets, blue or black line copies, of a final site plan with the following information:

- Proposed use of the land: size and location of structures with dimensions to lot lines.
- Vehicular circulation system with points of ingress and egress.
- Existing on-site buildings, separation dimensions and paved areas.
- Location and dimensions of all parking and loading areas, including the number of off-street parking and loading spaces provided.
- Net acreage.
- Gross and net square footage of building (s) (proposed and existing).
- Required landscaping and buffer areas.

Please provide a brief description of the proposed development:

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### 2. ALTERATION OF ZONING BOUNDARIES:

Please provide a survey of proposed Zoning boundaries.

Please provide a brief description of the request:

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### 3. RESIDENTIAL REZONING:

Please provide a brief description of the request:

Rezone property to H R-C, Highway Retail Commercial  
Special Use permit is being applied for as well



CITY OF DANVILLE

REZONING APPLICATION

TO THE CITY PLANNING COMMISSION AND THE HONORABLE CITY COUNCIL:  
Application is hereby made for the rezoning as described below:

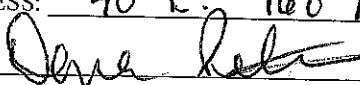
INFORMATION TO BE PROVIDED BY THE PLANNING DIVISION

CASE NUMBER: \_\_\_\_\_ EXISTING ZONING: \_\_\_\_\_  
PROPOSED ZONING: \_\_\_\_\_ TAX MAP NUMBER: \_\_\_\_\_  
RECEIVED BY: \_\_\_\_\_ DATE FILED: \_\_\_\_\_  
PLANNING COMMISSION DATE: \_\_\_\_\_ CITY COUNCIL DATE: \_\_\_\_\_

INFORMATION TO BE PROVIDED BY THE APPLICANT

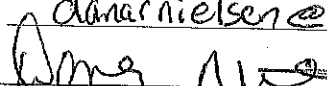
Exact legal description of property (Attach if insufficient space). See attached  
Gross Area/Net Area: \_\_\_\_\_ Property Address: \_\_\_\_\_  
Property Location: N S E W Side of: \_\_\_\_\_  
Between: \_\_\_\_\_ and \_\_\_\_\_  
Proffered Conditions (if any, please attach): \_\_\_\_\_

**PRESENT OWNER (S) OF ALL PROPERTIES INCLUDED IN APPLICATION (PLEASE TYPE OR PRINT):**

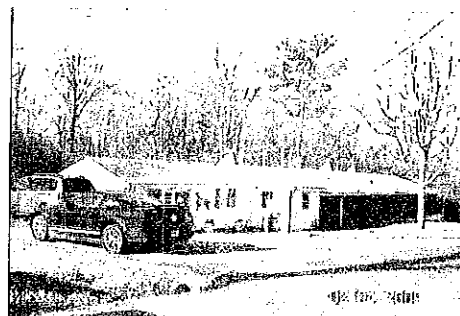
1. NAME: Dana Peters (Nielsen) TELEPHONE: 434-770-9597  
MAILING ADDRESS: 40 E. 760 N. American Fork, UT 84003  
SIGNATURE:  DATE: 2-22-2020  
SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
EMAIL ADDRESS: danarnielsen@gmail.com

**APPLICANT (PLEASE TYPE OR PRINT):**

If the applicant is not the property owner, written authorization from the property owner must accompany this application.

NAME: Dana Nielsen TELEPHONE: 434-770-9597  
MAILING ADDRESS: 40 E. 760 N. American Fork UT 84003  
EMAIL ADDRESS: danarnielsen@gmail.com  
SIGNATURE:  DATE: 2-22-2020

**Parcel ID:** 73005  
**Address:** 215 ASH ST  
**Owner:** DANVILLE PET RESORT INC  
 5844 US HWY 29  
 BLAIRS, VA 24527  
**Mail-To:** DANVILLE PET RESORT INC  
 5844 US HWY 29  
 BLAIRS, VA 24527



| Value Information |              |
|-------------------|--------------|
| Land / Use:       | \$7,500      |
| Improvement:      | \$96,400     |
| Total:            | \$103,900.00 |

| Building Information  |       |
|-----------------------|-------|
| Year Built:           | 0     |
| Total Rooms:          | 0     |
| Bedrooms:             | 0     |
| Full Bathrooms:       | 0     |
| Half Bathrooms:       | 0     |
| Finished Square Feet: | 2,018 |

| Additional Information |                                    |                    |                                    |
|------------------------|------------------------------------|--------------------|------------------------------------|
| State Code:            | 4621 Misc Business Svcs            | Approx Acres:      | 0                                  |
| Land Use:              | Commercial                         | Legal Description: | .49 AC ASH ST (DANVILLE PET LODGE) |
| Tax Map:               | 1807-003-000049.000                | Zone:              | OTR Old Town Residential           |
| Notes:                 | Danville Pet Lodge (Map P164 A 12) |                    |                                    |

## Building

| Building Information - 1 |            |                                                   |       |
|--------------------------|------------|---------------------------------------------------|-------|
| Property Class:          | Commercial | Finished Square Feet:                             | 2,018 |
| Style:                   | No Data    | Basement Square Feet:                             | 0     |
| Year Built:              | 0          | Total Rooms:                                      | 0     |
| Condition:               | No Data    | * Bathrooms are not included in total room count. |       |
| Story Height:            | No Data    |                                                   |       |
| Bedrooms:                | 0          |                                                   |       |
| Dining Rooms:            | 0          |                                                   |       |
| Family Rooms:            | 0          |                                                   |       |
| Living Rooms:            | 0          |                                                   |       |
| Full Bath:               | 0          |                                                   |       |
| Half Bath:               | 0          |                                                   |       |
| Features:                |            | Size:                                             |       |
| Concrete Block           |            | 100 %                                             |       |
| Forced Air Unit          |            | 100 %                                             |       |

**Improvements**

| Bldg #: | Improvement:           | Size: |
|---------|------------------------|-------|
| 1       | Asphalt Paving         | 1,500 |
| 1       | Fence 6 ft             | 225   |
| 1       | Patio (Brick or Stone) | 280   |
| 1       | Porch Open (Raised)    | 616   |

**Land**

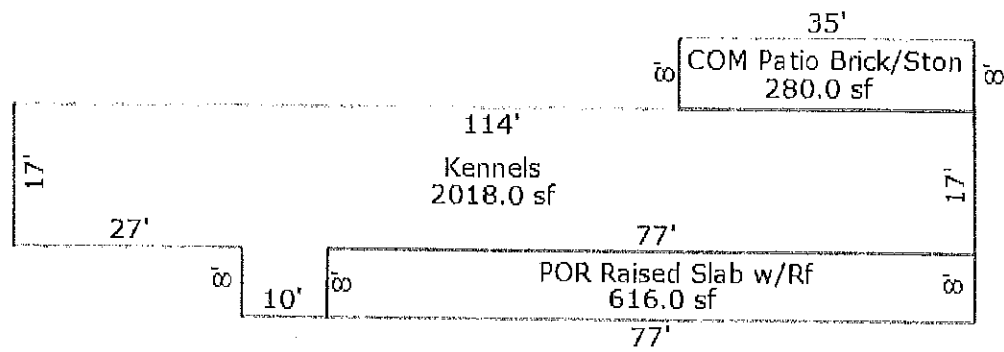
|                  |                 |              |         |
|------------------|-----------------|--------------|---------|
| Land Code:       | R00 Res Lots FV | Rate:        | \$7,500 |
| Acres:           | 0               | Adj. Rate:   | \$7,500 |
| Sq. Ft.:         | 0               | Base Value:  | \$7,500 |
| Front:           | 0               | Adj. Amount: | \$0     |
| Effective Front: | 1               | Value:       | \$7,500 |
| Depth:           | 0               |              |         |

**Transfers**

| Deed  | Page | Sale Price | Sale Date | Previous Owner    | Owner                   |
|-------|------|------------|-----------|-------------------|-------------------------|
| D 12  | 2444 | \$60,000   | 7/20/2012 | WARDLE MARION ANN | DANVILLE PET RESORT INC |
| D 12  | 2313 | \$72,378   | 7/10/2012 | D & D PROPERTIES  | WARDLE MARION ANN       |
| D 03  | 2807 | \$100,600  | 5/22/2003 | WARDLE MARION ANN | D & D PROPERTIES        |
| D 98  | 5087 | \$160,000  | 9/22/1998 | No Data           | No Data                 |
| DP730 | 42   | \$0        | 9/7/1983  | No Data           | No Data                 |

**Assessments**

| Year | Land    | Use | Improvements | Total     |
|------|---------|-----|--------------|-----------|
| 2013 | \$7,500 | \$0 | \$96,400     | \$103,900 |
| 2012 | \$7,500 | \$0 | \$96,400     | \$103,900 |
| 2011 | \$7,500 | \$0 | \$92,500     | \$100,000 |
| 2010 | \$7,500 | \$0 | \$92,500     | \$100,000 |
| 2009 | \$7,500 | \$0 | \$93,800     | \$101,300 |
| 2008 | \$7,500 | \$0 | \$93,800     | \$101,300 |
| 2007 | \$7,500 | \$0 | \$88,000     | \$95,500  |
| 2006 | \$7,500 | \$0 | \$88,000     | \$95,500  |
| 2005 | \$3,800 | \$0 | \$101,500    | \$105,300 |
| 2004 | \$3,800 | \$0 | \$101,500    | \$105,300 |
| 2003 | \$3,800 | \$0 | \$96,800     | \$100,600 |
| 2002 | \$3,800 | \$0 | \$96,800     | \$100,600 |
| 2001 | \$3,800 | \$0 | \$73,000     | \$76,800  |
| 2000 | \$3,800 | \$0 | \$73,000     | \$76,800  |



Sketch by Apex Medina™

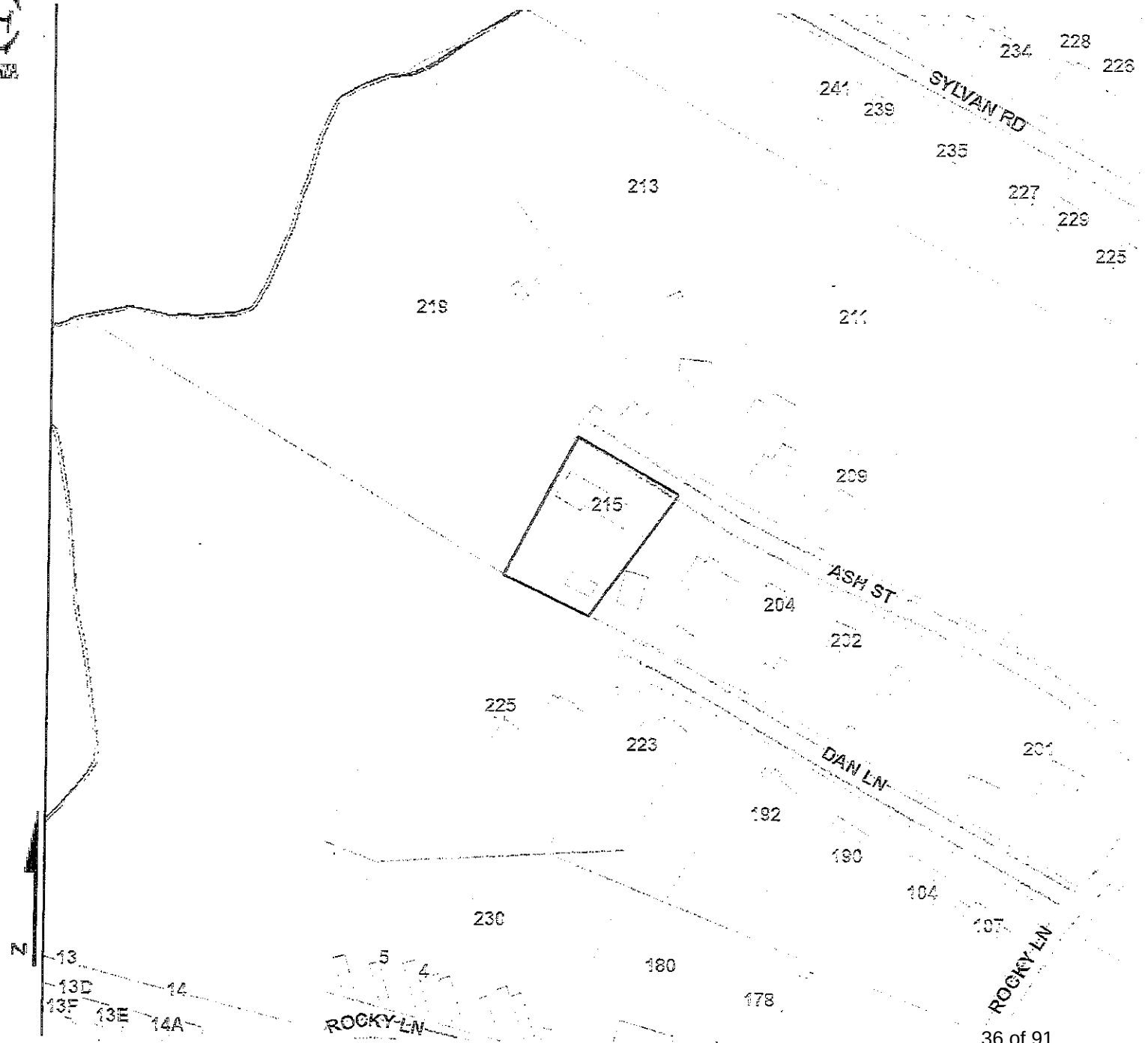


Parcel ID: 73005

- ☐ Buildings
- ☐ Parcels
- ☐ Historic\_Districts
- ☐ Downtown
- ☐ Holbrook Ross
- ☐ North Danville
- ☐ Old West End
- ☐ Tobacco Warehouse
- ☐ Street Names
- ☐ House Numbers

Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, it's accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.

Date: 1/7/2014



# City of Danville

## Legend

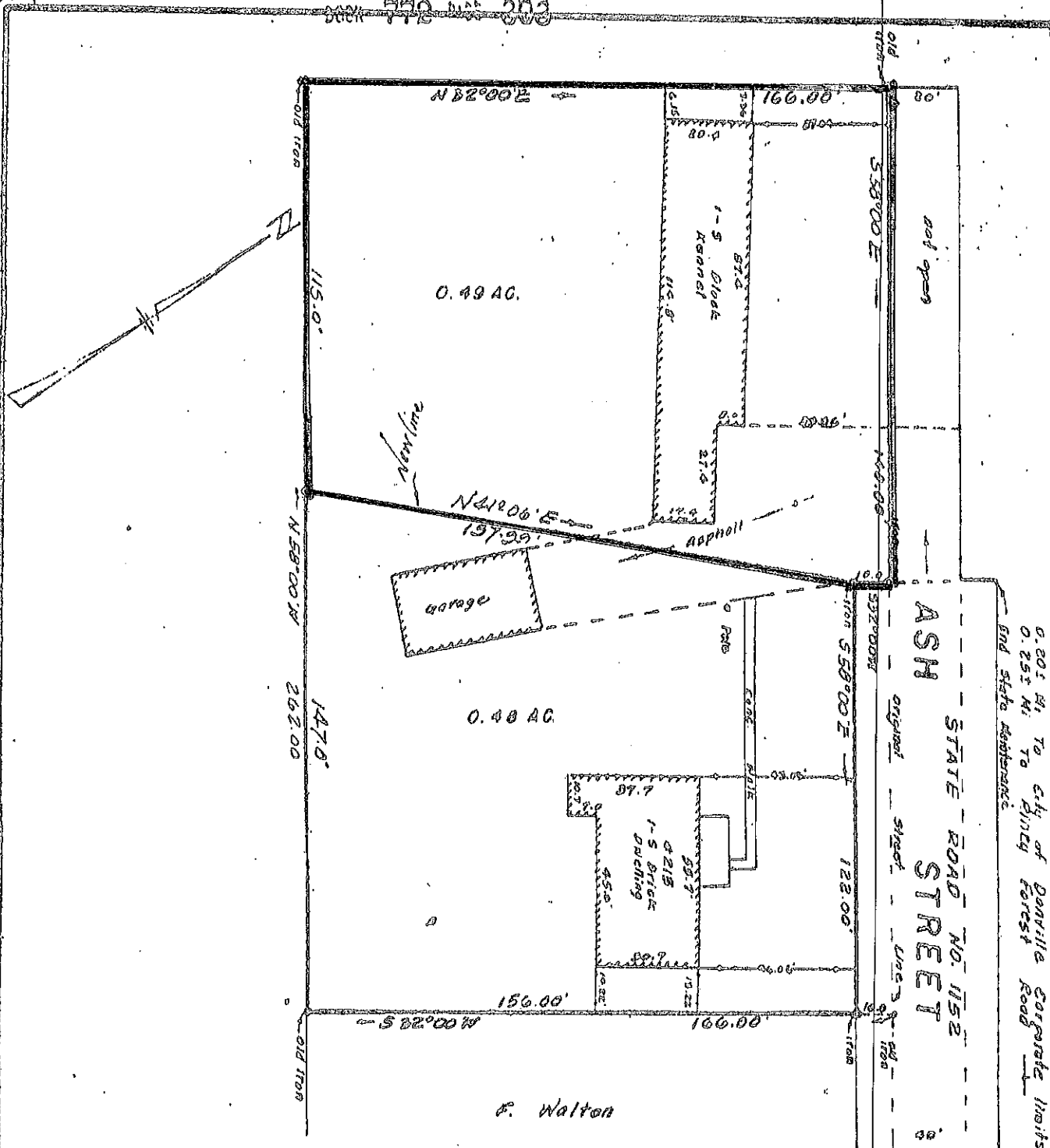
- Parcels
- Street Names
- House Numbers
- Parcel Numbers

Feet  
0 10 20 30 40  
1:500 / 1"=42 Feet

DISCLAIMER: Information contained on this map is to be used for reference purposes only and the City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.

Title:





I certify that this is an accurate map of a survey made under my supervision.

E. S. Kilmer

Certified Lead Surveyor No. 476

PLAT OF SURVEY  
FOR

MARY ANNE ZUBLER

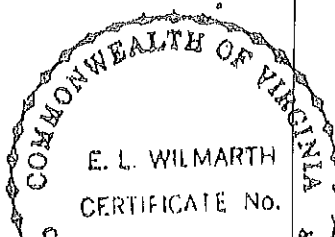
SITUATE

TUNSTALL DIST., PITTSYLVANIA CO., VA.

SCALE 1" = 40'

SEP 1 1983

REVISED MAR. 26, 1985 (NEW LINE)





**REZONING AND SPECIAL USE PERMIT REQUEST**  
**DATA SHEET**

**PUBLIC HEARING DATES:** Planning Commission at 3pm on April 14, 2020

**LOCATION OF PROPERTY:** 215 Ash Street (Parcel #73005)

**PRESENT ZONE:** OT-R Old Town Residential

**PROPOSED ZONE:** "Conditional" HR-C Highway Retail Commercial

**ACTION REQUESTED:** Rezone and a Special Use Permit to allow for reopening of a non-conforming use that lost its vested right due to being closed for more than two years.

**PRESENT USE OF PROPERTY:** Vacant Commercial Kennel

**PROPOSED USE OF PROPERTY:** Commercial Kennel

**FUTURE LAND USE DESIGNATION:** Residential

**PROPERTY OWNER (S):** Danville Pet Resort Inc. c/o Dana Peters (Nielsen)

**NAME OF APPLICANT (S):** Dana Nielsen (Peters)

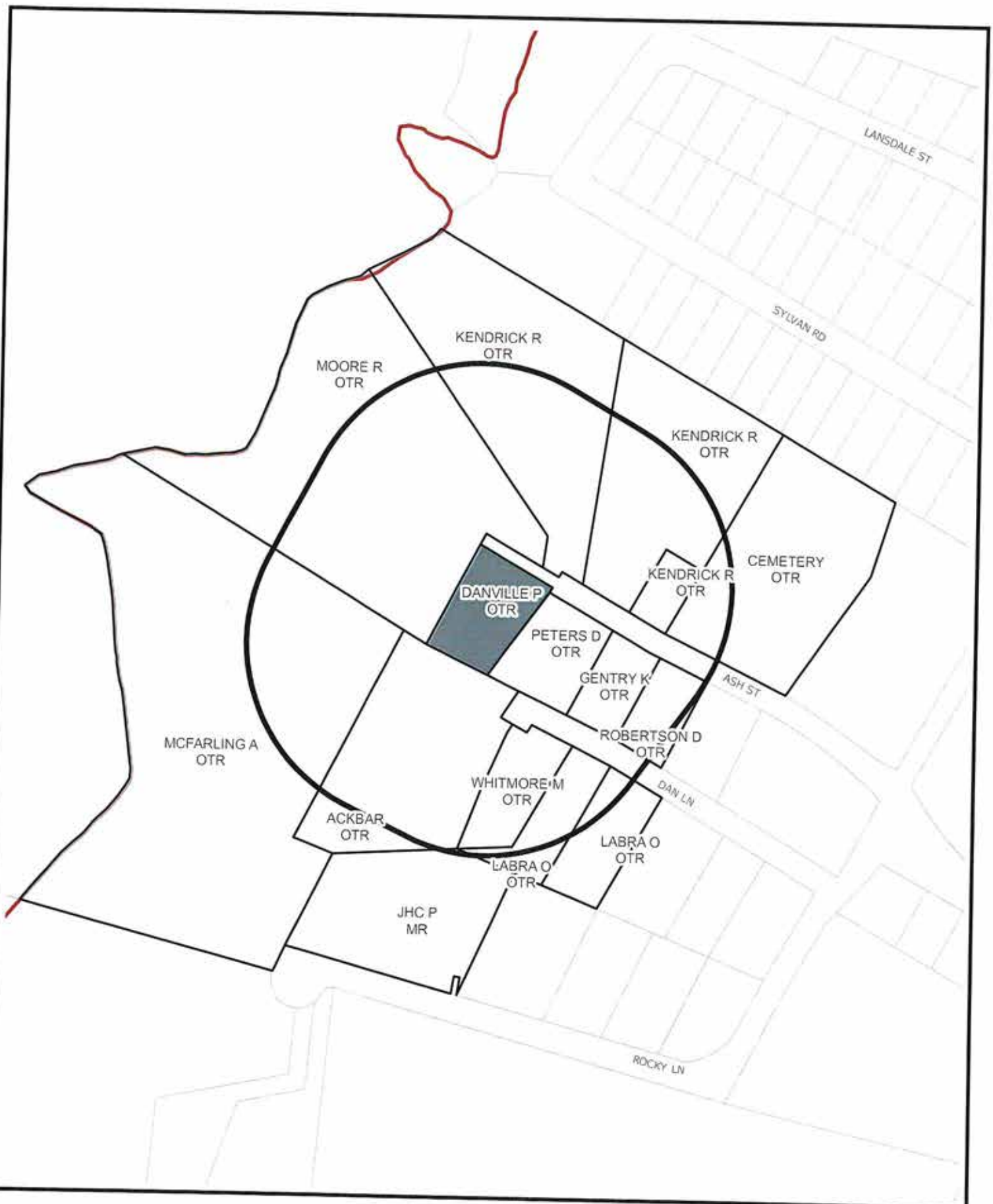
**PROPERTY BORDERED BY:** Residential to the north, east, south and vacant land to the west

**ACREAGE:** .49 acres (approximately)

**CHARACTER OF VICINITY:** Residential

**INGRESS AND EGRESS:** Ash Street

**TRAFFIC VOLUME:** Low



# **SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY**

Prepared by:  
Planning Division  
3/11/2020

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular 40 of 91 in labeling dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



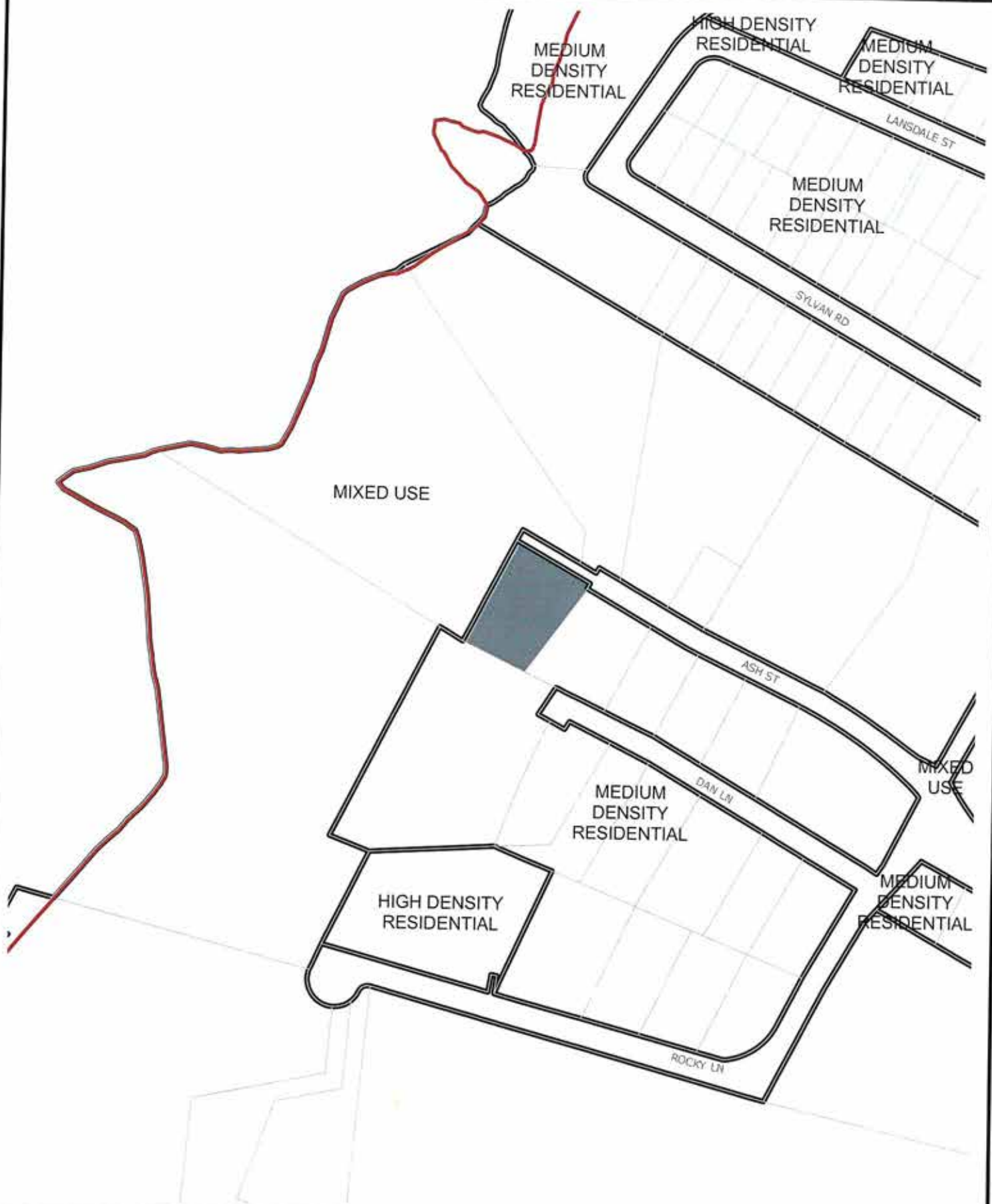


## 2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:  
Planning Division  
3/11/2020

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.





# YEAR 2030 LAND USE PLAN FOR AREA SURROUNDING SUBJECT PROPERTY

Prepared by:  
Planning Division  
3/11/2020

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.

# Council Letter

## City of Danville, Virginia



**CL-2354**

**New Business C.**

**City Council Regular Meeting**

**Meeting Date:** 07/07/2020

**Subject:** Request a for a Special Use Permit to Operate a Commercial Kennel at 215 Ash Street

**From:** Kenneth C. Gillie, Jr., Community Development Director

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### **COUNCIL ACTION**

Business Meeting: 07/07/2020

### **SUMMARY**

A request has been filed by Dana Peters, requesting a Special Use Permit for a commercial kennel in accordance with Article 3.M, Section C, Item 7 of the Zoning Ordinance of the Code of the City of Danville, Virginia 1986, as amended, at 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map. The applicant is requesting a Special Use Permit to allow for a discontinued commercial kennel to reused.

### **BACKGROUND**

A request has been filed by Dana Peters requesting to rezone and obtain a Special Use Permit to allow for a discontinued non-conforming use (commercial kennel) to reused at 215 Ash Street.

This property is developed with a structure that was built within Pittsylvania County as a pet kennel. According to City records, the facility was operated until December 2016, but maintained a business license until December 31, 2017. The property is zoned OT-R Old Town Residential district, thus the facility was a legal non-conforming use. City Zoning Code Article 7, Section B Item 3 regulates non-conforming uses. It reads as follows:

*3. Discontinuation of nonconforming use. If a nonconforming use is discontinued or abandoned for a continuous period of more than two (2) years, including any period of discontinuation before the effective date of this ordinance, then that use shall not be renewed or reestablished and any subsequent use of the lot or structure shall conform to the regulations of this ordinance. When any nonconforming use is replaced by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed.*

The applicant has requested to rezone this property to a "Conditional" HR-C district, eliminating all uses except for a commercial kennel. In order to have a commercial kennel in the HR-C district, a Special Use Permit is also required. The Planning Commission voted 6-0 (Commissioner Petrick absent) to recommend approval of the request subject to the condition that the hours of operation be limited to 7 am – 7 pm Monday through Sunday.

## RECOMMENDATION

It is recommended that City Council adopt an Ordinance granting a Special Use Permit for a commercial kennel in accordance with Article 3.M, Section C, Item 7 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended, at 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map, subject to the condition that the hours of operation be limited to 7 am – 7 pm Monday through Sunday.

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### Attachments

Ordinance

Planning Backup

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PRESENTED: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

ORDINANCE NO. 2020\_\_\_\_.\_\_\_\_

AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A COMMERCIAL KENNEL IN ACCORDANCE WITH ARTICLE 3.M, SECTION C, ITEM 7 OF THE ZONING ORDINANCE OF THE CODE OF CITY OF DANVILLE, VIRGINIA 1986, AS AMENDED, AT 215 ASH STREET (PARCEL ID# 73005), OTHERWISE KNOWN AS GRID 1807, BLOCK 003, PARCEL ID# 000049, OF THE CITY OF DANVILLE, ZONING DISTRICT MAP.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia, that the report of the Planning Commission recommending approval of Special Use Permit Application PLSUP202000059, filed by Dana Peters, requesting a Special Use Permit for a commercial kennel in accordance with Article 3.M, Section C, Item 7 of the Zoning Ordinance of the Code of City of Danville, Virginia, 1986, as amended, at 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map, is hereby received, subject to the condition that the hours of operation be limited to 7 am – 7 pm Monday through Sunday; and

BE IT FURTHER ORDAINED, that in consideration of said report and the public hearing this day held by Council, Special Use Permit Application PLSUP202000059, filed by Dana Peters, requesting a Special Use Permit for a commercial kennel in accordance with Article 3.M, Section C, Item 7 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended, at 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map, is hereby approved, subject to the condition that the hours of operation be limited to 7 am – 7 pm Monday through Sunday.

APPROVED:

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MAYOR

ATTEST:

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CLERK

Approved as to  
Form and Legal Sufficiency:

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CITY ATTORNEY





**City of Danville**  
427 Patton Street, Suite 208  
Danville VA, 24541  
Phone: (434) 799-5260

## ***City Planning Commission***

### **MEMORANDUM**

**DATE:** JUNE 11, 2020  
**TO:** CITY COUNCIL  
**FROM:** CITY PLANNING COMMISSION  
**SUBJECT:** SPECIAL USE PERMIT REQUEST

**REQUEST:**

*Special Use Permit Application PLSUP202000059, filed by Dana Peters, requesting a Special Use Permit for a Commercial Kennel in accordance with Article 3.M, Section C, Item 7 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended, at 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map. The applicant is requesting a Special Use Permit to allow for a discontinued commercial kennel to reused.*

**RECOMMENDATION:**

The Planning Commission voted 6-0 (Commissioner Petrick absent) to recommend approval of the request subject to the condition that the hours of operation be limited to 7 am – 7 pm Monday through Sunday.

*Harold Garrison (KCG)*

Mr. Harold E. Garrison, Chairman

**RESPONSES**

Ten (10) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. Five (5) responses were received. Three (4) were not opposed (Peters, Danville Pet Resort Inc, Kendrick and JHC Properties LLC). One (1) was opposed (Ackbar).

**COMMENTS:**

I moved to this area of Danville for peace and quiet. Ackbar

Additional written letters attached.



**City of Danville**  
427 Patton Street, Suite 208  
Danville VA, 24541  
Phone: (434) 799-5260

## **City Planning Commission**

**City Planning Commission**  
Meeting of June 11, 2020

**Subject:**

*Rezoning Application PLRZ2020000058, filed by Dana Peters, requesting to rezone from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map. The applicant is proposing to rezone to allow for a discontinued non-conforming use (commercial kennel) to reused.*

*Special Use Permit Application PLSUP2020000059, filed by Dana Peters, requesting a Special Use Permit for a commercial kennel in accordance with Article 3.M, Section C, Item 7 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended, at 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map. The applicant is requesting a Special Use Permit to allow for a discontinued commercial kennel to reused.*

**Background:**

A request has been filed by Dana Peters requesting to rezone and obtain a Special Use Permit to allow for a discontinued non-conforming use (commercial kennel) to reused at 215 Ash Street.

This property is developed with a structure that was built within Pittsylvania County as a pet kennel. According to City records, the facility was operated until December 2016, but maintained a business license until December 31, 2017. The property is zoned OT-R Old Town Residential district, thus the facility was a legal non-conforming use. City Zoning Code Article 7, Section B Item 3 regulates non-conforming uses. It reads as follows:

*3. Discontinuation of nonconforming use. If a nonconforming use is discontinued or abandoned for a continuous period of more than two (2) years, including any period of discontinuation before the effective date of this ordinance, then that use shall not be renewed or reestablished and any subsequent use of the lot or structure shall conform to the regulations of this ordinance. When any nonconforming use is replaced by a permitted use, the use shall thereafter conform to the regulations for the district, and no nonconforming use shall thereafter be resumed.*

The applicant has requested to rezone this property to a "Conditional" HR-C district, eliminating all uses except for a commercial kennel. In order to have a commercial kennel in the HR-C district, a Special Use Permit is also required.



Ten (10) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. Five (5) responses were received. Three (4) were not opposed (Peters, Danville Pet Resort Inc, Kendrick and JHC Properties LLC). One (1) was opposed (Ackbar).

**COMMENTS RECIEVED:**

"I moved to this area of Danville for peace and quiet." Ackbar

**Staff Analysis and Recommendation:**

This request clearly amounts to spot zoning. This will create one parcel zoned commercial in the middle of a residential district. The applicant has proffered out all uses except for the operation of a kennel. As our Attorney states, not all spot zoning is illegal if it serves a legitimate public purpose. Whether the location of a kennel in a residential district meets a legitimate public purpose is not a question for staff. This is a question to be answered by City Council with Planning Commission input. Thusly, staff makes no recommendation on this.

If Planning Commission deems that this request does not meet a public purpose, then staff would recommend that they vote for denial of both requests.

If Planning Commission deems that this rezoning does meet a legitimate public purpose, then staff can agree with all uses being removed except for the commercial kennel in regards to the rezoning.

In regards to the Special Use Permit request if Planning Commission recommends approval, staff would recommend that the hours of operation be limited to 7 am – 7 pm Monday through Sunday.

**City Planning Commission Alternatives:**

1. Recommend continuation of Rezoning Application PLRZ2020000058 to a future meeting.
  2. Recommend approval of Rezoning Application PLRZ2020000058 as submitted.
  3. Recommend approval of Rezoning Application PLRZ2020000058 with conditions per Planning Commission.
  4. Recommend denial of Rezoning Application PLRZ2020000058.
- 
1. Recommend continuation of Special Use Permit Application PLSUP2020000059 to a future meeting.
  2. Recommend approval of Special Use Permit Application PLSUP2020000059 as submitted.
  3. Recommend approval of Special Use Permit Application PLSUP2020000059 with conditions per Planning Commission.
  4. Recommend denial of Special Use Permit Application PLSUP2020000059.

**Attachments:**

Application  
Property Ownership/Zoning Map  
Data Sheet  
Existing Land Use Map (2019 Aerial)  
Year 2030 Land Use Map

Dana Nielsen (Peters)  
Owner  
434-770-9597  
40 E. 760 N.  
American Fork, Utah 84003

Property for Rezoning/Special Use Permit  
Danville Pet Resort Inc  
215 C Ash Street  
Danville, VA 24540

February 22, 2020

Danville Pet Resort, Inc. has operated as a boarding/grooming facility since 2012. Prior to 2012, the facility was engaged in the same type of operation. It was originally designed and built to be a full-time boarding/grooming kennel. As such, the physical facility itself is limited in scope to such an operation.

I have enclosed documentation showing the physical layout and measurements of the property. I am seeking a rezone and special use permit in order to continue to operate this business for the purpose it was constructed many years ago.

It was grandfathered in when the city expanded and changed the zoning. It was sold to me in 2012 and I operated it until 2017, when I sold the business. That sale fell through and I repossessed the property in 2018. Unbeknownst to me, the purchaser did not acquire a business license. When I attempted to renew this year, I was told it would need to be rezoned due to it not being in operation for over two years, even though he had continued to operate it. Unfortunately, I was unaware of this situation and did not respond before the two years expired.

My hope is to quickly rezone and obtain the special use so that I may reopen for business. This kennel has been in operation for 30+ years and we have many customers who have supported us over the years.

The physical location has limited to no effects on the surrounding neighborhood as they have coexisted for many years. It is a dead-end street with no foreseeable future development in the immediate area.

I appreciate the complexities of maintaining order through zoning and special use requirements. It is my hope to resolve this and resume business.

Thank you for your time. I am available if there are any questions.

Dana Nielsen

## MEMORANDUM

**DATE:** April 14, 2020

**TO:** PLANNING COMMISSION

**FROM:** PLANNING STAFF

**SUBJECT:** RESPONSE FROM NEIGHBORING PROPERTY OWNERS.

**REQUEST:**

1. *Rezoning Application PLRZ2020000058, filed by Dana Peters, requesting to rezone from OT-R Old Town Residential District to "Conditional" HR-C Highway Retail Commercial District, 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map. The applicant is proposing to rezone to allow for a discontinued non-conforming use (commercial kennel) to reused.*
2. *Special Use Permit Application PLSUP2020000059, filed by Dana Peters, requesting a Special Use Permit for a waiver to yard setbacks in accordance with Article 3.M, Section C, Item 7 of the Zoning Ordinance of the Code of City of Danville, Virginia 1986, as amended, at 215 Ash Street (Parcel ID# 73005), otherwise known as Grid 1807, Block 003, Parcel ID# 000049, of the City of Danville, Zoning District Map. The applicant is requesting a Special Use Permit to allow for a discontinued commercial kennel to reused.*

**RESPONSES:**

Twelve (12) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. Five (5) responses were received. Three (4) were not opposed (Peters, Danville Pet Resort Inc, Kendrick and JHC Properties LLC). One (1) was opposed (Ackbar).

**COMMENTS:**

I moved to this area of Danville for peace and quiet. Ackbar

**Gillie, Kenny**

---

**From:** Dana Nielsen <danarnielsen@gmail.com>  
**Sent:** Wednesday, March 11, 2020 11:59 AM  
**To:** Gillie, Kenny  
**Subject:** Re: 215 Ash St

**CAUTION:** This email originated outside the City of Danville's email system.  
Do not click links or open attachments unless you recognize the sender and know the content is safe.

I only want it to be a kennel. Can you just strike through everything else please?

On Wed, Mar 11, 2020, 9:51 AM Gillie, Kenny <[GilliKC@danvilleva.gov](mailto:GilliKC@danvilleva.gov)> wrote:

Dear Ms. Nielsen,

Are you proffering any conditions to the rezoning request for 215 Ash Street? Your request to change from OT-R Old Town Residential to HR-C Highway Retail Commercial and allow for a dog kennel would open this site up to a host of other commercial uses that have never been present in that neighborhood. If you wish to limit that property to only the dog kennel, please strike through those uses on the attached HR-C Code section that you would not allow.

If it is your intention to allow for all these use, please let me know so that I can advertise accordingly, as well as let adjacent property owners know when we send out letters regarding this case.

Sincerely,

Kenneth C. Gillie Jr., CFM

Director of Community Development

Zoning Administrator

City of Danville, Virginia

(434) 799-5260 ext. 2501

CITY OF DANVILLE

REZONING APPLICATION

TO THE CITY PLANNING COMMISSION AND THE HONORABLE CITY COUNCIL:  
Application is hereby made for the rezoning as described below:

INFORMATION TO BE PROVIDED BY THE PLANNING DIVISION

CASE NUMBER: \_\_\_\_\_ EXISTING ZONING: \_\_\_\_\_  
PROPOSED ZONING: \_\_\_\_\_ TAX MAP NUMBER: \_\_\_\_\_  
RECEIVED BY: \_\_\_\_\_ DATE FILED: \_\_\_\_\_  
PLANNING COMMISSION DATE: \_\_\_\_\_ CITY COUNCIL DATE: \_\_\_\_\_

INFORMATION TO BE PROVIDED BY THE APPLICANT

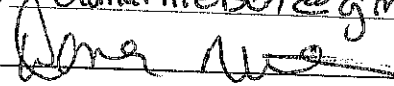
Exact legal description of property (Attach if insufficient space). See attached  
Gross Area/Net Area: \_\_\_\_\_ Property Address: \_\_\_\_\_  
Property Location: N S E W Side of: \_\_\_\_\_  
Between: \_\_\_\_\_ and \_\_\_\_\_  
Proffered Conditions (if any, please attach): \_\_\_\_\_

**PRESENT OWNER (S) OF ALL PROPERTIES INCLUDED IN APPLICATION (PLEASE TYPE OR PRINT):**

1. NAME: Dana Peters (Nielsen) TELEPHONE: 434-770-9597  
MAILING ADDRESS: 40 E. 760 N. American Fork, UT 84003  
SIGNATURE:  DATE: 2-22-2020  
SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
EMAIL ADDRESS: danarnielsen@gmail.com

**APPLICANT (PLEASE TYPE OR PRINT):**

If the applicant is not the property owner, written authorization from the property owner must accompany this application.

NAME: Dana Nielsen TELEPHONE: 434-770-9597  
MAILING ADDRESS: 40 E. 760 N. American Fork UT 84003  
EMAIL ADDRESS: danarnielsen@gmail.com  
SIGNATURE:  DATE: 2-22-2020



## EXPLANATION OF REQUEST:

### 1. NEW COMMERCIAL/INDUSTRIAL DEVELOPMENT:

Please provide ten (10) sets, blue or black line copies, of a final site plan with the following information:

- Proposed use of the land: size and location of structures with dimensions to lot lines.
- Vehicular circulation system with points of ingress and egress.
- Existing on-site buildings, separation dimensions and paved areas.
- Location and dimensions of all parking and loading areas, including the number of off-street parking and loading spaces provided.
- Net acreage.
- Gross and net square footage of building (s) (proposed and existing).
- Required landscaping and buffer areas.

Please provide a brief description of the proposed development:

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### 2. ALTERATION OF ZONING BOUNDARIES:

Please provide a survey of proposed Zoning boundaries.

Please provide a brief description of the request:

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### 3. RESIDENTIAL REZONING:

Please provide a brief description of the request:

Rezone property to H R-C, Highway Retail Commercial  
Special Use permit is being applied for as well

CITY OF DANVILLE

REZONING APPLICATION

TO THE CITY PLANNING COMMISSION AND THE HONORABLE CITY COUNCIL:  
Application is hereby made for the rezoning as described below:

INFORMATION TO BE PROVIDED BY THE PLANNING DIVISION

CASE NUMBER: \_\_\_\_\_ EXISTING ZONING: \_\_\_\_\_  
PROPOSED ZONING: \_\_\_\_\_ TAX MAP NUMBER: \_\_\_\_\_  
RECEIVED BY: \_\_\_\_\_ DATE FILED: \_\_\_\_\_  
PLANNING COMMISSION DATE: \_\_\_\_\_ CITY COUNCIL DATE: \_\_\_\_\_

INFORMATION TO BE PROVIDED BY THE APPLICANT

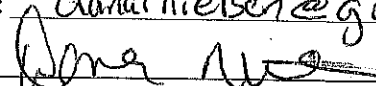
Exact legal description of property (Attach if insufficient space). See attached  
Gross Area/Net Area: \_\_\_\_\_ Property Address: \_\_\_\_\_  
Property Location: N S E W Side of: \_\_\_\_\_  
Between: \_\_\_\_\_ and \_\_\_\_\_  
Proffered Conditions (if any, please attach): \_\_\_\_\_

**PRESENT OWNER (S) OF ALL PROPERTIES INCLUDED IN APPLICATION (PLEASE TYPE OR PRINT):**

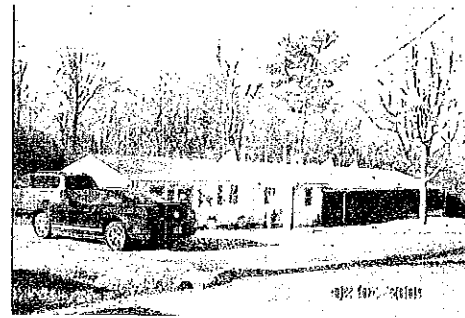
1. NAME: Dana Peters (Nielsen) TELEPHONE: 434-770-9597  
MAILING ADDRESS: 40 E. 760 N. American Fork, UT 84003  
SIGNATURE:  DATE: 2-22-2020  
SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
EMAIL ADDRESS: danarnielsen@gmail.com

**APPLICANT (PLEASE TYPE OR PRINT):**

If the applicant is not the property owner, written authorization from the property owner must accompany this application.

NAME: Dana Nielsen TELEPHONE: 434-770-9597  
MAILING ADDRESS: 40 E. 760 N. American Fork UT 84003  
EMAIL ADDRESS: danarnielsen@gmail.com  
SIGNATURE:  DATE: 2-22-2020

**Parcel ID:** 73005  
**Address:** 215 ASH ST  
**Owner:** DANVILLE PET RESORT INC  
 5844 US HWY 29  
 BLAIRS, VA 24527  
**Mail-To:** DANVILLE PET RESORT INC  
 5844 US HWY 29  
 BLAIRS, VA 24527



| Value Information |              |
|-------------------|--------------|
| Land / Use:       | \$7,500      |
| Improvement:      | \$96,400     |
| Total:            | \$103,900.00 |

| Building Information  |       |
|-----------------------|-------|
| Year Built:           | 0     |
| Total Rooms:          | 0     |
| Bedrooms:             | 0     |
| Full Bathrooms:       | 0     |
| Half Bathrooms:       | 0     |
| Finished Square Feet: | 2,018 |

| Additional Information |                                    |                    |                                    |
|------------------------|------------------------------------|--------------------|------------------------------------|
| State Code:            | 4621 Misc Business Svcs            | Approx Acres:      | 0                                  |
| Land Use:              | Commercial                         | Legal Description: | .49 AC ASH ST (DANVILLE PET LODGE) |
| Tax Map:               | 1807-003-000049.000                | Zone:              | OTR Old Town Residential           |
| Notes:                 | Danville Pet Lodge (Map P164 A 12) |                    |                                    |

## Building

| Building Information - 1 |            |                                                   |       |
|--------------------------|------------|---------------------------------------------------|-------|
| Property Class:          | Commercial | Finished Square Feet:                             | 2,018 |
| Style:                   | No Data    | Basement Square Feet:                             | 0     |
| Year Built:              | 0          | Total Rooms:                                      | 0     |
| Condition:               | No Data    | * Bathrooms are not included in total room count. |       |
| Story Height:            | No Data    |                                                   |       |
| Bedrooms:                | 0          |                                                   |       |
| Dining Rooms:            | 0          |                                                   |       |
| Family Rooms:            | 0          |                                                   |       |
| Living Rooms:            | 0          |                                                   |       |
| Full Bath:               | 0          |                                                   |       |
| Half Bath:               | 0          |                                                   |       |
| Features:                |            | Size:                                             |       |
| Concrete Block           |            | 100 %                                             |       |
| Forced Air Unit          |            | 100 %                                             |       |

## Improvements

Page: 2

| Bldg #: | Improvement:           | Size: |
|---------|------------------------|-------|
| 1       | Asphalt Paving         | 1,500 |
| 1       | Fence 6 ft             | 225   |
| 1       | Patio (Brick or Stone) | 280   |
| 1       | Porch Open (Raised)    | 616   |

## Land

|                  |                 |              |         |
|------------------|-----------------|--------------|---------|
| Land Code:       | R00 Res Lots FV | Rate:        | \$7,500 |
| Acres:           | 0               | Adj. Rate:   | \$7,500 |
| Sq. Ft.:         | 0               | Base Value:  | \$7,500 |
| Front:           | 0               | Adj. Amount: | \$0     |
| Effective Front: | 1               | Value:       | \$7,500 |
| Depth:           | 0               |              |         |

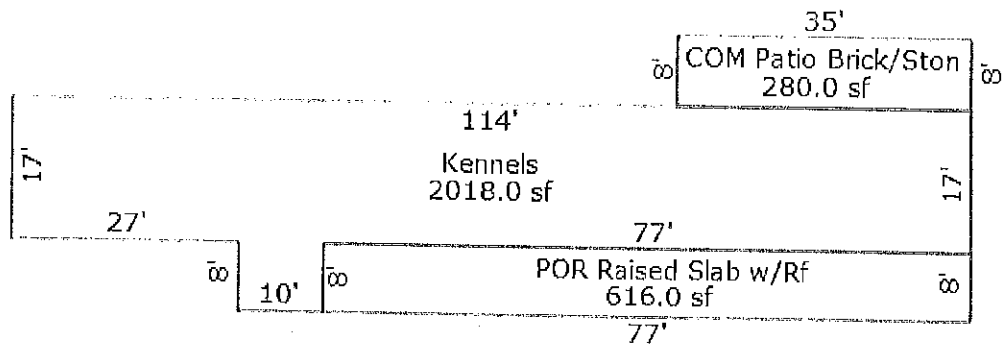
## Transfers

| Deed  | Page | Sale Price | Sale Date | Previous Owner    | Owner                   |
|-------|------|------------|-----------|-------------------|-------------------------|
| D 12  | 2444 | \$60,000   | 7/20/2012 | WARDLE MARION ANN | DANVILLE PET RESORT INC |
| D 12  | 2313 | \$72,378   | 7/10/2012 | D & D PROPERTIES  | WARDLE MARION ANN       |
| D 03  | 2807 | \$100,600  | 5/22/2003 | WARDLE MARION ANN | D & D PROPERTIES        |
| D 98  | 5087 | \$160,000  | 9/22/1998 | No Data           | No Data                 |
| DP730 | 42   | \$0        | 9/7/1983  | No Data           | No Data                 |

## Assessments

| Year | Land    | Use | Improvements | Total     |
|------|---------|-----|--------------|-----------|
| 2013 | \$7,500 | \$0 | \$96,400     | \$103,900 |
| 2012 | \$7,500 | \$0 | \$96,400     | \$103,900 |
| 2011 | \$7,500 | \$0 | \$92,500     | \$100,000 |
| 2010 | \$7,500 | \$0 | \$92,500     | \$100,000 |
| 2009 | \$7,500 | \$0 | \$93,800     | \$101,300 |
| 2008 | \$7,500 | \$0 | \$93,800     | \$101,300 |
| 2007 | \$7,500 | \$0 | \$88,000     | \$95,500  |
| 2006 | \$7,500 | \$0 | \$88,000     | \$95,500  |
| 2005 | \$3,800 | \$0 | \$101,500    | \$105,300 |
| 2004 | \$3,800 | \$0 | \$101,500    | \$105,300 |
| 2003 | \$3,800 | \$0 | \$96,800     | \$100,600 |
| 2002 | \$3,800 | \$0 | \$96,800     | \$100,600 |
| 2001 | \$3,800 | \$0 | \$73,000     | \$76,800  |
| 2000 | \$3,800 | \$0 | \$73,000     | \$76,800  |

DISCLAIMER: This data is provided without warranty of any kind, either expressed or implied. The enclosed information assumes all risk.

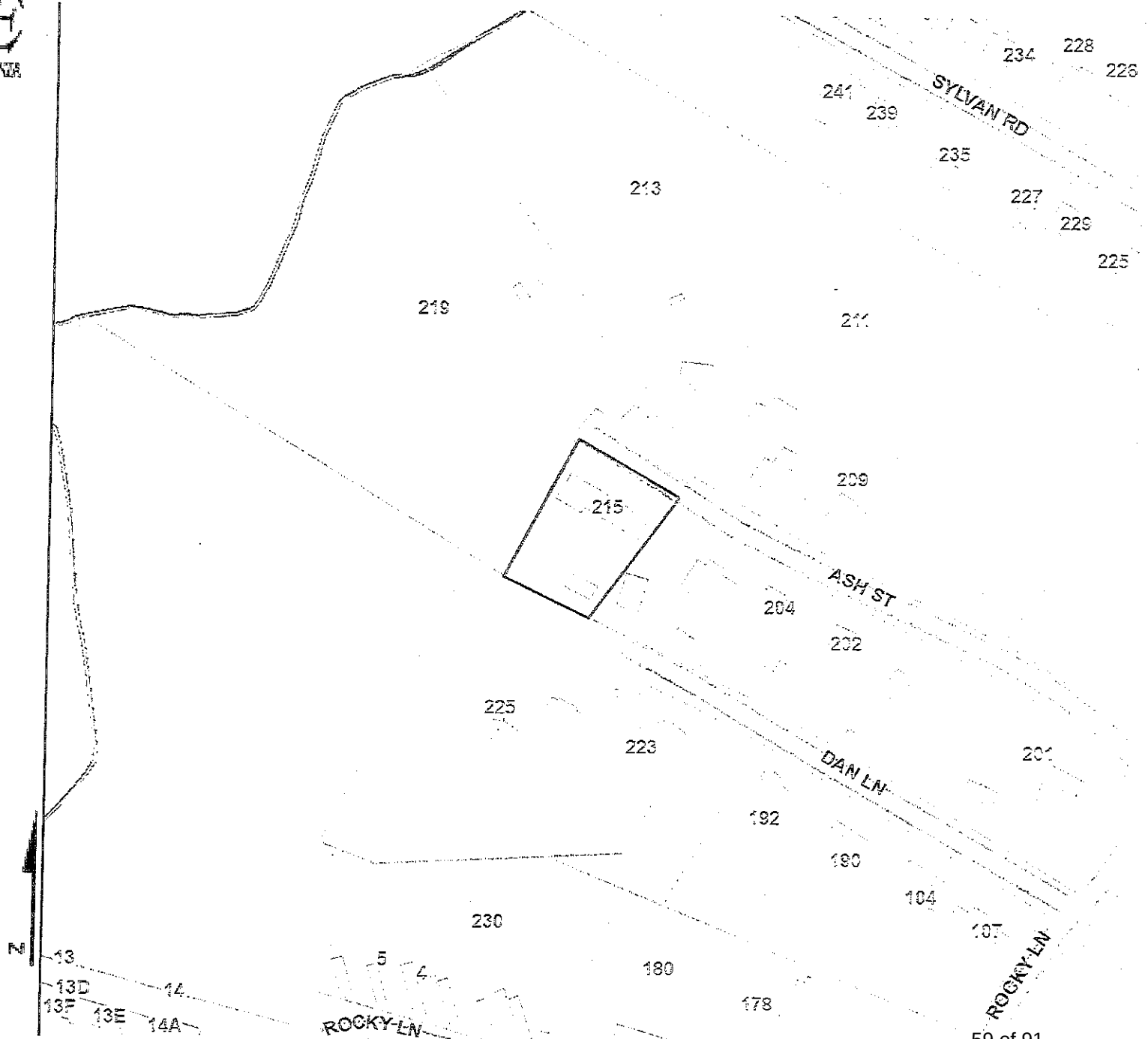


Sketch by Apax Medina™



Parcel ID: 73005

- ☐ Buildings
- ☐ Parcels
- Historic Districts
  - ☐ Downtown
  - ☐ Holbrook Ross
  - ☐ North Danville
  - ☐ Old West End
  - ☐ Tobacco Warehouse
- Street Names
- House Numbers



Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, it's accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.

Date: 1/7/2014



# City of Danville

## Legend

- Parcels
- Street Names
- House Numbers
- Parcel Numbers



Feet

0 10 20 30 40

1:500 / 1"=42 Feet

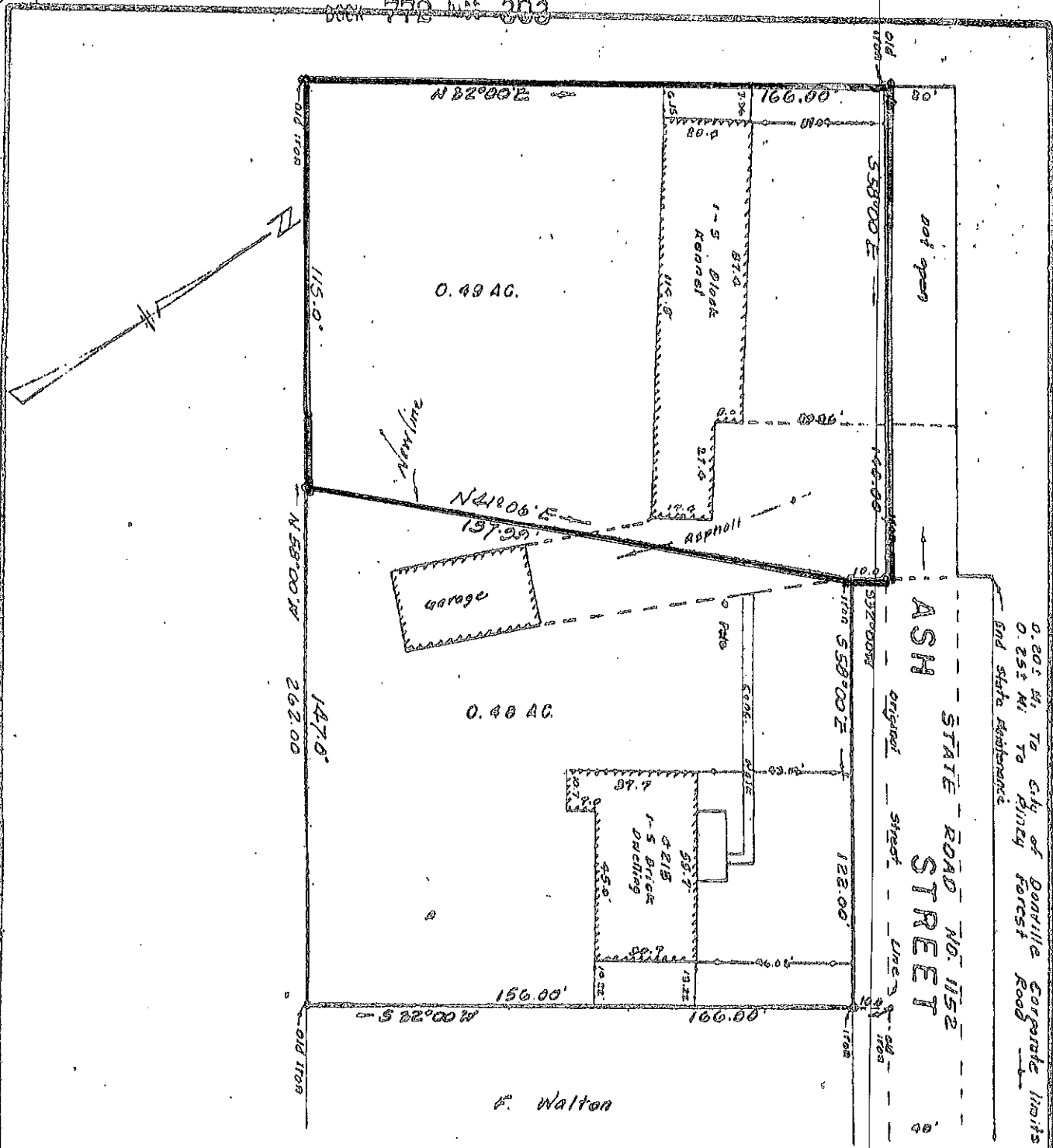
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Title:

Date: 10/30/2014 60 of 91

303

BOOK 772 PAGE 303



0.201 MI. To City of Danville Corporate limits  
0.251 MI. To Piney Forest Road  
and State Roadmark

I certify that this is an accurate map of a survey made under my supervision.

E. L. Wilmarth  
Certified Land Surveyor No. 470

PLAT OF SURVEY  
FOR

MARY ANNE ZUBLER

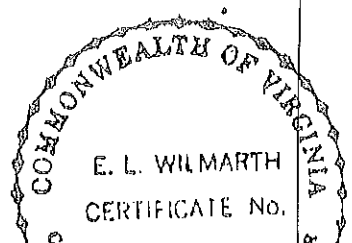
SITUATE

TUNSTALL DIST., PITTSYLVANIA CO., VA.

SCALE 1" = 40'

SEPT. 1, 1983

REVISED MAR. 26, 1985 (NEW LINE)



**REZONING AND SPECIAL USE PERMIT REQUEST**  
**DATA SHEET**

**PUBLIC HEARING DATES:** Planning Commission at 3pm on April 14, 2020

**LOCATION OF PROPERTY:** 215 Ash Street (Parcel #73005)

**PRESENT ZONE:** OT-R Old Town Residential

**PROPOSED ZONE:** "Conditional" HR-C Highway Retail Commercial

**ACTION REQUESTED:** Rezone and a Special Use Permit to allow for reopening of a non-conforming use that lost its vested right due to being closed for more than two years.

**PRESENT USE OF PROPERTY:** Vacant Commercial Kennel

**PROPOSED USE OF PROPERTY:** Commercial Kennel

**FUTURE LAND USE DESIGNATION:** Residential

**PROPERTY OWNER (S):** Danville Pet Resort Inc. c/o Dana Peters (Nielsen)

**NAME OF APPLICANT (S):** Dana Nielsen (Peters)

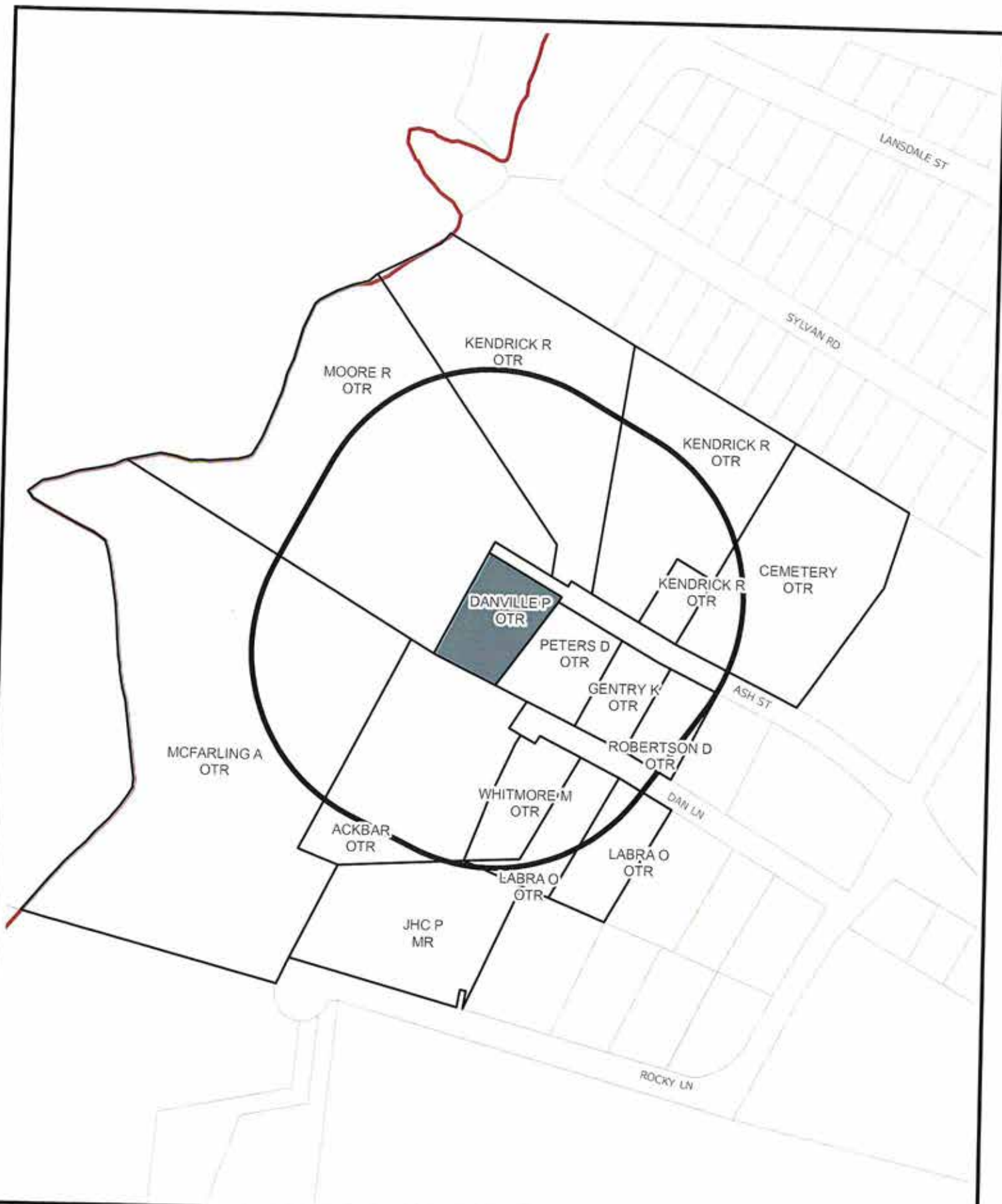
**PROPERTY BORDERED BY:** Residential to the north, east, south and vacant land to the west

**ACREAGE:** .49 acres (approximately)

**CHARACTER OF VICINITY:** Residential

**INGRESS AND EGRESS:** Ash Street

**TRAFFIC VOLUME:** Low



# **SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY**

Prepared by:  
Planning Division  
3/11/2020

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.



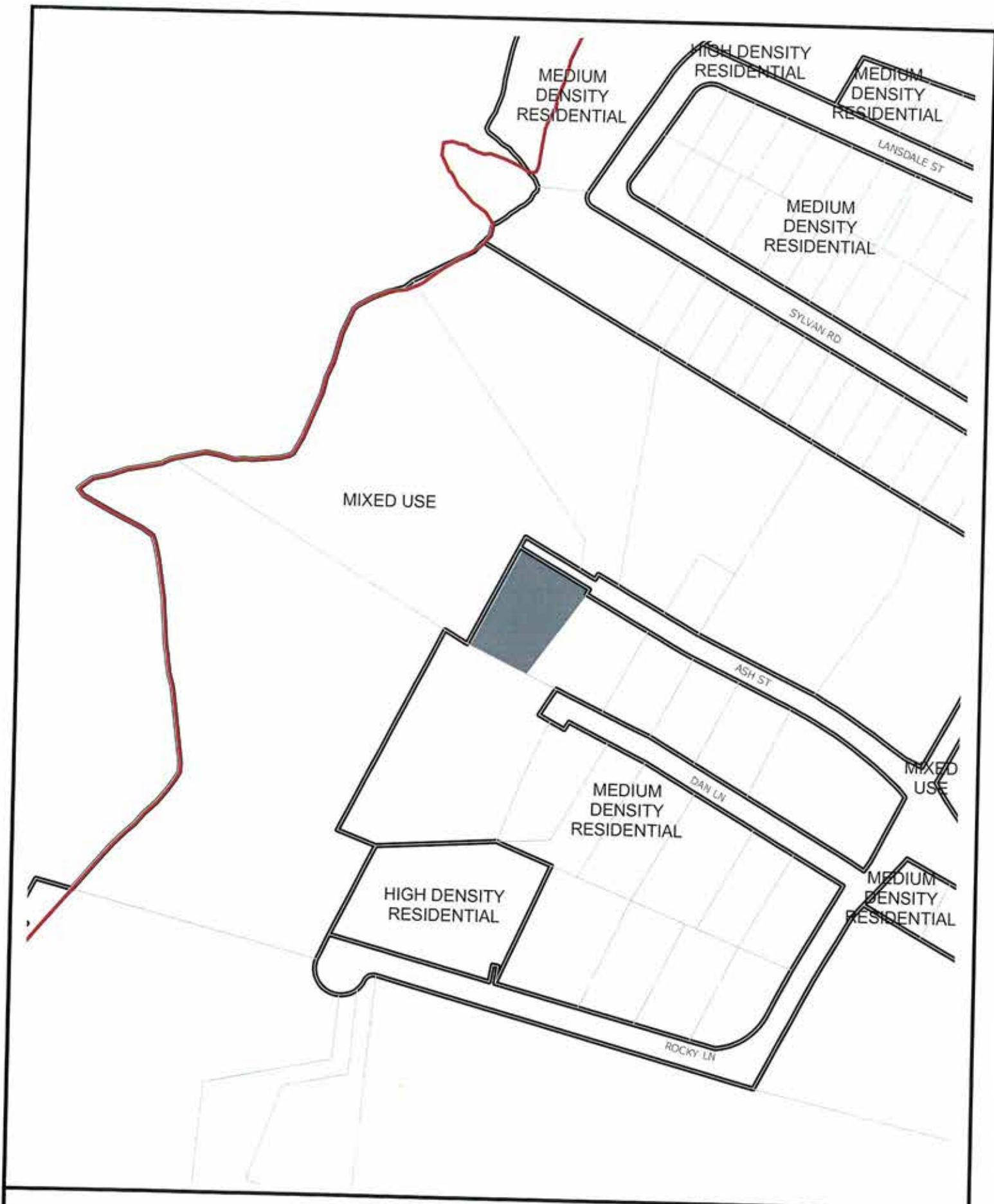


## 2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:  
Planning Division  
3/11/2020

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, its accuracy in labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.





## YEAR 2030 LAND USE PLAN FOR AREA SURROUNDING SUBJECT PROPERTY

Prepared by:  
Planning Division  
3/11/2020

Disclaimer: Information contained on this map is to be used for reference purposes only. The City of Danville is not responsible for any inaccuracies herein contained. The City of Danville makes no representation of warranty as to this map's accuracy, and in particular, 65 of 91 in labeling, dimensions, contours, property boundaries, or placement or location of any map features thereon. No responsibility is assumed for damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided.

# Council Letter

## City of Danville, Virginia



**CL-2332**

**New Business D.**

**City Council Regular Meeting**

**Meeting Date:** 07/07/2020

**Subject:** Modifying the 2016 PSEG Electric Capacity Agreement

**From:** Jason Grey, Utilities Director

---

### **COUNCIL ACTION**

Business Meeting: 07/07/2020

### **SUMMARY**

The City entered into a ten-year agreement with Public Service Enterprise Group (PSEG) in 2016, a regulated utility company from New Jersey, for 15 megawatts of capacity to be scheduled in the Regional Transmission Organization (RTO) zone of PJM interconnection system. Due to changes in the zone by Pennsylvania Jersey Maryland Interconnection (PJM), and at no fault of PSEG or the City, the RTO zone boundaries changed for upcoming years in locations where PSEG owns generation assets. PSEG has requested that the City receive capacity from the eastern Pennsylvania/New Jersey region known as the Mid-Atlantic Area Council (MAAC) zone within the PJM footprint. Currently, the MAAC zone is priced at a higher value than the RTO zone and the proposed changes to the agreement allow for fewer megawatts of capacity to be delivered at the higher value. In turn, if the MAAC zone is at a lower value than the RTO zone, the City will receive additional megawatts of capacity. The proposed changes will install a mechanism to allow both parties to secure the financial goals of the original contract.

### **BACKGROUND**

In May 2016, the City entered into a 15 megawatt (MW) capacity hedge with PSEG, a regulated utility company in New Jersey. The capacity hedge went into effect on June 1, 2019 and will last until May 31, 2029. The capacity hedge provides a fixed price for the 15 MWs of capacity over the next ten years. The hedge is approximately six percent of the City's total need. The capacity is non-generation specific and is to be scheduled within the RTO zone of the PJM interconnection system.

### **RECOMMENDATION**

Staff recommends that City Council approve and authorize the City Manager to Amend the 2016 PSEG agreement with the proposed revisions.

---

### **Attachments**

Resolution

Presentation

2016 Agreement

Red Lined Agreement



PRESENTED: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

RESOLUTION NO. 2020-\_\_\_\_.\_\_\_\_

A RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE 2016 PUBLIC SERVICE ENTERPRISE GROUP (PSEG) ELECTRIC CAPACITY HEDGE TO INCLUDE NEW TERMS FOR SCHEDULING THE CAPACITY WITHIN OTHER ZONES WITHIN THE PJM INTERCONNECTION SYSTEM .

WHEREAS, in May 2016 City Council approved entering into a ten-year agreement with PSEG, a regulated utility company from New Jersey, for 15 megawatts of electric capacity to start on June 1, 2019 and end on May 31, 2029; and

WHEREAS, the Utility Commission recommends amending the revised agreement with PSEG to include additional language that describes how to handle price differences between zones within the PJM interconnection system; and

WHEREAS, the new revised terms would provide a mechanism to ensure the City retains the same value from the capacity hedge as originally intended by accepting fewer megawatts of capacity when the MAAC zone is priced higher than the RTO zone and accepting additional megawatts of capacity when the MAAC zone is priced lower than the RTO zone; and

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Danville, Virginia, that it does hereby authorize and approve the City Manager to amend the current 2016 PSEG electric capacity agreement with the revised terms to resolve unforeseen scheduling conflicts; and

BE IT FURTHER RESOLVED, by the Council of the City of Danville, Virginia, that the City Manager, be, and is hereby, authorized and directed to sign and execute the amended PSEG electric capacity agreement and any and all other documents necessary to complete this transaction.

APPROVED:

---

MAYOR

ATTEST:

---

CLERK

Approved as to  
Form and Legal Sufficiency:

---

CITY ATTORNEY

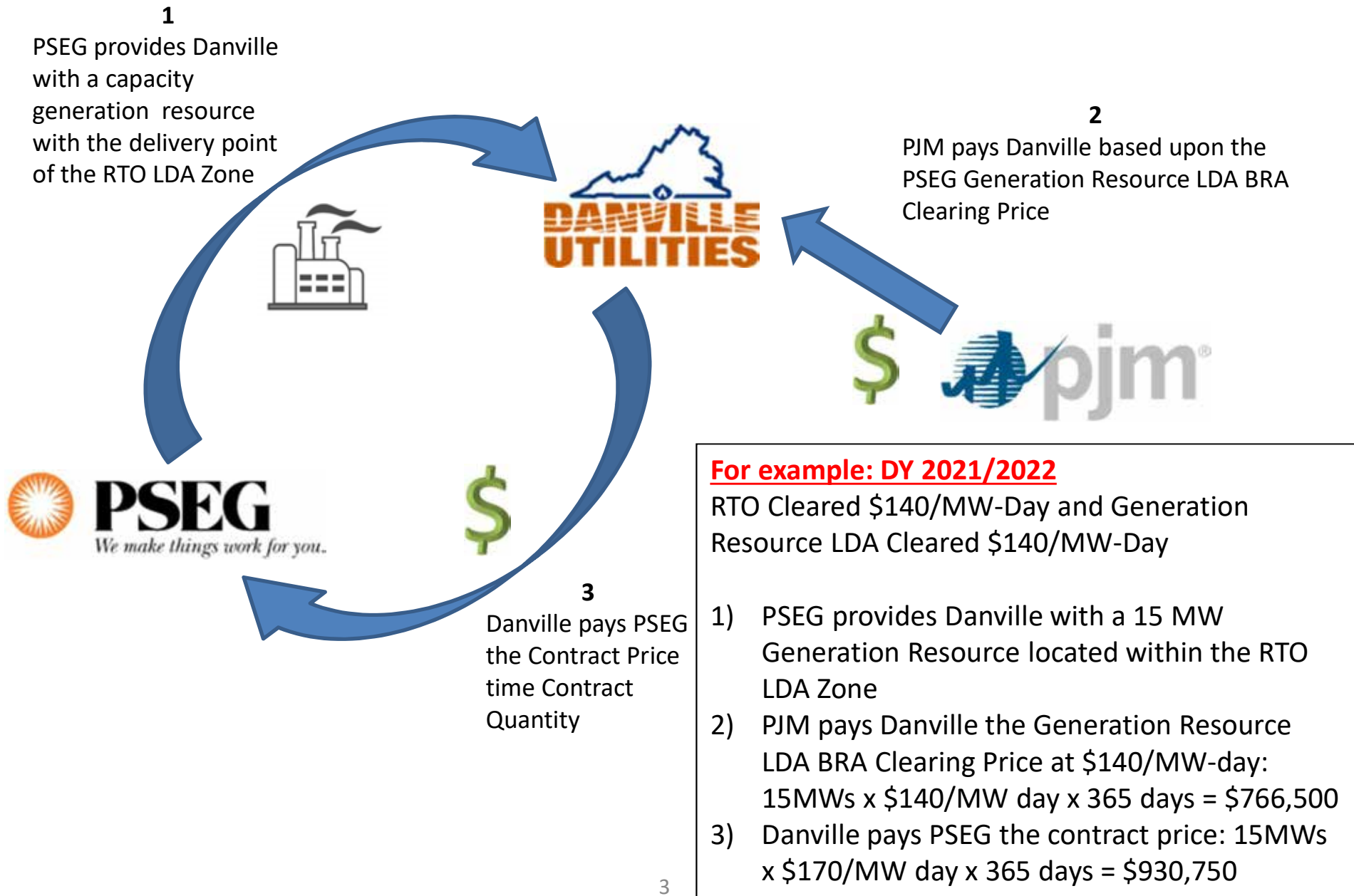
# City of Danville Capacity Contract Amendment Proposal

April 21, 2020

# Overview of Capacity Transaction

- Product: Auction Specific MW
- Delivery Point: RTO LDA
- Contract Quantity: 15 MW
- Fixed Price each Delivery Year (DY)
- City of Danville receives from PJM a payment equal to the Scheduled Quantity times the Generation Resource LDA BRA Clearing Price
- City of Danville pays PSEG ER&T Contract Quantity times Fixed Price each Delivery Year
- Scheduling of the Generation Resource to occur on or before May 31 before the DY
  - In 2020, it is on or before May 29 for DY 2020/21

# How the deal flows



# The Problem

- Changes in the composition of the RTO LDA Zone in the confirm is silent regarding the price impact to the Buyer or Seller in the event that the Generation Resource LDA BRA Clearing Price is different than the RTO LDA Zone BRA Clearing Price for any DY
- This silence creates a potential for financial harm to either Party and in DY 2020/21 it happens to create a financial harm to PSEG
- For capacity market BRA pricing purposes, the composition of the LDAs that make up RTO LDA Zone can change from year to year
- PSEG's Generation Resources are in LDAs that may or may not fall within the RTO LDA Zone pricing area for a particular DY
  - DY 2019/20 and DY 2021/22 PSEG has Generation Resources in the RTO LDA
  - DY 2020/21 does not have Generation Resources in the RTO LDA
- The pricing separation between the location of the PSEG Generation Resource LDA and the RTO LDA Zone could be higher or lower for each DY
- We don't know what the future will look like beyond DY 2021/22

DY 2019/20



DY 2020/21



DY 2021/22





# The Solution

- In the event that PSEG doesn't have a generation resource located in a particular DY RTO LDA Zone pricing area and priced at the Rest of RTO LDA Zone clearing price for a particular BRA DY, PSEG proposes to prorate the Scheduled MWs it delivers to Danville, up or down, so that payment from PJM equals that of 15 MWs times the Rest of RTO LDA Zone Clearing Price

## DY 2020/2021 Prorated Flow

RTO Cleared \$76.53/MW-Day

MAAC Cleared \$86.04/MW-Day

1) PSEG provides Danville with a **13.4 MWs\*** resources that cleared at **\$86.04/MW-day**

2) PJM pays Danville the MAAC LDA BRA Clearing Price (PSEG Generation Resource location):

13.4 MWs x \$86.04/MW-day x 365 days = \$420,822

NOTE: This calculation is slightly higher than the Contract Quantity times the RTO LDA Zone Clearing Price: 15 MW x \$76.53/MW-Day x 365 days = \$419,000

\* Note: PSEG will round up to the nearest 10<sup>th</sup> of a MW to ensure Danville gets full credit and the result is equal to or slightly higher than the RTO LDA BRA Clearing Price times the Contract Quantity.

# Summary

- The Contract Quantity, Contract Price and Delivery Point do not change under the confirm
- The proposed structure ensures payments flow the same from PJM to the City of Danville whether or not PSEG has a resource located in the RTO LDA Zone pricing area for a particular BRA DY
- Modifying the agreement will allow this proration mechanism to be used for the Scheduled Quantity seamlessly in the event of future composition changes to the RTO LDA Zone where a PSEG Generation Resource is in an LDA that is not comprised within the RTO LDA Zone and without having to negotiate one-off true-up mechanisms
- Outside of this modification to the agreement, we do anticipate any additional administrative burden on the City of Danville to implement this proposed change.
- The value proposition between Buyer and Seller related to the scheduling of MWs in the PJM eRPM system remains in tact with the intent of the original agreement which PSEG believes was\is the Contract Quantity times the RTO LDA Zone BRA Clearing Price payment from PJM to the City of Danville

## **MASTER POWER PURCHASE AND SALE AGREEMENT CONFIRMATION LETTER**

This confirmation letter (the “Confirmation”) shall confirm the “Transaction” set forth below and agreed to on May 23, 2016 (“Effective Date”) by and between PSEG Energy Resources & Trade LLC (“Party A”) and the City of Danville, Virginia (“Party B”) (Party A and Party B, each a “Party” and collectively, the “Parties”) regarding the sale/purchase of the Product under the terms and conditions as follows:

|                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Trade Date:                                | May 23, 2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Master Agreement:                          | EEI Master Power Purchase and Sale Agreement dated May 23, 2016 between Party A and Party B (the “Master Agreement”).                                                                                                                                                                                                                                                                                                                                                                                               |
| Seller:                                    | Party A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Buyer:                                     | Party B                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Product:                                   | Auction Specific MW Transaction from the PJM Base Residual Auction for the relevant Delivery Year (“DY”), with the following attributes:<br>Type of Resource: Generation Resource<br>Auction Type: Base Residual Auction<br>Product Type: Capacity Performance                                                                                                                                                                                                                                                      |
| Delivery Period:                           | June 1, 2019 through and including May 31, 2029                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Contract Quantity:                         | 15 MWs per Day                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Days and Hours of Delivery:                | All Days/All Hours Eastern Prevailing Time                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Delivery Point:                            | PJM RTO LDA Zone                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Contract Prices (each a “Contract Price”): | For each DY of the Delivery Period Seller shall sell at a fixed price as outlined below:<br>DY 2019/2020: \$163.00/MW-Day<br>DY 2020/2021: \$166.00/MW-Day<br>DY 2021/2022: \$170.00/MW-Day<br>DY 2022/2023: \$173.00/MW-Day<br>DY 2023/2024: \$177.00/MW-Day<br>DY 2024/2025: \$180.00/MW-Day<br>DY 2025/2026: \$184.00/MW-Day<br>DY 2026/2027: \$187.00/MW-Day<br>DY 2027/2028: \$191.00/MW-Day<br>DY 2028/2029: \$195.00/MW-Day                                                                                  |
| Nature of Product:                         | For the avoidance of doubt: (i) it is the intent of Seller and Buyer that any costs, including, but not limited to, fees, taxes, tariffs, and/or surcharges incurred by Seller, resulting from legislation or regulation relating to CFTC reporting (Dodd-Frank), Green House Gas (GHG) or Carbon Dioxide (CO <sub>2</sub> ) will not affect the Contract Price of this Transaction in any manner and (ii) this Transaction is not tied to, or contingent upon, the performance of any specific generation unit(s). |

|                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Change in the RTO LDA Zone:                                         | If the composition of the RTO LDA Zone changes or the RTO LDA Zone ceases to exist during the Delivery Period (an “RTO LDA Zone Event”), Seller may satisfy its obligation to deliver Product under this Confirmation by delivering Product from either (i) the RTO LDA Zone or (ii) any LDA sub-zone that was part of the RTO LDA Zone on the Trade Date.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Change In Law:                                                      | Upon the occurrence of a Regulatory Event (defined below), the Parties will use commercially reasonable efforts to reform this Transaction in order to give effect to the original intention of the Parties to deliver or transfer the Contract Quantity of the Product in accordance with the policies and procedures of PJM.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Billing/Payments:                                                   | Notwithstanding anything to the contrary in the Master Agreement, Seller shall invoice Buyer and Buyer shall pay for the Product monthly in arrears (e.g., in July 2019 for the June 2019 Product). Beginning in July 2019, Buyer will make monthly payments of the Contract Price times the Contract Quantity times the number of days in the month. Charges associated with the Product delivered hereunder shall be included on the regular monthly invoice between the Parties.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Calculating Party:                                                  | Party A shall be the calculating party.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Scheduling:                                                         | The parties shall accomplish the delivery and receipt by of the Product by entering and confirming appropriate Product for each DY in PJM’s eRPM system, or any successor system, as applicable (“System”). Further, Seller and Buyer shall use commercially reasonable efforts to cooperate with each other to ensure that such entry and confirmation is completed in a timely manner as per PJM’s RPM Rules and PJM’s eRPM procedures for Product. For purposes of this Transaction, such entry and confirmation by Seller and Buyer into the System shall constitute “Schedule” or “Scheduling” as such terms are defined in the Master Agreement. For avoidance of doubt, although the Product will be scheduled and delivered through PJM’s eRPM system, Seller shall invoice Buyer for the Product as part of the regular monthly invoice between the Parties and Buyer will pay Seller directly for the Product.                                                                                                                                                                                                                                                                                                                                            |
| Buyer’s Damages Associated with Seller’s Failure to Timely Schedule | If Seller fails to timely Schedule all or part of a Product, and that failure is not due to Force Majeure and Buyer has fulfilled its obligations with respect to the Product that is the subject of this Transaction, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if “Accelerated Payment of Damages” is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the ASCT Replacement Price (as such term is defined later in this Confirmation), and Seller shall reimburse Buyer for any penalties or charges incurred by Buyer as a result of Seller’s Failure to Timely Schedule. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount. For avoidance of doubt, Buyer shall not be obligated to pay the Contract Price for the quantity of Product that Seller fails to Schedule and the remedy set forth herein shall be the sole remedy for Seller’s unexcused failure to perform and, for purposes of the Product that is the subject of this |

Transaction, shall supersede and replace the provisions of Section 4.1 of the Master Agreement and is in addition to the event of default remedy provided in Section 5.1(i) of the Master Agreement.

Seller's Damages  
Associated with Buyer's  
Failure to Timely Schedule

If Buyer fails to timely Schedule all or part of a Product, and that failure is not due to Force Majeure and Seller has fulfilled its obligations with respect to the Product that is the subject of this Transaction, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the ASCT Sales Price (as such term is defined later in this Confirmation) from the Contract Price, and Buyer shall reimburse Seller for any penalties or charges incurred by Seller as a result of Buyer's Failure to Timely Schedule. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount. For avoidance of doubt, Buyer shall not be obligated to pay the Contract Price for the quantity of Product that Buyer fails to Schedule and the remedy set forth herein shall be the sole remedy for Buyer's unexcused failure to perform and, for purposes of the Product that is the subject of this Transaction, shall supersede and replace the provisions of Section 4.1 of the Master Agreement and is in addition to the event of default remedy provided in Section 5.1(i) of the Master Agreement.

Other Scheduling  
Provisions:

(1) If the System is unavailable for either Party to Schedule the Product for any reason in any particular month and the Product is not properly credited to Buyer in PJM's eRPM system, then on the date payment by Buyer is due in respect of the month affected by such unavailability, in addition to Buyer's obligation to make payment of the Contract Price, Seller shall be obligated to pay to Buyer the ASCT Replacement Price for the Contract Quantity for the relevant month.

(2) If PJM reverses or terminates the Product Scheduled by the Parties in the System in the event one of the Parties fails to meet its obligations under the OA or Tariff, then (x) for each month remaining in the Delivery Year for the Product that was reversed or terminated, on the date payment by Buyer is due in respect of that month, in addition to Buyer's obligation to make payment of the Contract Price, Seller will pay to Buyer the ASCT Replacement Price for the Contract Quantity for the relevant month, and (y), if the failure is by Seller, Seller will also pay to Buyer, within one (1) Business Day of Buyer's demand, any amounts that were reversed or otherwise not credited to Buyer by PJM as required pursuant to this Transaction for periods of time before the reversal. "OA" and "Tariff" mean the Amended and Restated Operating Agreement of PJM and the PJM Open Access Transmission Tariff, respectively, or any amended or successor documents that are in effect from time to time.

(3) Payments shall be made by Seller in accordance with the payment provisions of Section 6.1 of the Master Agreement and shall be netted in accordance with Section 6.4 of the Master Agreement.

Non-Performance  
Assessment Charges/Bonus  
Performance Credits:

Seller shall be responsible for any Non-Performance Assessment Charges (as defined in PJM Manual 18) imposed by PJM. All Bonus Performance credits (as that term is defined in PJM OATT, Att. DD, Sec. 10A and

further described in PJM Manual 18) that may be earned in connection with the Product are for the benefit of Seller and, to the extent received by Buyer, shall be paid by Buyer to Seller.

Definitions:

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement. Capitalized terms that are used, but not defined herein or in the Master Agreement shall have the meaning ascribed to them in the PJM Agreements.

Additional Definitions:

“ASCT Replacement Price” means the market price for that amount of the Product not timely Scheduled by Seller, which will be determined exclusively by utilizing the price at which PJM settles the Product defined herein for the relevant time period under the eRPM Rules. BUYER SHALL NOT BE REQUIRED TO UTILIZE OR CHANGE ITS UTILIZATION OF ITS OWNED OR CONTROLLED ASSETS OR MARKET POSITIONS TO MINIMIZE SELLER’S LIABILITY. For purposes of this Product, this definition of ASCT Replacement Price shall supersede and replace the definition of “Replacement Price” in the Master Agreement.

“ASCT Sales Price” means the market price for that amount of the Product not timely Scheduled by Buyer, which will be determined exclusively by utilizing the price at which PJM settles the Product for the relevant time period under the eRPM Rules. SELLER SHALL NOT BE REQUIRED TO UTILIZE OR CHANGE ITS UTILIZATION OF ITS OWNED OR CONTROLLED ASSETS, INCLUDING CONTRACTUAL ASSETS, OR MARKET POSITIONS TO MINIMIZE BUYER’S LIABILITY. For purposes of this Product, this definition of ASCT Sales Price shall supersede and replace the definition of “Sales Price” in the Master Agreement.

“Auction Specific MW Transaction(s)” shall have the meaning ascribed to such term in the PJM Agreements as they exist on the Trade Date.

“MW” means megawatt.

“MW-Day” means one (1) megawatt for one (1) day.

“PJM” means the PJM Interconnection, LLC or any successor organization thereto.

“PJM Agreements” means the PJM Open Access Transmission Tariff, the PJM Operating Agreement, the PJM Reliability Assurance Agreement, and any other applicable PJM manuals or documents, including but not limited to PJM Manual 18 (PJM Capacity Market), or any successor, superseding, or amended versions that may take effect from time to time.

“Regulatory Event” means one or more of the following events after the Trade Date: (a) any federal or state governmental or regulatory authority with jurisdiction (including, but not limited to, PJM or the Federal Energy Regulatory Commission) issues a final order, or any court of competent jurisdiction issues a decision, eliminating or discontinuing the Product; or (b) there occurs any material change in the definition of the Product, whether made by promulgation, enactment, repeal or amendment of applicable law or the PJM Agreements, by any state or federal governmental authority (including, but not limited to PJM or the Federal Energy Regulatory Commission) or court with competent jurisdiction;



provided, however, that neither a RTO LDA Zone Event nor a change in the manner in which the Product settles shall be a Regulatory Event.

“RTO LDA Zone” means the RTO Locational Deliverability Area Zone, as defined by PJM on the Trade Date, as it exists on the Trade Date (i.e., for purposes of this definition, the RTO LDA Zone includes all LDAs and sub-zones that were part of the RTO LDA Zone on the Trade Date).

This Confirmation is being provided pursuant to and in accordance with the above-referenced Master Agreement and constitutes part of and is subject to the terms and provisions of such Master Agreement.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Confirmation by their undersigned duly authorized representatives as of the date below to be effective as of the Effective Date hereof.

Party A:

PSEG ENERGY RESOURCES & TRADE LLC

Name: John P. Scarlata

Title: Vice President

Date: Vice President

Party B:

CITY OF DANVILLE, VIRGINIA

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**MASTER POWER PURCHASE AND SALE AGREEMENT  
AMENDED AND RESTATED CONFIRMATION LETTER**

This amended and restated confirmation letter (the “Amended and Restated Confirmation”) dated April [XX], 2020 (“Effective Date”), shall amend, restate and confirm the “Transaction” set forth below and originally agreed to on the Trade Date of May 23, 2016 (~~“Effective Date”~~) by and between PSEG Energy Resources & Trade LLC (“Party A”) and the City of Danville, Virginia (“Party B”) (Party A and Party B, each a “Party” and collectively, the “Parties”) regarding the sale/purchase of the Product under the terms and conditions as follows:

|                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Trade Date:                                | May 23, 2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Master Agreement:                          | EEl Master Power Purchase and Sale Agreement dated May 23, 2016 between Party A and Party B (the “Master Agreement”).                                                                                                                                                                                                                                                                                                                                                                                  |
| Seller:                                    | Party A                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Buyer:                                     | Party B                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Product:                                   | Auction Specific MW Transaction from the PJM Base Residual Auction for the relevant Delivery Year (“DY”), with the following attributes:<br>Type of Resource: Generation Resource<br>Auction Type: Base Residual Auction<br>Product Type: Capacity Performance                                                                                                                                                                                                                                         |
| Delivery Period:                           | June 1, 2019 through and including May 31, 2029                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Contract Quantity:                         | 15 MWs per Day                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Days and Hours of Delivery:                | All Days/All Hours Eastern Prevailing Time                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Delivery Point:                            | PJM RTO LDA Zone                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Contract Prices (each a “Contract Price”): | For each DY of the Delivery Period Seller shall sell at a fixed price as outlined below:<br>DY 2019/2020: \$163.00/MW-Day<br>DY 2020/2021: \$166.00/MW-Day<br>DY 2021/2022: \$170.00/MW-Day<br>DY 2022/2023: \$173.00/MW-Day<br>DY 2023/2024: \$177.00/MW-Day<br>DY 2024/2025: \$180.00/MW-Day<br>DY 2025/2026: \$184.00/MW-Day<br>DY 2026/2027: \$187.00/MW-Day<br>DY 2027/2028: \$191.00/MW-Day<br>DY 2028/2029: \$195.00/MW-Day                                                                     |
| Nature of Product:                         | For the avoidance of doubt: (i) it is the intent of Seller and Buyer that any costs, including, but not limited to, fees, taxes, tariffs, and/or surcharges incurred by Seller, resulting from legislation or regulation relating to CFTC reporting (Dodd-Frank), Green House Gas (GHG) or Carbon Dioxide (CO2) will not affect the Contract Price of this Transaction in any manner and (ii) this Transaction is not tied to, or contingent upon, the performance of any specific generation unit(s). |

|                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Change in the RTO LDA Zone:                                         | If the composition of the RTO LDA Zone changes or the RTO LDA Zone ceases to exist during the Delivery Period (an “RTO LDA Zone Event”), Seller may satisfy its obligation to deliver Product under this <u>Amended and Restated</u> Confirmation by delivering Product from either (i) the RTO LDA Zone or (ii) any LDA sub-zone that was part of the RTO LDA Zone on the Trade Date.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Change In Law:                                                      | Upon the occurrence of a Regulatory Event (defined below), the Parties will use commercially reasonable efforts to reform this Transaction in order to give effect to the original intention of the Parties to deliver or transfer the Contract Quantity of the Product in accordance with the policies and procedures of PJM.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Billing/Payments:                                                   | Notwithstanding anything to the contrary in the Master Agreement, Seller shall invoice Buyer and Buyer shall pay for the Product monthly in arrears (e.g., in July 2019 for the June 2019 Product). Beginning in July 2019, Buyer will make monthly payments of the Contract Price times the Contract Quantity times the number of days in the month. Charges associated with the Product delivered hereunder shall be included on the regular monthly invoice between the Parties.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Calculating Party:                                                  | Party A shall be the calculating party.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Scheduling:                                                         | The parties shall accomplish the delivery and receipt by of the Product by entering and confirming appropriate Product for each DY in PJM’s eRPM system, or any successor system, as applicable (“System”). Further, Seller and Buyer shall use commercially reasonable efforts to cooperate with each other to ensure that such entry and confirmation is completed in a timely manner as per PJM’s RPM Rules and PJM’s eRPM procedures for Product. For purposes of this Transaction, such entry and confirmation by Seller and Buyer into the System shall constitute “Schedule” or “Scheduling” as such terms are defined in the Master Agreement. For avoidance of doubt, although the Product will be scheduled and delivered through PJM’s eRPM system, Seller shall invoice Buyer for the Product as part of the regular monthly invoice between the Parties and Buyer will pay Seller directly for the Product.                                                                                                                                                                                                                                                                                        |
| Buyer’s Damages Associated with Seller’s Failure to Timely Schedule | If Seller fails to timely Schedule all or part of a Product, and that failure is not due to Force Majeure and Buyer has fulfilled its obligations with respect to the Product that is the subject of this Transaction, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if “Accelerated Payment of Damages” is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the ASCT Replacement Price (as such term is defined later in this <u>Amended and Restated</u> Confirmation), and Seller shall reimburse Buyer for any penalties or charges incurred by Buyer as a result of Seller’s Failure to Timely Schedule. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount. For avoidance of doubt, Buyer shall not be obligated to pay the Contract Price for the quantity of Product that Seller fails to Schedule and the remedy set forth herein shall be the sole remedy for Seller’s unexcused |

failure to perform and, for purposes of the Product that is the subject of this Transaction, shall supersede and replace the provisions of Section 4.1 of the Master Agreement and is in addition to the event of default remedy provided in Section 5.1(i) of the Master Agreement.

Seller's Damages  
Associated with Buyer's  
Failure to Timely Schedule

If Buyer fails to timely Schedule all or part of a Product, and that failure is not due to Force Majeure and Seller has fulfilled its obligations with respect to the Product that is the subject of this Transaction, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the ASCT Sales Price (as such term is defined later in this [Amended and Restated](#) Confirmation) from the Contract Price, and Buyer shall reimburse Seller for any penalties or charges incurred by Seller as a result of Buyer's Failure to Timely Schedule. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount. For avoidance of doubt, Buyer shall not be obligated to pay the Contract Price for the quantity of Product that Buyer fails to Schedule and the remedy set forth herein shall be the sole remedy for Buyer's unexcused failure to perform and, for purposes of the Product that is the subject of this Transaction, shall supersede and replace the provisions of Section 4.1 of the Master Agreement and is in addition to the event of default remedy provided in Section 5.1(i) of the Master Agreement.

Other Scheduling  
Provisions:

(1) If the System is unavailable for either Party to Schedule the Product for any reason in any particular month and the Product is not properly credited to Buyer in PJM's eRPM system, then on the date payment by Buyer is due in respect of the month affected by such unavailability, in addition to Buyer's obligation to make payment of the Contract Price, Seller shall be obligated to pay to Buyer the ASCT Replacement Price for the Contract Quantity for the relevant month.

(2) If PJM reverses or terminates the Product Scheduled by the Parties in the System in the event one of the Parties fails to meet its obligations under the OA or Tariff, then (x) for each month remaining in the Delivery Year for the Product that was reversed or terminated, on the date payment by Buyer is due in respect of that month, in addition to Buyer's obligation to make payment of the Contract Price, Seller will pay to Buyer the ASCT Replacement Price for the Contract Quantity for the relevant month, and (y), if the failure is by Seller, Seller will also pay to Buyer, within one (1) Business Day of Buyer's demand, any amounts that were reversed or otherwise not credited to Buyer by PJM as required pursuant to this Transaction for periods of time before the reversal. "OA" and "Tariff" mean the Amended and Restated Operating Agreement of PJM and the PJM Open Access Transmission Tariff, respectively, or any amended or successor documents that are in effect from time to time.

(3) Payments shall be made by Seller in accordance with the payment provisions of Section 6.1 of the Master Agreement and shall be netted in accordance with Section 6.4 of the Master Agreement.

[\(4\) For each DY, in the event that the Seller's Generation Resource LDA BRA Clearing Price separates from the Rest of RTO LDA BRA Clearing](#)

Price, then the following adjustment will be made to the Scheduled Quantity:

(a) If the Generation Resource LDA BRA Clearing Price is greater than the Rest of RTO LDA BRA Clearing Price, then the Scheduled Quantity will be reduced pro rata to ensure that the Scheduled Quantity times the Generation Resource LDA BRA Clearing Price equals the Contract Quantity times the Rest of RTO LDA BRA Clearing Price.

(b) If the Generation Resource LDA BRA Clearing Price is less than the Rest of RTO LDA BRA Clearing Price, then the Scheduled Quantity will be increased pro rata to ensure that the Scheduled Quantity times the Generation Resource LDA BRA Clearing Price equals the Contract Quantity times the Rest of RTO LDA BRA Clearing Price.

In the event the Scheduled Quantity is different from the Contract Quantity due to the provisions of (a) or (b) above, payment shall continue to be based on the Contract Quantity times Contract Price.

Non-Performance  
Assessment Charges/Bonus  
Performance Credits:

Seller shall be responsible for any Non-Performance Assessment Charges (as defined in PJM Manual 18) imposed by PJM. All Bonus Performance credits (as that term is defined in PJM OATT, Att. DD, Sec. 10A and further described in PJM Manual 18) that may be earned in connection with the Product are for the benefit of Seller and, to the extent received by Buyer, shall be paid by Buyer to Seller.

Definitions:

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement. Capitalized terms that are used, but not defined herein or in the Master Agreement shall have the meaning ascribed to them in the PJM Agreements.

Additional Definitions:

“ASCT Replacement Price” means the market price for that amount of the Product not timely Scheduled by Seller, which will be determined exclusively by utilizing the price at which PJM settles the Product defined herein for the relevant time period under the eRPM Rules. BUYER SHALL NOT BE REQUIRED TO UTILIZE OR CHANGE ITS UTILIZATION OF ITS OWNED OR CONTROLLED ASSETS OR MARKET POSITIONS TO MINIMIZE SELLER’S LIABILITY. For purposes of this Product, this definition of ASCT Replacement Price shall supersede and replace the definition of “Replacement Price” in the Master Agreement.

“ASCT Sales Price” means the market price for that amount of the Product not timely Scheduled by Buyer, which will be determined exclusively by utilizing the price at which PJM settles the Product for the relevant time period under the eRPM Rules. SELLER SHALL NOT BE REQUIRED TO UTILIZE OR CHANGE ITS UTILIZATION OF ITS OWNED OR CONTROLLED ASSETS, INCLUDING CONTRACTUAL ASSETS, OR MARKET POSITIONS TO MINIMIZE BUYER’S LIABILITY. For purposes of this Product, this definition of ASCT Sales Price shall supersede and replace the definition of “Sales Price” in the Master Agreement.

“Auction Specific MW Transaction(s)” shall have the meaning ascribed to such term in the PJM Agreements as they exist on the Trade Date.

“MW” means megawatt.

“MW-Day” means one (1) megawatt for one (1) day.

“PJM” means the PJM Interconnection, LLC or any successor organization thereto.

“PJM Agreements” means the PJM Open Access Transmission Tariff, the PJM Operating Agreement, the PJM Reliability Assurance Agreement, and any other applicable PJM manuals or documents, including but not limited to PJM Manual 18 (PJM Capacity Market), or any successor, superseding, or amended versions that may take effect from time to time.

“Regulatory Event” means one or more of the following events after the Trade Date: (a) any federal or state governmental or regulatory authority with jurisdiction (including, but not limited to, PJM or the Federal Energy Regulatory Commission) issues a final order, or any court of competent jurisdiction issues a decision, eliminating or discontinuing the Product; or (b) there occurs any material change in the definition of the Product, whether made by promulgation, enactment, repeal or amendment of applicable law or the PJM Agreements, by any state or federal governmental authority (including, but not limited to PJM or the Federal Energy Regulatory Commission) or court with competent jurisdiction; provided, however, that neither a RTO LDA Zone Event nor a change in the manner in which the Product settles shall be a Regulatory Event.

“RTO LDA Zone” means the RTO Locational Deliverability Area Zone, as defined by PJM on the Trade Date, as it exists on the Trade Date (i.e., for purposes of this definition, the RTO LDA Zone includes all LDAs and sub-zones that were part of the RTO LDA Zone on the Trade Date).

“Rest of RTO BRA Clearing Price” is the Clearing Price for all LDAs that are not explicitly identified by PJM in the Base Residual Auction for a particular Delivery Year.<sup>SE(F1)</sup>

“Scheduled Notional Value” equals the Scheduled Quantity times the Rest of RTO LDA BRA Clearing Price.

“Scheduled Quantity” is the volume of capacity that is scheduled for a Generation Resource located in the Delivery Point in the PJM eRPM system. The Scheduled Quantity will equal the Contract Quantity in the event that there is no price separation between the Rest of RTO LDA BRA Clearing Price and the Generation Resource LDA BRA Clearing Price.

This Amended and Restated Confirmation is being provided pursuant to and in accordance with the above-referenced Master Agreement and constitutes part of and is subject to the terms and provisions of such Master Agreement.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Amended and Restated Confirmation by their undersigned duly authorized representatives as of the date below to be effective as of the Effective Date hereof.

Party A:

PSEG ENERGY RESOURCES & TRADE LLC

Party B:

CITY OF DANVILLE, VIRGINIA

By: \_\_\_\_\_

Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



# Council Letter

## City of Danville, Virginia



**CL-2355**

**New Business E.**

**City Council Regular Meeting**

**Meeting Date:** 07/07/2020

**Subject:** Petition for Writ of Special Election

**From:** W. Clarke Whitfield, Jr., City Attorney

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### **COUNCIL ACTION**

Business Meeting: 07/07/2020

### **SUMMARY**

In order to fill the remainder of Councilman Adam Tomer's term, State law requires the City Council to file a Petition for Writ of Special Election to fill the vacant Council seat. The City Attorney's Office is asking Council to authorize and direct our office to file the Petition on behalf of the City Council.

### **BACKGROUND**

City Councilman Adam Tomer resigned his seat effective, June 30, 2020. State law requires a special election to fill the remainder of his term.

### **RECOMMENDATION**

It is recommended that Council approve the following resolution authorizing and approving the filing of a Petition for Writ of Special Election to fill the current vacant Council seat and authorizing and directing the City Attorney's office to file said writ on behalf of the City Council.

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### **Attachments**

Resolution

Writ of Special Election

Exhibit A

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PRESENTED: \_\_\_\_\_

ADOPTED: \_\_\_\_\_

RESOLUTION NO. 2020-\_\_\_\_.\_\_\_\_

RESOLUTION OF THE COUNCIL OF THE CITY OF DANVILLE APPROVING AND AUTHORIZING THE FILING OF A PETITION OF SPECIAL ELECTION WITH THE CIRCUIT COURT OF THE CITY OF DANVILLE TO ELECT A PERSON TO FILL THE SEAT VACATED BY ADAM TOMER.

WHEREAS, the Council of the City of Danville, Virginia (hereafter "City Council") is comprised of nine at-large members elected from the City of Danville; and

WHEREAS, Adam Tomer, was the successful candidate for an at-large seat on the City Council at the general election in May 2018, for the term beginning July 1, 2018 and ending June 30, 2022; and

WHEREAS, Adam Tomer resigned effective June 30, 2020 and;

WHEREAS, the City Council, pursuant to Virginia Code § 24.2-226 is required to petition the Circuit Court of the City of Danville to issue a Writ of Election.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Danville, Virginia that the City Council hereby approves and authorizes the filing with the Circuit Court of the City of Danville a timely Petition for Writ of Election in substantially the same form as the Petition for Writ of Election attached hereto as Exhibit B; and

BE IT FURTHER RESOLVED, that the City Attorney's Office is hereby directed to forthwith file such Petition for Writ of Election.

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

---

CLERK

Approved as to  
Form and Legal Sufficiency:

---

CITY ATTORNEY

**VIRGINIA:**

**IN THE CIRCUIT COURT OF THE CITY OF DANVILLE**

**IN RE:** )  
 )  
 **SPECIAL ELECTION TO FILL** )  
 **VACANCY OF AN ELECTED** ) **Case No. \_\_\_\_\_**  
 **MEMBER OF THE DANVILLE** )  
 **CITY OF COUNCIL** )

**PETITION FOR WRIT OF SPECIAL ELECTION**

**NOW COMES** The City Council of the City of Danville, Virginia (hereafter “City Council”), by counsel, and files this Petition requesting the Circuit Court of the City of Danville issue a Writ of Special Election to fill a vacancy, which has occurred on the City Council. In support of its Petition, the City Council states as follows:

1. The City Council is comprised of nine (9) members elected at-large in the City of Danville;
2. That Adam Tomer was the successful candidate for an at-large City Council seat at the general election in May 2018, assuming office for the term July 1, 2018 through June 30, 2022;
3. That Adam Tomer resigned his seat June 30, 2020, leaving a vacancy in an at-large seat. His letter of Resignation is attached hereto as Exhibit A;
4. That the City Council, pursuant to § 24.2-226 of the Code of Virginia, 1950, as amended, is required to petition the Circuit Court to issue a Writ of Special Election within fifteen days of the occurrence of the vacancy, which happened on June 30, 2020;

5. That pursuant to § 24.2-226(A) of the Code of Virginia, 1950, as amended a special election is necessary to fill the unexpired term of Adam Tomer and is to be held with the next general election on November 3, 2020;

7. That the City Council at a meeting held on July 7, 2020 adopted a Resolution authorizing the City Attorney to file a Petition for Writ of Special Election, which Resolution is attached hereto as Exhibit B;

WHEREFORE, the City Council respectfully requests the Circuit Court to order a special election as required by law.

THE CITY COUNCIL FOR THE CITY  
OF DANVILLE

By \_\_\_\_\_  
Counsel

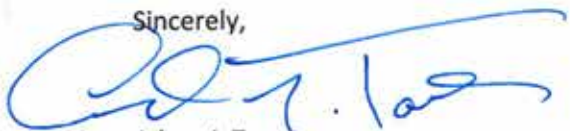
W. Clarke Whitfield, Jr. VSB # 36465  
427 Patton St.  
P.O. Box 3300  
Danville, Virginia 24541  
Phone: 434-799-5122  
Fax: 434-797-8972  
Email: [clarke.whitfield@danvilleva.gov](mailto:clarke.whitfield@danvilleva.gov)  
CITY ATTORNEY

Mayor Alonzo Jones  
427 Patton St.  
Danville, VA 24543

Dear Mayor Jones,

I, Adam J. Tomer, hereby announce my resignation from City Council for the City of Danville, Virginia effective June 30, 2020.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Adam J. Tomer', with a large, sweeping initial 'A'.

Adam J. Tomer