



DANVILLE CITY COUNCIL REGULAR MEETING AGENDA

MUNICIPAL BUILDING

April 5, 2022

7:00 P.M.

PRESIDING: Alonzo L. Jones, Mayor

CITY COUNCIL MEMBERS: James B. Buckner
L.G. "Larry" Campbell, Jr.
Bryant Hood
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.

MEETING CALLED TO ORDER

ROLL CALL

INVOCATION - Vice Mayor Gary P. Miller

PLEDGE OF ALLEGIANCE TO THE FLAG

ANNOUNCEMENTS AND SPECIAL RECOGNITION

Proclamation:	Sexual Assault Awareness Month
Presented to:	Haven of the Dan River Region
Certificate of Recognition:	Danville Alumnae Chapter
	Delta Sigma Theta Sorority, Inc.
Presented to:	Sheila Williamson-Branch

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.

CONSENT AGENDA

All matters listed under the Consent Agenda are considered to be routine, have previously been discussed by City Council and/or introduced for First Reading. There will be no separate discussion on these items and they will be enacted by one motion. If discussion is desired by a Council Member or a citizen, the item(s) will be removed from the consent process and considered separately.

- A. Public Hearing
- B. Consideration of Approval of Minutes from Regular Council Meeting held on March 1, 2022.
Council Letter Number CL - 2741.
- C. Consideration of Amending the Fiscal Year 2022 Budget Appropriation Ordinance for a Grant from the Virginia Department of Health.
Council Letter Number CL - 2722.

An Ordinance Amending the Fiscal Year 2022 Budget Appropriation Ordinance to Provide for a Grant from the Virginia Department of Health in an Amount of \$7,780 and a Local Share in the Amount of \$7,780 for EMS Equipment and Trailer for the Swift Water Team for a Total Appropriation in the Amount of \$15,560, and Appropriating Same.

FINAL ADOPTION

- D. Consideration of Amending the Fiscal Year 2022 Budget Appropriation Ordinance for Public Safety Technology Modernization.
Council Letter Number CL - 2723.

An Ordinance Amending The Fiscal Year 2022 Budget Appropriation Ordinance by Increasing Revenues from Various Taxes to Purchase Public Safety Modernization Software and Hardware an Appropriation in the Amount of \$1,500,000 and Appropriating the Same.

FINAL ADOPTION

APPOINTMENTS

- A. Consideration of Appointments to the Following Boards and Commissions.
Council Letter Number CL - 2746.
1. A Resolution Appointing Tommy Bennett to the Planning Commission.
 2. A Resolution Appointing Edgar Love to the Employee Retirement System Board.

NEW BUSINESS

- A. Consideration of Amending the Zoning Code to Define Skill Games as Defined by Virginia Code.
Council Letter Number CL - 2742.
1. Public Hearing
 2. An Ordinance Amending and Reordaining Chapter 41, Entitled "Zoning Ordinance" of the Code of the City of Danville, Virginia, by Amending Article 3.Q.; Section C, by Changing Item 1 to Establish 'Skill Games' as Defined by the Virginia Code as Adult-Oriented Uses, and Amending Section I. by Deleting Item 10, and Amending Article 2. by Adding a New Section Z.
- B. Consideration of a Special Use Permit at 823 Industrial Avenue.
Council Letter Number CL - 2744.
1. Public Hearing
 2. An Ordinance Granting Special Use Permit Application PZ22- 30, Filed by Jeramy Nichols Owner of Old Oak Properties, LLC Requesting a Special Use Permit for Contractor's Office, Shops, Storage Yard, and Cabinet Manufacturing According to Item 5, of Section C., of Article 3.O, of Chapter 41, Entitled "Zoning Ordinance" of the Code of the City of Danville, Virginia at 823 Industrial Avenue (Parcel ID#24094).
- C. Consideration of Approving a Special Use Permit for a Planned Unit Development on Stewart Street.
Council Letter Number CL - 2743.
1. Public Hearing
 2. An Ordinance Granting Special Use Permit Application PLSUP 2021-422, Filed by Keith Walden on Behalf of CWC Holdings, LLC and Empire Rentals, LLC Requesting a Special Use Permit for a Planned Unit Development in Accordance with Article 17. of Chapter 41, Entitled "Zoning Ordinance" of the Code of the City of Danville Including Parcel ID#'s 20596, 20597, 25672, 22841, 24958, 25085, 25226, 22099, 25069, 25070, 25074, 20420, 20421, 20422, 25542, 25073, 23886, 23561, 23563, 22924, 24974, 21173, 20425, 24984, 25098, 22104, 22103, 22513, 24649, 24358, 21117, 24359, 25088, 20424, 25087, 20418, 25086, 25090, 25089.

- D. Consideration of Amending Danville City Code to Add a New Chapter Entitled, "Outdoor Refreshment Area."
Council Letter Number CL - 2747.

An Ordinance Amending and Reordaining the Code of the City of Danville, Virginia, 1986, as Amended, to Add a New Chapter 23.2, Entitled "Outdoor Refreshment Area."

- E. Consideration of Updates to the City's Financial Policies.
Council Letter Number CL - 2738.

A Resolution Approving and Amending the City of Danville's Financial Policies to Change Item 9.2 Entitled "City of Danville Standards" of Section 9, Entitled "Debt Management" to Allow for the School Bonds Funded by the 1% Local Sales Tax Option.

- F. Consideration of a Moral Obligation with Virginia Community Capital.
Council Letter Number CL - 2730.

A Resolution Authorizing and Approving Execution of a Moral Obligation Agreement By and Between the City of Danville, Virginia and Virginia Community Capital, a Virginia Banking Corporation.

- G. Consideration of Amending the Fiscal Year 2022 Budget Appropriation Ordinance for a Byrne Memorial Justice Assistant Grant.
Council Letter Number CL - 2752.

An Ordinance Amending the Fiscal Year 2022 Budget Appropriation Ordinance by Increasing Revenue from the Virginia Criminal Justice Services Board for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program Award in the Amount of \$75,000 with a Local Share In the Amount of \$25,000 to be Used to Strengthen the Youth Justice Diversion Program.

FIRST READING

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-2741

Consent Agenda B.

City Council Regular Meeting

Meeting Date: 04/05/2022

Subject: Consideration of Approval of Meeting Minutes

From: Susan M. DeMasi, City Clerk

COUNCIL ACTION

Business Meeting: 04/05/2022

SUMMARY

Consideration of Approval of Minutes from Regular Council Meeting held on March 1, 2022.

Council Letter Number CL - 2741.

Attachments

Meeting Minutes

March 1, 2022

The Regular March meeting of the Danville City Council was held on March 1, 2022, at 7:00 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., Bryant Hood, Mayor Alonzo L. Jones, Barry P. Mayo, Vice Mayor Gary P. Miller, Sherman M. Saunders, J. Lee Vogler, Jr., and Madison J.R. Whittle (9).

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.

Mayor Jones noted the City of Danville lights at the substation and fountain downtown were lighted in blue and yellow in support of Ukraine.

INVOCATION

The Invocation was given by Vice Mayor Gary P. Miller, followed by the Pledge of Allegiance.

ANNOUNCEMENTS AND SPECIAL RECOGNITIONS

Presentation of Check to Danville City Council

By: The Lions Foundation

Sheriff Michael Mondul introduced Mr. Gary Terry, the new Executive Director of the Boys & Girls Club of Danville, and noted on behalf of the Lions Clubs, the Danville Lions' Foundation and the E. Stewart James Grant Charitable Trust, they were pleased and honored to present to Danville Parks & Recreation a check for \$100,000 for the new Riverfront Park. Director of Parks and Recreation, Bill Sgrinia noted they have had great support from the community, and this was the second check from the Lions; the park was moving along, and they were finishing up the engineering now. Council Members thanked Sheriff Mondul and the Lions Club for the donation.

Presentation on the Passport Reading Program

Presented by Danville Public Schools

Superintendent Dr. Angela Hairston noted the importance of reading for children cannot be underestimated. Reading for pleasure can benefit a child's education, social and cognitive development, wellbeing and mental health. Dr. Hairston introduced team members who would be reviewing a plan that celebrated reading throughout the community. Dr. Hairston introduced Ms. Takiwi Babalola, Chief Academic Officer, Laura Webb, ELE Curriculum Coordinator, Amanda McKinney, Literacy Specialist, Cori Sowers, Instructional Technology Resource Teacher, and Ms. Mary Jennings, Director of Curriculum and Instruction.

Mrs. Webb reviewed the PowerPoint, *Passport to a Great Adventure*, and explained literacy plays an important role for all students and they needed an equitable way to practice and enhance literacy skills. They came up with a plan that provides equity at different grade levels; all students were required to read every day, with different grades reading for different amounts of time. Ms. Sowers explained the students were given Passport logs, and each night the students would read the recommended amount of minutes based on their grade level and document that in their log. At the end of each month, the logs get signed by the parents, handed in to their classroom teachers, and district specialists collect the logs to be entered into prize drawings. Virtual learners also have access to this program. Mrs. Webb noted there were also school wide goals; as they total up the minutes every month, the schools charted that and at the end of the program, the school with the students that have read the most minutes gets a party. Ms. Sowers explained as

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an extra bonus to the students, they can go online on each schools' website and click on Read Aloud Here. It was a calendar that everyday has at least one book that was recorded, and read by faculty, staff or students in the district. Council Member Vogler noted this was a great program; his son was in second grade at Forest Hills and was very enthusiastic about it. It was a great way to get children excited about reading. Council Members thanked them for coming to Council.

COMMUNICATIONS FROM VISITORS

No one desired to be heard.

MEETING MINUTES

Upon **Motion** by Council Member Buckner and **second** by Council Member Mayo, Minutes from the Regular Council Meeting held on February 1, 2022, were approved as presented. Draft copies of the minutes had been distributed prior to the meeting.

OLD BUSINESS

Amending Certain Sections of Chapter 37 of the Danville City Code by Creating a New Article XIII "Imposition of Additional Sales and Local Use Tax" and New Section 37-185 Entitled "Imposition of Additional Sales Tax; Use of Revenues for Construction or Renovation of Schools"

Council Member Campbell **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2022-02.06

AN ORDINANCE AMENDING AND REORDAINING CERTAIN SECTIONS OF CHAPTER 37, ENTITLED "TAXATION," OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, BY CREATING A NEW ARTICLE XIII, ENTITLED "IMPOSITION OF ADDITIONAL SALES AND LOCAL USE TAX; USE OF REVENUES FOR CONSTRUCTION OR RENOVATION OF SCHOOLS" AND ADDING A NEW SECTION §37-185, ENTITLED "IMPOSITION OF ADDITIONAL SALES TAX; USE OF REVENUES FOR CONSTRUCTION OR RENOVATION OF SCHOOLS".

The Motion was **seconded** by Council Member Buckner and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Hood, Jones, Mayo,
Miller, Saunders, Vogler and Whittle (9)
NAY: None

Amending Certain Sections of Chapter 37 of the Danville City Code by Amending Article XIII by Adding a New §37-186 Entitled "Imposition of Additional Local Use Tax; Use of Revenues for Construction or Renovation of Schools"

Council Member Campbell **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2022-02.07

AN ORDINANCE AMENDING AND REORDAINING CERTAIN SECTIONS OF CHAPTER 37, ENTITLED "TAXATION," OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, BY

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AMENDING ARTICLE XIII, ENTITLED "IMPOSITION OF ADDITIONAL SALES AND LOCAL USE TAX; USE OF REVENUES FOR CONSTRUCTION OR RENOVATION OF SCHOOLS" BY ADDING A NEW § 37-186, ENTITLED "IMPOSITION OF ADDITIONAL LOCAL USE TAX; USE OF REVENUES FOR CONSTRUCTION OR RENOVATION OF SCHOOLS".

The Motion was **seconded** by Council Member Buckner and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Hood, Jones, Mayo,
Miller, Saunders, Vogler and Whittle (9)
NAY: None

APPOINTMENTS

Council Member Miller **moved** for adoption of the following Appointments:

Resolution No. 2022-03.01 – Appointing Philip Hall to the Industrial Development Authority.

Resolution No. 2022-03.02 – Appointing Robert W. Woodall, III to the Industrial Development Authority.

Resolution No. 2022-03.03 – Appointing Roshanda Chapman to the Social Services Advisory Board.

Resolution No. 2022-03.04 – Appointing Venee Mayo to the Social Services Advisory Board.

The Motion was **seconded** by Council Member Campbell and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Hood, Jones, Mayo,
Miller, Saunders, Vogler and Whittle (9)
NAY: None

NEW BUSINESS

PUBLIC HEARING – CONSIDERATION OF A SPECIAL USE PERMIT WITH CONDITIONS FOR A PLANNED UNIT DEVELOPMENT ON SEELAND ROAD

Mayor Jones opened the floor for a Public Hearing regarding a Special Use Permit on Seeland Road. Notice of the Public Hearing was published in the *Danville Register & Bee* on February 15, 2022, and February 22, 2022. No one present desired to be heard and the Public Hearing was closed.

Council Member Vogler **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2022-03.01

AN ORDINANCE GRANTING SPECIAL USE PERMIT APPLICATION PZ22- 15, FILED BY LANDMARK DEVELOPMENT ON BEHALF OF THE DANVILLE REDEVELOPMENT AND HOUSING AUTHORITY, REQUESTING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT ACCORDING TO ARTICLE 17 OF THE DANVILLE ZONING ORDINANCE ON

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SEELAND ROAD (PARCEL ID#S 76121, 76122, 76123, 76124, 76125, 76140, 76141, 76142, 76143, 76144, 76145, 76146, 76147, 76148, 76149, 76150, 76151, 76152, 76153, 76154, 76155, 76156, 76157, 76158, 76159, 76160, 76161, 76162, 76163, 76164, 76165, 76166, 76167, AND 76168).

The Motion was **seconded** by Council Member Campbell and carried by the following vote:

VOTE: 8-0-1
AYE: Buckner, Campbell, Hood, Mayo,
Miller, Saunders, Vogler and Whittle (8)
NAY: None
ABSTAIN: Jones

PUBLIC HEARING – CONSIDERATION OF REZONING NOS. 11-17 WESTOVER DRIVE, PARCEL #72498

Mayor Jones opened the floor for a Public Hearing regarding Rezoning Nos. 11-17 Westover Drive. Notice of the Public Hearing was published in the *Danville Register & Bee* on February 15, and February 22, 2022. No one present desired to be heard and the Public Hearing was closed.

Council Member Buckner **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2022-03.02

AN ORDINANCE REZONING NOS 11-17 WESTOVER DRIVE (PARCEL ID # 72498) FROM N-C, NEIGHBORHOOD COMMERCIAL DISTRICT TO M-R, MULTIFAMILY RESIDENTIAL DISTRICT.

The Motion was **seconded** by Council Member Mayo and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Hood, Jones, Mayo,
Miller, Saunders, Vogler and Whittle (9)
NAY: None

PUBLIC HEARING – CONSIDERATION OF A SPECIAL USE PERMIT TO WAIVE MINIMUM ZONING DISTRICT SIZE FOR PARCEL ID #72498 AT NOS. 11-17 WESTOVER DRIVE

Mayor Jones opened the floor for a Public Hearing regarding a Special Use Permit at Nos. 11-17 Westover Drive. Notice of the Public Hearing was published in the *Danville Register & Bee* on February 15, 2022, and February 22, 2022. No one present desired to be heard and the Public Hearing was closed.

Council Member Buckner **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2022-03.03

AN ORDINANCE GRANTING SPECIAL USE PERMIT APPLICATION PZ22- 18, FILED BY TUNE AND TOLER, INC. REQUESTING A SPECIAL USE PERMIT TO WAIVE MINIMUM DISTRICT SIZE ACCORDING TO ARTICLE 3.G. SECTION C.22. OF THE DANVILLE ZONING ORDINANCE AT NOS 11-17 WESTOVER DRIVE (PARCEL ID # 72498)

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The Motion was **seconded** by Council Member Whittle and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Hood, Jones, Mayo,
Miller, Saunders, Vogler and Whittle (9)
NAY: None

PUBLIC HEARING – CONSIDERATION OF A SPECIAL USE PERMIT FOR A COMMERCIAL RECREATION FACILITY WITH CONDITIONS AT 4764 RIVERSIDE DRIVE

Mayor Jones opened the floor for a Public Hearing regarding a Special Use Permit at 4764 Riverside Drive. Notice of the Public Hearing was published in the *Danville Register & Bee* on February 15, 2022, and February 22, 2022.

Mayor Jones recognized Ryan Gatewood from LED Professionals, 110 Exchange Street, representing the applicants, Brad Skidmore and Bill Powell. The applicants were planning on renovating an existing car dealership at 4764 Riverside Drive into a skill game arcade, with approximately 50-60 machines; it was currently zoned as HR-C. They have been working with the Planning Commission to get this project through the Special Use Permit process.

Mayor Jones recognized Bill Powell, one of the applicants, who explained the facility will have hired security, it will be a very safe place for family members to gather, but no one under the age of 18. He was there to answer any questions Council may have. These games were currently running in the State of Virginia, and they understood in order to put a facility in Danville they needed a special use permit.

Vice Mayor Miller questioned the current legal status of these machines, he knew they were running right now, but weren't they under an injunction, and Mr. Powell noted they were under injunction until May 18th. Dr. Miller noted he was not sure he saw the point of approving this until they were adjudicated legal or not legal. Mayor Jones questioned if on May 18th the State says no, what was Mr. Powell's plan and Mr. Powell stated they were out of business. Mayor Jones questioned if Mr. Powell would like to table this and bring it back after they make that decision or did he want to move forward. Mr. Powell noted they would like to move forward because they feel the State was going to do something in order to regulate gaming in the state of Virginia.

In response to Mr. Whittle, Mr. Whitfield explained the injunction prevented law enforcement from enforcing the law; the games were not legal, but they were able to run without the threat of law enforcement coming in. If the court rules that they were illegal and removed that injunction, that shuts it down. Also, they don't know what the legislature will do; there were some bills in the legislature talking about making it illegal and trying to get over the issue that has been raised by Senator Stanley's case with his client Mr. Stadler. Mr. Whittle noted if there were some that were grandfathered, the City didn't have much room to do anything with them either way in the past. Mr. Whitfield explained Council never issued any special use permits; the Board of Zoning appeals may have allowed one or two, but those were the only ones allowed to operate legally in the City. Mr. Whittle questioned if they had the special use permit and then if it passes, were the ones already in place grandfathered. Mr. Whitfield stated what he thinks it was saying was that those few that have the right to operate under the Board of Zoning appeals rulings as well as any special use permits that were granted by Council, and those people were running a skilled games business, the court will determine whether they continue or will be shut down. If the court rules that the state's skilled game ban was constitutional, then they will be shut down and there will not be any grandfathering at that point.

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Council Member Vogler noted he was looking at this from a fairness standpoint; currently, these machines were in almost every five and dime in the City, whether they were supposed to be or not. Because of the injunction, they have essentially been decriminalized temporarily; they were not legal, but law enforcement can't do anything about them. With the May decision, either these facilities would be allowed to continue to operate, or they decide they will not allow them in which case they will all be shut down. Mr. Powell's investment will be lost but he seems to understand that and was willing to do that. Was it fair to tell one person they couldn't have it, but they were already in other places. Council Member Buckner questioned if Council could grant a special use permit during the injunction and Mr. Whitfield explained right now what has been ruled on by the Court in Greenville was that law enforcement can't go in and enforce it, it says nothing about zoning, so Council was free to do what they wanted. But anybody who currently was operating skilled games that has not gotten a special use from this Council was doing so illegally and violated the zoning ordinance. Mayor Jones asked what the consequences were of those operating illegally and Mr. Whitfield noted there were civil penalties that can become criminal penalties.

No one further desired to be heard and the public hearing was closed.

Council Member Vogler **moved** for adoption of an Ordinance entitled:

ORDINANCE NO. 2022-03.04

AN ORDINANCE GRANTING SPECIAL USE PERMIT APPLICATION PZ22- 16, FILED BY BRAD SKIDMORE AND BILL POWELL ON BEHALF OF RCCM PROPERTIES, LLC REQUESTING A SPECIAL USE PERMIT FOR A COMMERCIAL RECREATION FACILITY ACCORDING TO ARTICLE 3.M. SECTION C.4. OF THE DANVILLE ZONING ORDINANCE AT 4764 RIVERSIDE DRIVE (PARCEL ID#78406).

The Motion was **seconded** by Council Member Buckner.

Vice Mayor Miller questioned if the City had turned down several zoning items for this issue and Mr. Whitfield explained it has been almost two years and remembers only one or two that came from the Planning Commission, and Council didn't approve any of them. The three that were approved, were approved by the Board of Zoning Appeals. Mr. Larking noted after that occurred, then they were made illegal throughout the state, and Mr. Whitfield stated they were then made legal for a year and then they became illegal after July 1, 2021. Dr. Miller noted he was not sure he saw the point of approving this until they get the final word on the legality.

Council Member Miller **moved** for a Substitute Motion to table this item until after such time as a decision was made as to the legality of these skilled machines.

In response to Mayor Jones, Mr. Whitfield noted it sounded like it was a Motion to Postpone for an indefinite term or wait until the Greenville County Circuit Court case; it does take precedence over any other motion.

The Substitute Motion was seconded by Council Member Campbell.

Council Member Saunders questioned the City Attorney, that the Substitute Motion can be made while the Motion was already on the floor and Mr. Whitfield noted yes, the Motion to Postpone can be made while that was on the floor, it takes precedent and has to be disposed of prior to the original motion.

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Council Member Saunders Called for the Question.

Vice Mayor Miller questioned the City Attorney, if this item was tabled, and it was legalized two months from now, do they have to go back through the Planning Commission and Mr. Whitfield noted they did not.

The Motion **FAILED** by the following vote:

VOTE: 4-5
AYE: Jones, Mayo, Miller, Saunders (4)
NAY: Buckner, Campbell, Hood, Vogler and Whittle (5)

Mayor Jones noted Council now goes back to the original Motion which was to approve this item.

Council Member Buckner noted there were some recommendations from the staff and asked Division Director of Planning Doug Plachcinski to explain. Mr. Plachcinski stated the Planning Commission did, in consultation with the applicant, alter the staff recommendations on a few points. In the council letter, Mr. Plachcinski included two other items he wanted to make sure came up. One was that the City put some type of time limit should City Council approve it, so it can be revisited once the Greenville County case was resolved, and two, if somebody was operating a skilled game in a permitted special use commercial recreation establishment, and the City finds out that they have machines outside that permitted use establishment, that the City was able to revoke the special use permit they obtained. The Planning Commission also deviated from the consistent staff recommendations on the hours of the operation and the kinds of games, which in the past when Planning had made a recommendation, were single player games. Some games were big and can involve up to eight players; the Planning Commission agreed with the applicant to modify the recommendation to allow multi-player games. Mr. Plachcinski noted he believed there was a change in occupancy that the Planning Commission also recommended.

Director of Community Development Ken Gillie noted he had historical knowledge if Council had questions on what was done in the past; Council denied Pilot several years ago because they couldn't keep control. In the past, they had a limited number of games, the eight player games which people called fish tables, they had fights in facilities because of those. A facility on Piney Forest Road had an issue that the City cited, and eventually had them shut down; that was the reason years ago they had that change. Mayor Jones questioned what was on the table for Council tonight, did that include the staff recommendations in the item. Mr. Plachcinski stated he believed the motion that was made did not include an indication of any conditions recommended, and noted his recommendation would be to remand it back to the Planning Commission to consider those changes.

Council Member Buckner questioned if it was possible to table this tonight, let it go back to the Planning Commission for reconsideration, and brought back to Council. Mr. Whitfield noted this would be a motion to remand it back to the Planning Commission for further study and recommendation.

Council Member Buckner made a **Motion to Remand** this item back to the Planning Commission for further study and recommendations and come back to City Council. The Motion was **seconded** by Council Member Campbell.

Mr. Vogler questioned Mr. Plachcinski, the things he talked about that Council would send it back to the Planning Commission for, were those not presented to the Planning Commission the first

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time. Mr. Plachcinski noted those things don't always come up, specifically, the item about having machines in circulation that were part of unapproved commercial recreation. When staff reviewed the draft minutes from the Planning Commission, and he was not suggesting that the applicant had machines in Danville in unapproved locations, but it seemed to indicate that they may and he would like them to clarify that to the Planning Commission and if possible, include that. Mr. Vogler noted if it seems like the majority of Council thinks it would be beneficial to get this item cleaned up a little, he understands that, but again, he hopes Council thinks about what was already being allowed, what was going to be allowed and make sure it was applied fairly to everyone.

Mr. Saunders called for a point of order, there was a motion on the floor and properly seconded, another motion has just been made and the first motion has not been handled, was this an issue. Mr. Whitfield explained that motion can be disposed of prior to the first motion; the motion that was disposed of was the postponement. There was a new motion asking that the case be remanded back to the Planning Commission and that motion was in order.

The Motion to Remand was **carried** by the following vote:

VOTE: 8-1
AYE: Buckner, Campbell, Hood, Jones, Mayo,
Miller, Saunders, and Whittle (8)
NAY: Vogler (1)

Mr. Whitfield explained that the case has now been remanded back and the original motion dies.

**BUDGET AMENDMENT – CONSIDERATION OF AMENDING THE FISCAL YEAR 2022
BUDGET APPROPRIATION ORDINANCE FOR STATE AVIATION CAPITAL GRANT
FUNDING**

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

ORDINANCE NO. 2022-03.05

AN ORDINANCE AMENDING THE FISCAL YEAR 2022 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR ADDITIONAL STATE AVIATION FUNDING FOR THE PURPOSE OF OVERALL AIRPORT IMPROVEMENTS IN THE AMOUNT OF \$114,767 PLUS THE LOCAL SHARE IN THE AMOUNT OF \$96,888 TO BE PROVIDED THROUGH THE FISCAL YEAR 2022 ISSUANCE OF BONDS FOR CAPITAL AND SPECIAL PROJECTS AND APPROPRIATING SAME

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

COMMUNICATIONS

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

Vice Mayor Miller noted at the Utilities Commission meeting the other day, in reference to what was going on in Russia and the Ukraine, a dekatherm was 1M btus, they sell for about \$4 per btu in America, in Europe it was \$30, and it will go up. Their supply was being cut off, a good part of the difference will come from the US, the US prices will end up going up and the US will have to

March 1, 2022

produce more natural gas and rates will go up for power. Appalachian Power will be raising their transmission charges 15-17%, every year they raise it. The power was produced on the Ohio River but it has to get to Danville and there was a middle man, Appalachian Power, and they have no regulations as to how much they can raise the transmission charge. Citizens can talk to their legislators about that, the power bill will go up but Danville Utilities will get the blame. The City was doing everything it could to keep rates low including solar power, but were competing against larger entities who were raising their rates.

Council Member Saunders noted to the Mayor that if it appeared that he was arguing with him, it was not true, it was a simple debate because he was not clear on the issue. Their Council was blessed to have people that worked well together, and tried to work to help the citizens.

Council Member Vogler noted his agreement with Mr. Saunders; citizens got to see a little bit more of the process of what Council sometimes does in a work session, a constructive process working through issues. Mr. Vogler asked citizens to continue to pray for the people of the Ukraine and the incredible bravery and resilience they were showing right now. Danville was in the midst of an era of prosperity, looking around at all the great things that were happening. There was a great article in Virginia Business that Corrie Bobe was quoted in, talking about the number of projects happening in the City and the region, and this year was going to be even better.

Council Member Whittle noted his prayers went out to the Ukrainian People as well. Mr. Whittle noted there have been nine crashes on Mountain View in the past two years and asked staff to look at that.

Council Member Buckner asked citizens to keep the people of Ukraine in their thoughts and prayers and noted his agreement with Mr. Saunders, they do have an amazing Council. They all work very well together, and he was honored to be a part of it.

Mayor Jones thanked Council for all that has been said, and thanked Council Members Saunders and Mayo; this past Saturday, he was presented an award, they got his friends and family to attend, he knew nothing about it and was very grateful to them. To Mr. Bennett and everyone who was involved in that, he thanked them. Mayor Jones noted their support goes out to the school system to all staff for what they do, and all their prayers go out to the people of the Ukraine.

ADJOURNED: 8:16 P.M.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Council Letter

City of Danville, Virginia



CL-2722

Consent Agenda C.

City Council Regular Meeting

Meeting Date: 04/05/2022

Subject: Technical Rescue Grant

From: David Coffey, Fire Chief

COUNCIL ACTION

First Reading: 03/15/2022

Final Adoption: 04/05/2022

SUMMARY

The City has received notification from the Virginia Department of Health that the Danville Fire Department has been approved to receive funding from the 2021 Rescue Squad Assistance Fund in the amount of \$15,558.08 for the purchase of equipment and a trailer for technical rescue incidents, swift water rescue, confined space, and structural collapse, with local funding of \$7,779.04.

BACKGROUND

Funds from the Virginia Department of Health are given to the Rescue Squad Assistance Fund to assist localities throughout the Commonwealth to upgrade their technical rescue equipment for the safety of the public. The grant must be used within twelve months of receipt of funds.

RECOMMENDATION

It is recommended that City Council approve the attached Ordinance Amending the Fiscal Year 2022 Budget by increasing the revenue to anticipate the receipt of the grant funds from the Virginia Department of Health.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2022-____.____

AN ORDINANCE AMENDING THE FISCAL YEAR 2022 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR A GRANT FROM THE VIRGINIA DEPARTMENT OF HEALTH IN AN AMOUNT OF \$7,780 AND A LOCAL SHARE IN THE AMOUNT OF \$7,780 FOR EMS EQUIPMENT AND TRAILER THE SWIFT WATER TEAM FOR A TOTAL APPROPRIATION IN THE AMOUNT OF \$15,560, AND APPROPRIATING SAME.

WHEREAS, the City has been notified by the Virginia Department of Health that the Swift Water Team has been awarded a grant; and

WHEREAS, the grant funds are to be used to purchase EMS equipment and a trailer for the Swift Water Team in order to meet states requirements for the team to be considered operational.

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Danville, Virginia that the Fiscal Year 2022 Budget Appropriation Ordinance be, and hereby is, amended by increasing revenues from the Virginia Department of Health for EMS equipment and a trailer and such revenue and appropriation to be as follows:

ANTICIPATED REVENUES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
FY 22 Rescue Squad Assistance Grant		
State Funding	61748000-47144	\$ 7,780
Transfer In From General Fund	61748000-6101	7780
Total		<u>\$ 15,560</u>

ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
FY 22 RSAF—Swift Water Grant	61748999-50	<u>\$ 15,560</u>

AND BE IT FURTHER ORDAINED that this appropriation shall be a continuing appropriation and shall carry forward from year to year until expended for the purpose for which appropriated; and

BE IT FINALLY ORDAINED that all other accounts and provisions of the Fiscal Year 2022 Budget Appropriation Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to
Form and Legal Sufficiency:

City Attorney

Council Letter

City of Danville, Virginia



CL-2723

Consent Agenda D.

City Council Regular Meeting

Meeting Date: 04/05/2022

Subject: Fiscal Year 2022 Budget Appropriation Ordinance for Public Safety Modernization

From: Henrietta Weaver, Accountant

COUNCIL ACTION

First Reading: 03/15/2022

Final Adoption: 04/05/2022

SUMMARY

Revenues from meal, lodging and real estate taxes are anticipated to exceed previously budgeted amounts. The additional revenues will be used to implement a Public Safety modernization technology solution. This will replace an existing system that is no longer supported by the vendor.

BACKGROUND

The City's Fiscal Year 2022 Budget Appropriation Ordinance includes an estimate of tax revenues from meals, lodging and real estate, using the best available information. Due to the effect of market forces, actual receipts are expected to exceed previously estimated amounts. The technology solution is a software system that supports all public safety activities. The current system is out of date and in need of replacement.

RECOMMENDATION

It is recommended that the City Council adopt the attached ordinance amending the Fiscal Year 2022 Budget Appropriation Ordinance.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2022 - _____._____

AN ORDINANCE AMENDING THE FISCAL YEAR 2022 BUDGET APPROPRIATION ORDINANCE BY INCREASING REVENUES FROM VARIOUS TAXES TO PURCHASE PUBLIC SAFETY MODERNIZATION SOFTWARE AND HARDWARE AN APPROPRIATION IN THE AMOUNT OF \$1,500,000 AND APPROPRIATING THE SAME.

WHEREAS, the City anticipates the receipt of an additional \$1,500,000 in meals, lodging and real estate taxes to be used to purchase Public Safety modernization software and hardware; and

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Danville, Virginia, that the Fiscal Year 2022 Budget Appropriation Ordinance be, and the same hereby is, amended, by increasing revenues in the General Fund and appropriating same to be as follows:

ANTICIPATED REVENUES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Prepared Meals Tax	0100000-40550	\$1,000,000
Hotel & Motel Room Taxes	0100000-40810	300,000
Current Real Estate Taxes	0100000-40110	<u>200,000</u>
Total		<u>\$1,500,000</u>

ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Transfer Out – Support of Capital Projects	0199501-6025	<u>\$1,500,000</u>

AND BE IT FURTHER ORDAINED, by the Council of the City of Danville, Virginia, that the Fiscal Year 2022 Budget Appropriation Ordinance be, and the same hereby

is, amended, by providing for the upgrade to the Public Safety System in the Capital Projects Fund and appropriating same to be as follows:

ANTICIPATED REVENUES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Transfer In From General Fund	61750000-6101	<u>\$1,500,000</u>

ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Public Safety Modernization	61750999-50	<u>\$1,500,000</u>

AND BE IT FINALLY ORDAINED, that all other accounts and provisions of the Fiscal Year 2022 Budget Appropriation Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:

City Attorney

Council Letter

City of Danville, Virginia



CL-2746

Appointments A.

City Council Regular Meeting

Meeting Date: 04/05/2022

Subject: Consideration of Appointments to Boards and Commissions

From: Susan M. DeMasi, City Clerk

COUNCIL ACTION

Business Meeting: 04/05/2022

SUMMARY

Consideration of Appointments to the Following Boards:

1. Planning Commission
2. Employee Retirement System Board

Attachments

Resolutions

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2022 – ____.

A RESOLUTION APPOINTING EDGAR LOVE TO THE EMPLOYEE RETIREMENT SYSTEM BOARD.

BE IT RESOLVED by the Council of the City of Danville, Virginia, that Edgar Love be, and he is hereby appointed as a member of the Employee Retirement System Board, for a two-year term commencing April 5, 2022 and ending December 31, 2023.

APPROVED:

MAYOR

ATTEST:

CLERK

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2022 – ____.

A RESOLUTION APPOINTING TOMMY BENNETT TO THE PLANNING COMMISSION TO FILL AN UNEXPIRED TERM.

BE IT RESOLVED by the Council of the City of Danville, Virginia, that Tommy Bennett be, and he is hereby appointed as a member of the Planning Commission, to fill the unexpired term of Arthur Craft ending on December 31, 2023.

APPROVED:

MAYOR

ATTEST:

CLERK

Council Letter

City of Danville, Virginia



CL-2742

New Business A.

City Council Regular Meeting

Meeting Date: 04/05/2022

Subject: Consideration of Zoning Ordinance Amendment Regulating Skill Games.

From: Doug Plachcinski, Planning Division Director

COUNCIL ACTION

Business Meeting: 04/05/2022

SUMMARY

Rezoning PZ22-31, Initiated by the Planning Director, establishes 'skill games' as defined by Virginia Code as adult-oriented uses and moves standards for adult entertainment out of zoning ordinance Section 3.Q.I. and into a new section Article 2. General Regulations Z. Adult Oriented-Uses with Locational Restrictions to Avoid Secondary Effects.

BACKGROUND

The City developed the attached ordinance that incorporates 'skill games' into the same category as other adult oriented uses, lessens the locational restrictions applied to such, and moved the rules to Article 2.Z.

The Planning Commission, at their March 7, 2022 meeting, voted 6-0 to recommend approval of Zoning Ordinance Text Amendment PZ22-31.

RECOMMENDATION

The Planning Commission recommends that City Council adopt an ordinance, so skill games are defined in the zoning ordinance as they are under Virginia Code, are allowed along with other adult-oriented uses in the M-I Manufacturing Industrial zoning district and have locational restrictions to avoid secondary effects.

Attachments

Ordinance

EXHIBIT A

Planning Backup

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2022-____.____

AN ORDINANCE AMENDING AND REORDAINING CHAPTER 41, ENTITLED "ZONING ORDINANCE" OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, BY AMENDING ARTICLE 3.Q., SECTION C, BY CHANGING ITEM 1 TO ESTABLISH 'SKILL GAMES' AS DEFINED BY THE VIRGINIA CODE AS ADULT-ORIENTED USES, AND AMENDING SECTION I. BY DELETING ITEM 10, AND AMENDING ARTICLE 2. BY ADDING A NEW SECTION Z.

WHEREAS, the current Chapter 41, entitled "Zoning Ordinance" of the Code of the City of Danville, Virginia, does not provide a definition for 'skill games' and does not establish regulations governing 'skill games', and lists adult entertainment regulations in a zoning district article instead of in General Regulations.

NOW THEREFORE, BE IT ORDAINED, that those amendments to add a new Section Z., entitled "Adult Oriented-Uses with Locational Restriction to Avoid Secondary Effects." to Article 2 entitled "General Regulations" and changing Item 1., of Section C., entitled "Uses Permitted by special Use Permit" and deleting Item 10. from Section I., entitled "Additional Regulations" from Article 3.Q., entitled "M-1, Industrial District (Industrial Manufacturing District)." From Chapter 41., entitled "Zoning Ordinance" of the Code of the City of Danville, Virginia, 1986, as amended, be reordained as shown in Exhibit "A" attached hereto and made a part hereof, as if fully set forth herein; and

BE IT FINALLY ORDAINED, that all other provisions and Chapters of said Code be, and the same are hereby, continued in full force and effect unless and until the same are hereafter amended or repealed.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to
Form and Legal Sufficiency:

City Attorney

EXHIBIT "A"

CHAPTER 41. ZONING ORDINANCE

ARTICLE 3.Q: - M-I INDUSTRIAL DISTRICT (Industrial Manufacturing District).

C. Uses Permitted by Special Use Permit.

1. Adult entertainment establishments.

1. Adult Oriented-Uses with Locational Restrictions to Avoid Secondary Effects.

I. Additional Regulations:

- ~~10. Adult entertainment establishments, as permitted by special use permit, shall be deemed to include the following: (a) adult book stores, (b) adult motion picture or video theaters, (c) cabarets, (d) massage parlors, (e) drug paraphernalia stores, (f) tattoo parlors and (g) establishments for palm readers and mystics, and as defined in the Definitions article of this ordinance. The following additional regulations shall apply to adult entertainment establishments:~~
 - ~~a. No adult entertainment establishment shall be located within (1) one mile of any other adult entertainment establishment, (2) one mile of any residential district, (3) one mile of any church or place of worship, (4) one mile of any religious apparel or book store, (5) one mile of any school or education facility, including playgrounds, (6) one mile of any public playground, park, swimming pool, or library. Distance between uses shall be measured from the nearest property line of any adult entertainment establishment and the nearest property line of any use cited in the paragraph hereinabove.~~
 - ~~b. In addition to the sign regulations of this ordinance, sign messages for an adult entertainment establishment shall be limited to a written description of material or services available on the premises and shall not provide any graphic or pictorial depiction of the material or services available on the premises.~~
 - ~~c. Signage and messages which are visible or intended to be visible from outside the property (such as those appearing on or within doors or windows) shall not display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentation of persons performing or services offered on the premises.~~
 - ~~d. Should any adult entertainment establishment listed above cease or discontinue operation for a period of ninety (90) or more consecutive days, it may not resume, nor be replaced by any other adult entertainment establishment unless it complies with all the requirements set forth hereinabove.~~
 - ~~e. Adult Entertainment Establishments must meet all legal requirements imposed by State and federal law.~~

CHAPTER 41. ZONING ORDINANCE

ARTICLE 2. – GENERAL REGULATIONS

Z. - Adult Oriented-Uses with Locational Restrictions to Avoid Secondary Effects.

1. Purpose.

The City recognizes that certain adult-oriented uses that are only legal for people at least 18 years old have serious objectionable operational characteristics, particularly when they are concentrated, and may negatively impact adjacent properties' use and enjoyment. Special regulation of these uses is necessary to offset negative impacts and make sure the use will not create blight, crime, or nuisances in the surrounding neighborhood.

2. Definitions.

- a. *Adult Bookstore*. An establishment having most of its merchandise stock in trade books, magazines, publications, media, or films with an emphasis on matter depicting, describing, or relating to sexual activities or genitalia.
- b. *Adult Cabaret*:
 - (1) An establishment devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities or nudity;
 - (2) A cabaret that features nude dancers, strippers, or similar entertainers that patrons view.
- c. *Adult Theater*. An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.
- d. *Skill Game*. An electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player and that may deliver or entitle the person playing or operating the device to receive cash; cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash; merchandise; or anything of value whether the payoff is made automatically from the device or manually. This definition exempts family entertainment centers from the prohibition against the playing or offering of any skill game, provided the prize won or distributed to a player by the skill games offered by such centers is a noncash, merchandise prize or a voucher, billet, ticket, token, or electronic credit redeemable only for a noncash, merchandise prize that also meets certain other requirements.

3. Adult-Oriented Use Operations:

- a. Adult-Oriented Uses must obtain a Special Use Permit (SUP) according to the standards provided in Article 6.
- b. Adult-Oriented Uses, even if accessory to a permitted use, must obtain a SUP.

- c. Adult-Oriented Uses must obtain a business license clearance from the Zoning Administrator and register with the Commissioner of Revenue prior to operating.
 - d. Adult-Oriented Uses owner/operator must apply for and receive a business license clearance prior to registering with the Commissioner of Revenue.
 - e. Adult-Oriented Uses must register with the Commissioner of Revenue to collect and remit the City's business taxes and other applicable fees as specified in Chapter 37 entitled "Taxation."
4. Adult-Oriented Use Standards.
- Adult-Oriented Uses include adult bookstores, adult theaters, cabarets, and skill games. The following additional regulations shall apply to Adult-Oriented Uses:
- a. Adult-Oriented Uses are only allowed with a SUP in the M-I, Industrial-Manufacturing zoning district.
 - b. An Adult-Oriented Use may not be located within:
 - 1. 1000' of any other permitted Adult-Oriented Use.
 - 2. 1000' of any SR-R, T-R, S-R, NT-R, OT-R, A-R, MHP-R, TO-C, C-E, CB-C, or TW-C zoning district.
 - 3. 1000' of any school, childcare center, or family day home.Distance is measured from the nearest property line of any Adult-Oriented Use and the nearest property line of any limiting use.
 - c. Should any Adult-Oriented Use cease operations for ninety (90) or more consecutive days, it may not resume nor be replaced by any other Adult-Oriented Use without a new SUP.
 - d. The City Council may approve a SUP for an Adult-Oriented Use for up to one (1) year.
 - e. If the owner or operator of an Adult-Oriented Use approved by a SUP violates any City, Virginia, or Federal laws, then the City Council may revoke the SUP according to the provisions of Article 6.G.4.c.

RECOMMENDATION

DATE: MARCH 9, 2022
TO: CITY COUNCIL
FROM: CITY PLANNING COMMISSION
RE: ZONING ORDINANCE TEXT AMENDMENT APPLICATION PZ22-31

REQUEST

Rezoning PZ22-31, Initiated by the Planning Director, establishes 'skill games' as defined by Virginia Code as adult-oriented uses and moves standards for adult entertainment out of zoning ordinance Section 3.Q.I. and into a new section 2. General Regulations Z. Adult Oriented-Uses with Locational Restrictions to Avoid Secondary Effects.

RECOMMENDATION

The Planning Commission, at their March 1, 2022 meeting, voted 6-0 to recommend approval of Zoning Ordinance Text Amendment Application PZ22-31.

A handwritten signature in black ink, reading "Harold E. Garrison" followed by a stylized monogram or initials.

Mr. Harold E. Garrison, Chair

MEMORANDUM

DATE: March 3, 2022

TO: Danville City Planning Commission

FROM: Doug Plachcinski, AICP, CFM, Planning Division Director + Zoning Administrator

RE: **PZ22-31 ADULT ORIENTED USES WITH LOCATIONAL RESTRICTIONS TO AVOID SECONDARY EFFECTS**

The City developed the attached ordinance that incorporates 'skill games' into the same category as other adult oriented uses.

Council Letter

City of Danville, Virginia



CL-2744

New Business B.

City Council Regular Meeting

Meeting Date: 04/05/2022

Subject: Consideration of Special Use Permit at 823 Industrial Avenue for a contractor's office.

From: Doug Plachcinski, Planning Division Director

COUNCIL ACTION

Business Meeting: 04/05/2022

SUMMARY

Special Use Permit Application PZ22-30, filed by Jermay Nichols / Old Oak LLC on behalf of Benton Crews Property LLC, requests a Special Use Permit for a Contractor's office, shops and storage yard according to Article 3.O.C.5. of the Danville Zoning Ordinance at 823 Industrial Avenue (Parcel ID#24094). The applicant proposes a contractor's office and workshop.

BACKGROUND

The applicant proposes a contractor's office and workshop.

The Planning Commission, at their March 7, 2022 meeting, voted 6-0 to recommend approval of Special Use Permit PZ22-30.

RECOMMENDATION

The Planning Commission recommends that City Council adopt an ordinance approving Special Use Permit PZ22-30.

Attachments

Ordinance

Planning Backup

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2022____.____

AN ORDINANCE GRANTING SPECIAL USE PERMIT APPLICATION PZ22-30, FILED BY JERAMY NICHOLS OWNER OF OLD OAK PROPERTIES, LLC REQUESTING A SPECIAL USE PERMIT FOR CONTRACTOR'S OFFICE, SHOPS, STORAGE YARD, AND CABINET MANUFACTURING ACCORDING TO ITEM 5, OF SECTION C., OF ARTICLE 3.O, OF CHAPTER 41, ENTITLED "ZONING ORDINANCE" OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA AT 823 INDUSTRIAL AVENUE (PARCEL ID#24094).

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 PZ22-30, filed by Jeramy Nichols owner of Old Oak Properties, LLC requesting a Special Use Permit for a Contractor's office, shops, storage yard, and cabinet manufacturing according to Item 5, of Section C., entitled "Uses Permitted by Special Use Permit." of Article 3.O, entitled "LED-I, INDUSTRIAL DISTRICT (Light Economic Development District)", of Chapter 41, entitled ZONING ORDINANCE" of the Code of the City of Danville, Virginia at 823 Industrial Avenue (Parcel ID#24094), is hereby received; and

BE IT FURTHER ORDAINED, that in consideration of said report and the public hearing this day held by Council, Special Use Permit Application PZ22-30, filed by Jeramy Nichols owner of Old Oak Properties, LLC requesting a Special Use Permit for a contractor's office, shops, storage yard, and cabinet manufacturing according to Item 5, of Section C, of Article 3.0, of Chapter 41 of the Code of the City of Virginia-at 823 Industrial Avenue (Parcel ID#24094), is hereby approved.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:

City Attorney

RECOMMENDATION

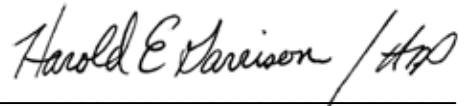
DATE: MARCH 9, 2022
TO: CITY COUNCIL
FROM: CITY PLANNING COMMISSION
RE: SPECIAL USE PERMIT APPLICATION PZ22-30

REQUEST

Special Use Permit Application PZ22-30, filed by Jermay Nichols / Old Oak LLC on behalf of Benton Crews Property LLC, requests a Special Use Permit for a Contractor's office, shops and storage yard according to Article 3.O.C.5. of the Danville Zoning Ordinance at 823 Industrial Avenue (Parcel ID#24094). The applicant proposes a contractor's office and workshop.

RECOMMENDATION

The Planning Commission, at their March 7, 2022 meeting, voted 6-0 to recommend approval of Special Use Permit PZ22-30.

A handwritten signature in black ink, reading "Harold E. Garrison" followed by a stylized flourish or set of initials.

Mr. Harold E. Garrison, Chair

STAFF REPORT

DATE: March 3, 2022
TO: Planning Commission
FROM: Doug Plachcinski, AICP, CFM Planning Division Director + Zoning Administrator

RE: SPECIAL USE PERMIT APPLICATION PZ22-30 823 INDUSTRIAL AVENUE

Special Use Permit Application PZ22-30, filed by Jermay Nichols / Old Oak LLC on behalf of Benton Crews Property LLC, requests a Special Use Permit for a Contractor's office, shops and storage yard according to Article 3.O.C.5. of the Danville Zoning Ordinance at 823 Industrial Avenue (Parcel ID#24094). The applicant proposes a contractor's office and workshop.

BACKGROUND

The applicant proposes a contractor's office and workshop.

STAFF ANALYSIS AND RECOMMENDATION

The City may allow a commercial recreation facility in the Light Economic Development - Industrial district with a Special Use Permit.

If approved, the Special Use Permit is in harmony with LED-I District's light industrial and economic development activities within a master planned and clustered setting, this district may be applied to economic development establishments in the City as well as to existing light industry. The application would also meet the general Special Use Permit review standards in Article 6.B.

The Planning Division recommends approving this application as proposed and that the Planning Commission endorse Special Use Permit Application PZ22-30 for City Council approval without conditions.

CITY PLANNING COMMISSION ALTERNATIVE ACTIONS

1. Recommend approval of Special Use Permit Application as submitted;
2. Recommend approval of Special Use Permit Application with conditions per Planning Commission; or
3. Recommend denial of Special Use Permit Application.

ATTACHMENTS

- ✓ Application
- ✓ Data Sheet
- ✓ Property Ownership/Zoning Map
- ✓ Existing Land Use Map
- ✓ Future Land Use Map

MEMORANDUM

DATE: March 7, 2022

TO: PLANNING COMMISSION

FROM: PLANNING STAFF

SUBJECT: RESPONSE FROM NEIGHBORING PROPERTY OWNERS

REQUEST:

Special Use Permit Application PZ22-30, filed by Jermay Nichols / Old Oak LLC on behalf of Benton Crews Property LLC, requests a Special Use Permit for a Contractor's office, shops and storage yard according to Article 3.O.C.5. of the Danville Zoning Ordinance at Industrial Avenue (Parcel ID#24094). The applicant proposes a contractor's office and workshop.

RESPONSES:

Twenty-nine (29) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. Six (6) responses were received. Four (4) Unopposed (Benton Crews Properties LLC, City of Danville & Pittsylvania County Habitat for Humanity, Guanzon, and Piedmont Lands of Virginia LLC). Two (2) Opposed (Waller & White).

COMMENTS:

See Attached



City of Danville
Community Development
Planning Division

**PLANNING COMMISSION
SPECIAL USE PERMIT APPLICATION**

PLANNING DIVISION PROVIDED INFORMATION

Application #: _____ PC Meeting Date: _____
Date Received: _____ Received By: _____
Parcel ID: _____ Address: _____
Existing Zoning: _____ Future Land Use: _____

APPLICANT PROVIDED INFORMATION

Property Location (address/ID#): 823 Industrial Ave Danville, VA 24541
Applicant: Old Oak Properties LLC Jeremy Nichols
Applicant's Address: 127 Southland Ct. Danville, VA 24541
Applicant's Phone Number: 434-251-3011
Applicant's E-mail: jeramy@oldoakws.com
Describe Proposed Development: Cabinet Manufacturing

Article 6 Section B. General Standards and Criteria for Special Use Permit Review. Please explain how the Special Use Permit request meets the following review standards and criteria:

1. The proposed use shall be: a. in harmony with the adopted Comprehensive Plan; b. in harmony with the intent and purpose of the zoning district in which the use is proposed to be located; and c. in harmony with the character of adjacent properties and the surrounding neighborhoods and also with existing and proposed development.

Yes there is manufacturing in the building adjacent to the property.

2. The proposed use shall be adequately served by essential public services such as streets, drainage facilities, fire protection and public water and sewer facilities:

Yes all mechanical is in place to handle our processes

3. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance:

No

4. The proposed use shall be designed, sited and landscaped so that the use will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods:

No


Applicant Signature

2/7/22
date

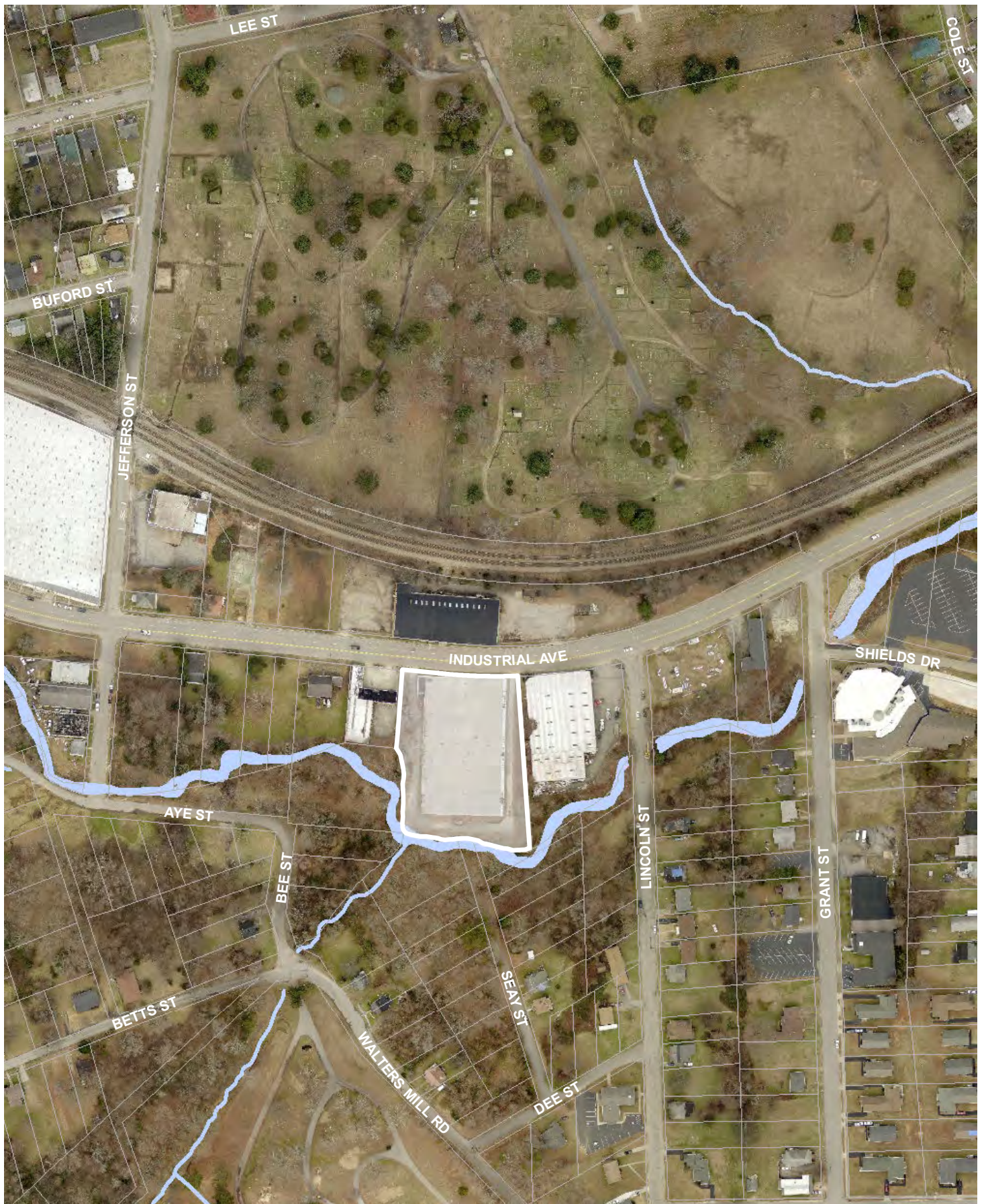
Property Owner Signature date
(if not applicant)

Article 6. Section D. Application Requirements for Special Use Permit.

1. An application for a special use permit shall be made by the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property on which the proposed use is to be located. The application shall be submitted to the Director of Planning/Zoning Administrator, and shall be accompanied by the filing fee as established by the City Council.
2. If the request for a special use permit has been denied by City Council, a request in substantially the same form shall not be resubmitted within one (1) year of the date of denial.
3. The application shall include the following information:
 - a. A preliminary site plan in accordance with the Site Plan Regulations.
 - b. A description of the proposed use and, where applicable, the hours of operation and the proposed number of employees/patrons.
 - c. A written statement of proposed project compatibility with the following:
 - (1.) The Comprehensive Plan.
 - (2.) The applicable zoning district.
 - (3.) The surrounding properties.
 - (4.) Current and future neighborhood conditions.
 - (5.) Pedestrian and vehicular traffic patterns, on-site and off-site.
 - (6.) Adequate public facilities.
 - d. When requested by the Director of Planning/Zoning Administrator, the Planning Commission, or the City Council, the following information shall be provided by the applicant:
 - (1.) The architectural elevations and floor plans of proposed building(s).
 - (2.) Traffic impact analysis.
 - (3.) Fiscal impact analysis.
 - (4.) Parking and site circulation analysis.
 - (5.) Photographs of property and surrounding area.
 - (6.) Environmental impact statement.

SPECIAL USE PERMIT REQUEST DATA SHEET PZ22-30

PUBLIC HEARING DATES:	MARCH 7, 2022 PLANNING COMMISSION AT 3PM
LOCATION OF PROPERTY:	823 INDUSTRIAL AVENUE
PRESENT ZONE:	LED-I LIGHT ECONONMIC DEVELOPMENT
PROPOSED ZONE:	NO CHANGE
ACTION REQUESTED:	SPECIAL USE PERMIT FOR A CONTRACTOR'S OFFICE
PRESENT USE OF PROPERTY:	VACANT
PROPOSED USE OF PROPERTY:	CONTRACTORS OFFICE
FUTURE LAND USE DESIGNATION:	INDUSTRIAL
PROPERTY OWNER (S):	BENTON CREWS PROPERTY LLC
NAME OF APPLICANT (S):	JERMAY NICHOLS / OLD OAK LLC
PROPERTY BORDERED BY:	INDUSTRIAL
ACREAGE:	APPROXIMATELY 1.55 ACRES TOTAL
CHARACTER OF VICINITY:	INDUSTRIAL AND WAREHOUSING
INGRESS AND EGRESS:	INDUSTRIAL AVENUE
TRAFFIC VOLUME:	COLLECTOR – 3700 AADT (2019)

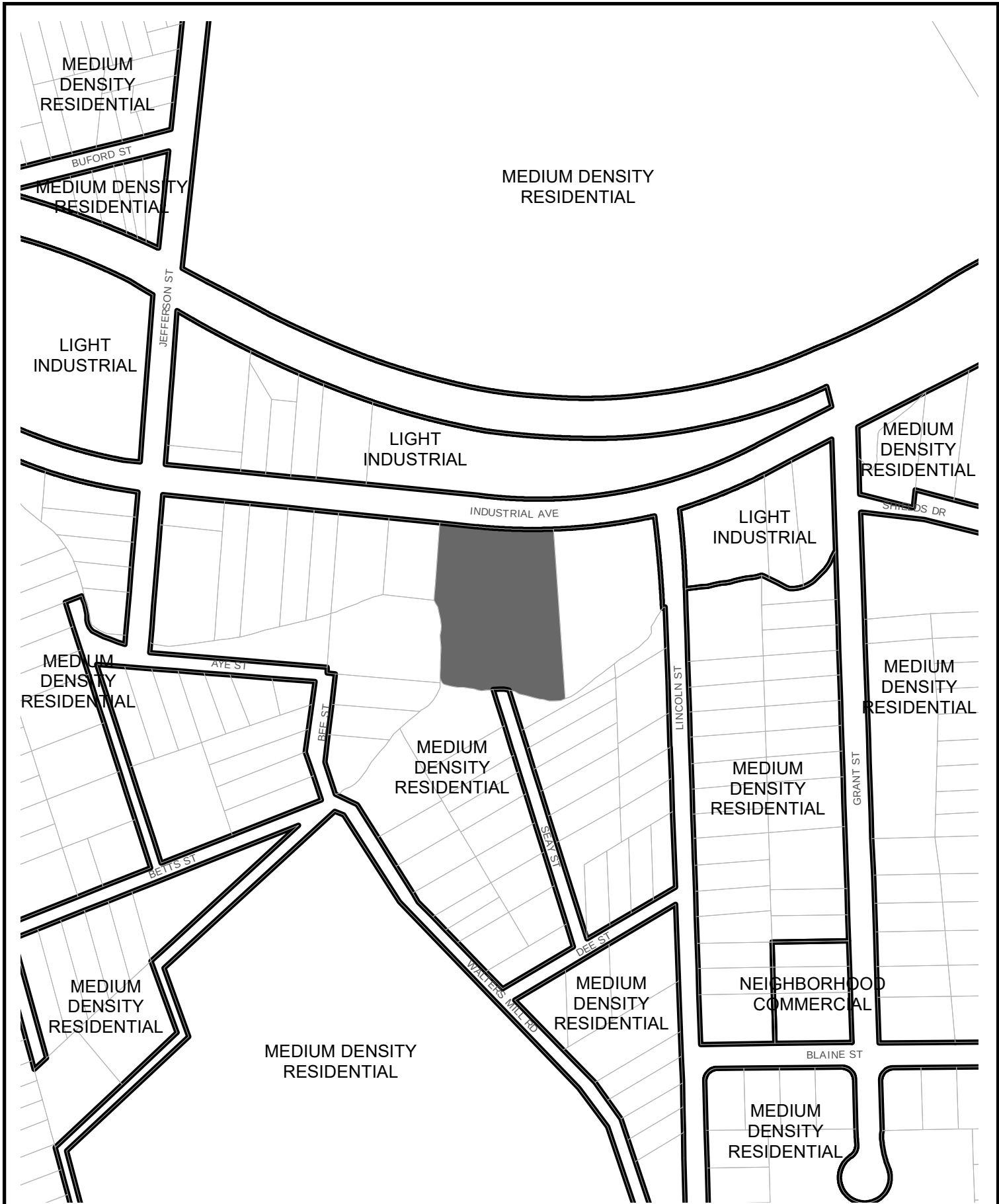


2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY



Prepared by:
Planning Division
2/23/2022

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
2/23/2022

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-2743

New Business C.

City Council Regular Meeting

Meeting Date: 04/05/2022

Subject: Consideration of Special Use Permit on Stewart Street for a PUD Apartment Development.

From: Doug Plachcinski, Planning Division Director

COUNCIL ACTION

Business Meeting: 04/05/2022

SUMMARY

Special Use Permit Application PLSUP 2021-422, filed by Keith Walden on behalf of CWC Holdings LLC and Empire Rentals, requests a Special Use Permit for a Planned Unit Development in accordance with Article 17 of the Danville Zoning Ordinance including Parcel ID#s 20596, 20597, 25672, 22841, 24958, 25085, 25226, 22099, 25069, 25070, 25074, 20420, 20421, 20422, 25542, 25073, 23886, 23561, 23563, 22924, 24974, 21173, 20425, 24984, 25098, 22104, 22103, 22513, 24649, 24358, 21117, 24359, 25088, 20424, 25087, 20418, 25086, 25090, 25089. The proposed Planned Unit Development consolidates the subject parcels into a six (6) building apartment development with additional resident amenities.

BACKGROUND

The proposed Planned Unit Development consolidates the subject parcels into a six (6) building apartment development with additional resident amenities. This project is substantially different than previously proposed developments because of residential amenities like a clubhouse, swimming pool, stormwater management, and screening.

The Planning Commission, at their March 7, 2022 meeting, voted 6-0 to recommend approval of Special Use Permit PLSUP 2021-422 with conditions.

RECOMMENDATION

The Planning Commission recommends that City Council adopt an ordinance approving Special Use Permit PLSUP 2021-422, with conditions.

Attachments

Ordinance

Planning Backup

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2022____.____

AN ORDINANCE GRANTING SPECIAL USE PERMIT APPLICATION PLSUP 2021-422, FILED BY KEITH WALDEN ON BEHALF OF CWC HOLDINGS, LLC AND EMPIRE RENTALS, LLC REQUESTING A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT IN ACCORDANCE WITH ARTICLE 17. OF CHAPTER 41, ENTITLED "ZONING ORDINANCE" OF THE CODE OF THE CITY OF DANVILLE INCLUDING PARCEL ID#'S 20596, 20597, 25672, 22841, 24958, 25085, 25226, 22099, 25069, 25070, 25074, 20420, 20421, 20422, 25542, 25073, 23886, 23561, 23563, 22924, 24974, 21173, 20425, 24984, 25098, 22104, 22103, 22513, 24649, 24358, 21117, 24359,25088, 20424, 25087, 20418, 25086, 25090, 25089.

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 PLSUP 2021-422, filed by Keith Walden on behalf of CWC Holdings, LLC and Empire Rentals, LLC requesting a Special Use Permit for a Planned Unit Development in accordance with Article 17., entitled "Planned Unit Developments" of Chapter 41., entitled "Zoning Ordinance" of the Code of the City of Danville, Virginia including Parcel ID#'s 20596, 20597, 25672, 22841, 24958, 25085, 25226, 22099, 25069, 25070, 25074, 20420, 20421, 20422, 25542, 25073, 23886, 23561, 23563, 22924, 24974, 21173, 20425, 24984, 25098, 22104, 22103, 22513, 24649, 24358, 21117, 24359,25088, 20424, 25087, 20418, 25086, 25090, 25089 is hereby received; and

BE IT FURTHER ORDAINED, that in consideration of said report and the public hearing this day held by Council, Special Use Permit Application PLSUP 2021-422, filed by Keith Walden on behalf of CWC Holdings LLC and Empire Rentals, LLC requesting a Special Use Permit for a Planned Unit Development in accordance with Article 17., entitled "Planned Unit Developments" of Chapter 41., entitled "Zoning Ordinance" of the Code of the City of Danville, Virginia including Parcel ID#'s 20596, 20597, 25672, 22841, 24958, 25085, 25226, 22099, 25069, 25070, 25074, 20420, 20421, 20422, 25542, 25073, 23886, 23561,

23563, 22924, 24974, 21173, 20425, 24984, 25098, 22104, 22103, 22513, 24649, 24358, 21117, 24359, 25088, 20424, 25087, 20418, 25086, 25090, 25089, is hereby approved, subject to the following conditions:

1. The permitted uses at the development are residential;
2. 35% of the building exteriors will be masonry;
3. The buildings will not have vinyl siding on exterior vertical fascia;
4. The development will have sidewalk connectivity to West Main Street;
5. The developer will complete a Traffic Impact Analysis in consultation with the City and implement the recommendations;
6. The development will not exceed 25 dwelling units per acre;
7. The development must meet all ingress and egress requirements of the building and fire codes;
8. The development includes amenities for residents including a clubhouse and swimming pool;
9. The development will maintain landscape buffers compliant with Article 16 of the zoning ordinance; and
10. That the developer executes and records a development agreement with the City that acknowledges these conditions.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:

City Attorney

RECOMMENDATION

DATE: MARCH 9, 2022
TO: CITY COUNCIL
FROM: CITY PLANNING COMMISSION
RE: SPECIAL USE PERMIT APPLICATION PLSUP 2021-422

REQUEST

Special Use Permit Application PLSUP 2021-422, filed by Keith Walden on behalf of CWC Holdings LLC and Empire Rentals, requests a Special Use Permit for a Planned Unit Development in accordance with Article 17 of the Danville Zoning Ordinance including Parcel ID#s 20596, 20597, 25672, 22841, 24958, 25085, 25226, 22099, 25069, 25070, 25074, 20420, 20421, 20422, 25542, 25073, 23886, 23561, 23563, 22924, 24974, 21173, 24025, 24984, 25098, 22104, 22103, 22513, 24649, 24358, 21117, 24359, 25088, 20424, 25087, 20418, 25086, 25090, 25089. The proposed Planned Unit Development consolidates the subject parcels into a six (6) building apartment development with additional resident amenities.

RECOMMENDATION

The Planning Commission, at their March 7, 2022 meeting, voted 6-0 to recommend approval of Special Use Permit Application PLSUP 2021-422 with the following conditions:

1. The permitted uses at the development are residential;
2. 35% of the building exteriors will be masonry;
3. The buildings will not have vinyl siding on exterior vertical fascia;
4. The development will have sidewalk connectivity to West Main Street;
5. The developer will complete a Traffic Impact Analysis in consultation with the City and implement the recommendations;
6. The development will not exceed 25 dwelling units per acre;
7. The development must meet all ingress and egress requirements of the building and fire codes;
8. The development includes amenities for residents including a clubhouse and swimming pool;
9. The development will maintain landscape buffers compliant with Article 16 of the zoning ordinance; and
10. That the developer executes and records a development agreement with the City that acknowledges these conditions.



Mr. Harold E. Garrison, Chair

STAFF REPORT

DATE: March 3, 2022
TO: Planning Commission
FROM: Doug Plachcinski, AICP Planning Division Director + Zoning Administrator
RE: SPECIAL USE PERMIT APPLICATION PUD – STEWART STREET

Special Use Permit Application PLSUP 2021-422, filed by Keith Walden on behalf of CWC Holdings LLC, requests a Special Use Permit for a Planned Unit Development in accordance with Article 17 of the Danville Zoning Ordinance including Parcel ID#s 20596, 20597, 25672, 22841, 22958, 25085, 25226, 22099, 25069, 25070, 25074, 20420, 20421, 20422, 25542, 25073, 23886, 23561, 25363, 22924, 24974, 21173, 24025, 24984, 25098, 22104, 22103, 22513, 24649, 24358, 21117, 24359, 25088, 20424, 25087, 20418, 25086, 25090, 25089, 25272, 25271, and 25270. The proposed Planned Unit Development consolidates the subject parcels into a six (6) building apartment complex development with additional resident amenities.

BACKGROUND

The proposed Planned Unit Development consolidates the subject parcels into a six (6) building apartment complex development with additional resident amenities. The proposed density for this development is about 26 units per acre. Nearby apartments include 125 Mt Vernon Avenue (6 units on 0.17 acres = 35 units per acre), 111 Marshall Terrace (8 units on .19 acres = 40 units per acre), Lady Astor Apartments (25 units on about 1.3 acres = 19 units per acre), 126 Westmoreland Court (12 units on .33 acres = 40 units per acre), and 134 Westmoreland Court (17 units on .4 acres = 41 units per acre).

STAFF ANALYSIS AND RECOMMENDATION

The City may allow a Planned Unit Development in any zoning district with a Special Use Permit.

The neighboring adjacent properties are residential. If granted, this proposed Special Use Permit is in harmony with the Comprehensive Plan's goals, policies, and objectives including:

Housing & Neighborhoods Goal: Promote opportunities for a wide variety of housing types in the City through adaptive reuse, redevelopment, and new development within established neighborhoods and districts and through sustainable and well-planned new development, including mixed use development, on vacant land with an emphasis on providing safe, sanitary, and affordable homes for low- to moderate-income residents as well as residents with higher incomes.

- Support and promote the creation of high-quality infill housing throughout the City; and
- Adopt and implement sustainable growth development policies and ordinances that require developers to fund public facilities sufficiently adequate to serve the needs with of new development except where incentives are warranted in keeping with established economic development goals and policies

Danville City Code allows City Council to apply any conditions necessary to assure that the proposed use will conform to zoning ordinance requirements and mitigate potential nuisance factors. The Planning Division recommends approving this application as proposed and that the Planning Commission endorse Special Use Permit Application PLSUP 2021-422 for City Council approval with the following conditions:

1. The permitted uses at the development are residential;
2. 35% of the building exteriors will be masonry;
3. The buildings will not have vinyl siding on exterior vertical fascia;
4. The development will have sidewalk connectivity to West Main Street;
5. The developer will complete a Traffic Impact Analysis in consultation with the City and implement the recommendations;
6. The development will not exceed 25 dwelling units per acre;
7. The development must meet all ingress and egress requirements of the building and fire codes;
8. The development includes amenities for residents including a clubhouse and swimming pool;
9. The development will maintain landscape buffers compliant with Article 16 of the zoning ordinance; and
10. That the developer executes and records a development agreement with the City that acknowledges these conditions.

CITY PLANNING COMMISSION ALTERNATIVE ACTIONS

1. Recommend approval of Special Use Permit Application as submitted;
2. Recommend approval of Special Use Permit Application with conditions per Planning Commission; or
3. Recommend denial of Special Use Permit Application.

ATTACHMENTS

- ✓ Application
- ✓ Data Sheet
- ✓ Property Ownership/Zoning Map
- ✓ Existing Land Use Map
- ✓ Future Land Use Map

MEMORANDUM

DATE: March 7, 2022

TO: PLANNING COMMISSION

FROM: PLANNING STAFF

SUBJECT: RESPONSE FROM NEIGHBORING PROPERTY OWNERS

REQUEST:

Special Use Permit Application PLSUP 2021-422, filed by Keith Walden on behalf of CWC Holdings LLC, requests a Special Use Permit for a Planned Unit Development in accordance with Article 17 of the Danville Zoning Ordinance including Parcel ID#s 20596, 20597, 25672, 22841, 24958, 25085, 25226, 22099, 25069, 25070, 25074, 20420, 20421, 20422, 25542, 25073, 23886, 22924, 24974, 21173, 20425, 24984, 25098, 22104, 22103, 22513, 24649, 24358, 21117, 24359, 25088, 20424, 25087, 20418, 25086, 25089, 25090. The proposed Planned Unit Development will include multiple-family dwellings and an apartment building.

RESPONSES:

Ninety-five (95) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. Thirty-six (36) responses were received. Twenty-two (22) Unopposed (Alabanza, Austin, Big Time Rentals, CWC Holdings LLC, Dolianitis, Dumont, Empire, Guanzon, LE George LLC, JEB Realty LLC, Motley, MJRW Inc., Pearman, Shields Investment Co., Sokhan, Sparks, Thomson Properties LLC, Townes FW & Son Inc., Vicks, Walden, Walden, and World Traders of Virginia Inc). Fourteen (14) Opposed (Allen, Bohannon, Brown, Cramton, Fillion, Garrett, Gentry, Hughes, Howard, Poindexter, Pruitt, Stern, Wentz, and Wrenn)

COMMENTS:

See Attachments

February 16, 2022

Via Hand Delivery and Electronic Mail

Doug Plachinski
Director of Planning
City of Danville
427 Patton Street
Danville, Virginia 24541

Re: Special Use Permit Application submitted by CWC Holdings LLC
and Elizabeth and Keith Walden

Dear Mr. Plachinski:

On behalf of CWC Holdings LLC and Elizabeth and Keith Walden (collectively, the “Waldens”), I am pleased to submit this Special Use Permit Application for the following parcels located on Stewart Street (the “Parcels”): 20596, 20597, 25672, 22841, 22958, 25085, 25226, 22099, 25069, 25070, 25074, 20420, 20421, 20422, 25542, 25073, 23886, 23561, 25363, 22924, 24974, 21173, 24025, 24984, 25098, 22104, 22103, 22513, 24649, 24358, 21117, 24359, 25088, 20424, 25087, 20418, 25086, 25090, 25089, 25272, 25271, and 25270 (the “Application”). (Please note that Parcels 23561 and 25363 are owned by Empire Rentals LLC, which has consented to this request by the Waldens, as shown on the enclosed two-page Special Use Permit Application from the City’s website (the “Application Form”).)

Enclosed for your review and reference are a completed Application Form, marked as Exhibit A, which this Letter is intended to supplement, along with a check in the amount of \$360.00, representing the City’s fee associated with this Application. Additional exhibits are identified below.

Description of Proposed Development

The Waldens propose to redevelop the bulk of Stewart Street to create an attractive, high-end apartment community that will return this corridor to productive use and, in doing so, represent an important step toward meeting the region’s growing need for available, quality housing, particularly housing outside of the River District.

The project will be owned by CWC Holdings, which owns the bulk of the aforementioned Parcels and will bring the remaining properties (owned by Mr. and Mrs. Walden,

individually, and by Empire Rentals) under unified ownership should this Application meet with the approval of the Planning Commission and City Council. Construction and management of the community will be led by Berkley Hall Companies, which is based in Greensboro and has 15 years of experience in the development of luxury apartments.

Specifically, the proposed development envisions 162 units, each ranging between 1 and 3 bedrooms, across six separate three-story structures. (Enclosed for your consideration is a generally representative example of the exterior design of a building, which is marked as Exhibit B and honors the aesthetic of nearby buildings while also embracing modern elements. Specifically, the exterior materials used will be a mix of masonry, cement, and siding.) The community will also feature a clubhouse and pool, and residents will enjoy convenient access to W. Main Street and, by extension, two of Danville's largest employers, SOVAH and Averett University. The proposed development is expected to occur in a single phase.

At present, the Parcels reflect a mix of Attached Residential, Multifamily Residential, and Old Town Residential zoning designations, none of which – either through existing permitted uses or uses permitted by special use permit – provides for the creative reuse of the Parcels that is envisioned by the proposed development. As such, the City's recently adopted planned unit development ordinance provides an ideal vehicle for review, approval, and ongoing management of this project.

The enclosed preliminary site plan (the "Site Plan"), marked as Exhibit C, demonstrates the thoughtful approach that this proposed development represents. For example, it simultaneously exceeds parking requirements by 40% while also preserving 133% more open space than mandated. Indeed, this latter accomplishment – along with inclusion of a screening fence, adoption of a comprehensive landscaping plan that prioritizes a buffer surrounding the entirety of the project, and development of an appropriate stormwater pond – reflects a true commitment by the Waldens not to interfere with neighboring property owners but also to mitigate long-standing concerns, such as poor drainage in the southwest corner of the development.

In addition, to the same end, the proposed development will include controlled lighting that ensures resident safety but does not extend past the development's property lines. To the extent that your team, the Planning Commission, or neighboring property owners identify additional mitigating measures, the Waldens are committed to considering them in good faith. This commitment was on display earlier this month when Mr. Walden hosted a neighborhood meeting at which property owners were invited to Crema & Vine to learn more about the proposed development, ask questions of the project team, and offer any suggestions that might enhance what has been envisioned. The Waldens were encouraged by the uniformly positive response that was received.

The Site Plan also identifies both pedestrian and vehicular traffic plans on site, and the proposed development's proximity to W. Main Street ensures access to a key artery through the City that features established pedestrian features. Furthermore, with the continued flow of traffic up and down Stewart Street, even with the diminution of housing thereon, there is already an established history of use for the intersection with W. Main Street.

General Standards and Criteria for Special Use Permit Review

With respect to the how the proposed development meets key review standards and criteria set forth in Article 6, Section B and identified in the Application:

- The proposed development is in harmony with the City of Danville's 2030 Comprehensive Plan, (1) constituting sustainable, in-fill housing that can meet the current and growing demand demonstrated by moderate- and higher-income residents and, in doing so, (2) supporting the continued economic development of the region. The proposed development is also in harmony with the current intent and purpose of this zoning district, as it represents the return of residential development to this corridor and takes advantage of a rare opportunity to realize density in an established portion of the City. Finally, the proposed development is consistent with the residential character of adjacent properties, surrounding neighborhoods, and existing and proposed development, and – as described below – it is intended to enhance the value and enjoyment of adjacent properties.
- Residents of the proposed development will have ready access to W. Main Street, both for vehicular and pedestrian uses. Fire and other first responders will also enjoy easy ingress and egress from W. Main Street. The Parcels presently have connections to public water and sewer facilities, which will be maintained, if not enhanced, by the proposed development. Furthermore, the drainage concerns that have historically existed in the southwest corner of the subject area will be significantly mitigated by the stormwater pond that will be created.
- This letter confirms that the proposed development will not result in the destruction, loss, or damage of any feature determined to be of a significant ecological, scenic, or historic importance.
- As demonstrated by the enclosed exhibit, the proposed development will be designed, sited, and landscaped so that it will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods. Indeed, the proposed development represents in-fill development in an existing residential area and is intended to enhance the value and enjoyment of adjacent properties.

Application Requirements for Special Use Permit

Our intention has been to address above each of the requirements identified in Article 6, Section D and identified in the Application. To the extent that any item has been overlooked, we will gladly and promptly supplement this Letter.

* * *

Thank you in advance for your consideration of this Application. Should you or your staff have any questions, do not hesitate to let me know. We look forward to discussing the proposed development with the Planning Commission in March.

Sincerely,



Steven P. Gould

Enclosures

c: CWC Holdings LLC (w/encls.) [via electronic mail]
Elizabeth and Keith Walden (w/encls.) [via electronic mail]
Empire Rentals LLC (w/encls.) [via electronic mail]



City of Danville
Community Development
Planning Division

**PLANNING COMMISSION
SPECIAL USE PERMIT APPLICATION**

PLANNING DIVISION PROVIDED INFORMATION

Application #: _____ PC Meeting Date: _____
Date Received: _____ Received By: _____
Parcel ID: _____ Address: _____
Existing Zoning: _____ Future Land Use: _____

APPLICANT PROVIDED INFORMATION

Property Location (address/ID#): Please see accompanying correspondence for an enumerated list of PINs

Applicant: CWC Holdings LLC; Elizabeth and Keith Walden

Applicant's Address: 111 Linden Drive, Danville, VA 24541

Applicant's Phone Number: 434.792.2017

Applicant's E-mail: keith.walden@riversiderooftruss.net

Describe Proposed Development: Please see accompanying correspondence for a detailed
description of the proposed development.

Article 6 Section B. General Standards and Criteria for Special Use Permit Review. Please explain how the Special Use Permit request meets the following review standards and criteria:

1. The proposed use shall be: a. in harmony with the adopted Comprehensive Plan; b. in harmony with the intent and purpose of the zoning district in which the use is proposed to be located; and c. in harmony with the character of adjacent properties and the surrounding neighborhoods and also with existing and proposed development.

Please see accompanying correspondence.

2. The proposed use shall be adequately served by essential public services such as streets, drainage facilities, fire protection and public water and sewer facilities:

Please see accompanying correspondence.

3. The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance:

Please see accompanying correspondence.

4. The proposed use shall be designed, sited and landscaped so that the use will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods:

Please see accompanying correspondence.



Applicant Signature

(Counsel for CWC Holdings LLC and Keith and Elizabeth Walden)

Jay Suthar

Digitally signed by Jay Suthar
Date: 2022.02.16 09:46:59 -05'00'

Property Owner Signature

(if not applicant)
(for Empire Rentals LLC)

Article 6. Section D. Application Requirements for Special Use Permit.

1. An application for a special use permit shall be made by the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property on which the proposed use is to be located. The application shall be submitted to the Director of Planning/Zoning Administrator, and shall be accompanied by the filing fee as established by the City Council.
2. If the request for a special use permit has been denied by City Council, a request in substantially the same form shall not be resubmitted within one (1) year of the date of denial.
3. The application shall include the following information:
 - a. A preliminary site plan in accordance with the Site Plan Regulations.
 - b. A description of the proposed use and, where applicable, the hours of operation and the proposed number of employees/patrons.
 - c. A written statement of proposed project compatibility with the following:
 - (1.) The Comprehensive Plan.
 - (2.) The applicable zoning district.
 - (3.) The surrounding properties.
 - (4.) Current and future neighborhood conditions.
 - (5.) Pedestrian and vehicular traffic patterns, on-site and off-site.
 - (6.) Adequate public facilities.
 - d. When requested by the Director of Planning/Zoning Administrator, the Planning Commission, or the City Council, the following information shall be provided by the applicant:
 - (1.) The architectural elevations and floor plans of proposed building(s).
 - (2.) Traffic impact analysis.
 - (3.) Fiscal impact analysis.
 - (4.) Parking and site circulation analysis.
 - (5.) Photographs of property and surrounding area.
 - (6.) Environmental impact statement.

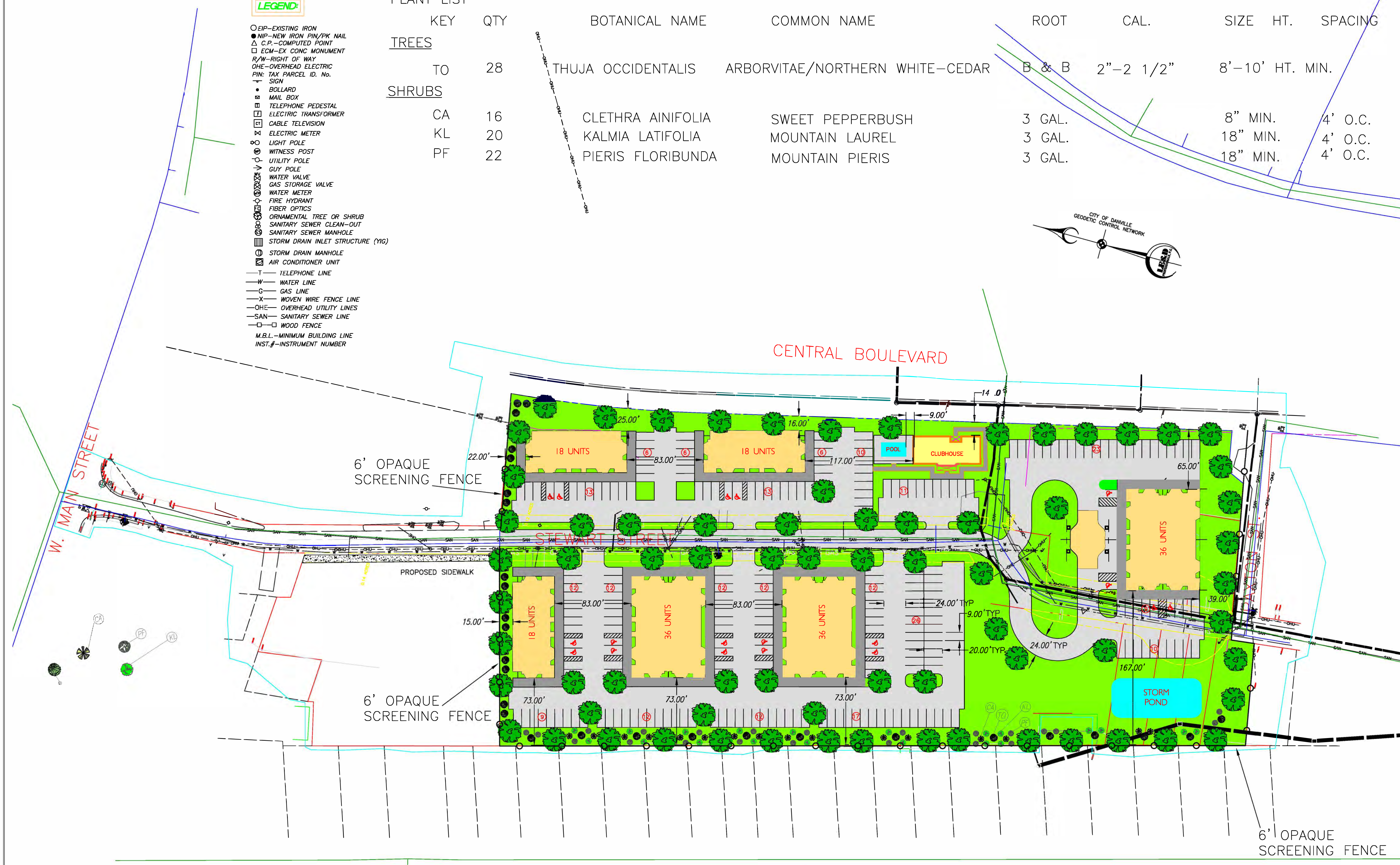


LEGEND

- EIP-EXISTING IRON
- NIP-NEW IRON PIN/PK NAIL
- △ C.P.-COMPUTED POINT
- ECM-EX CONC MONUMENT
- R/W-RIGHT OF WAY
- OHE-OVERHEAD ELECTRIC
- PIN: TAX PARCEL ID. No.
- SIGN
- BOLLARD
- MAIL BOX
- TELEPHONE PEDESTAL
- ELECTRIC TRANSFORMER
- CABLE TELEVISION
- ELECTRIC METER
- LIGHT POLE
- WITNESS POST
- UTILITY POLE
- GUY POLE
- WATER VALVE
- GAS STORAGE VALVE
- WATER METER
- FIRE HYDRANT
- FIBER OPTICS
- ORNAMENTAL TREE OR SHRUB
- SANITARY SEWER CLEAN-OUT
- SANITARY SEWER MANHOLE
- STORM DRAIN INLET STRUCTURE (YG)
- STORM DRAIN MANHOLE
- AIR CONDITIONER UNIT
- TELEPHONE LINE
- WATER LINE
- GAS LINE
- X WOVEN WIRE FENCE LINE
- OHE- OVERHEAD UTILITY LINES
- SAN- SANITARY SEWER LINE
- □ WOOD FENCE
- M.B.L.-MINIMUM BUILDING LINE
- INST.#-INSTRUMENT NUMBER

PLANT LIST

KEY	QTY	BOTANICAL NAME	COMMON NAME	ROOT	CAL.	SIZE	HT.	SPACING
TREES								
TO	28	THUJA OCCIDENTALIS	ARBORVITAE/NORTHERN WHITE-CEDAR	B & B	2"-2 1/2"	8'-10'	HT. MIN.	
SHRUBS								
CA	16	CLETHRA AINIFOLIA	SWEET PEPPERBUSH	3 GAL.		8" MIN.		4' O.C.
KL	20	KALMIA LATIFOLIA	MOUNTAIN LAUREL	3 GAL.		18" MIN.		4' O.C.
PF	22	PIERIS FLORIBUNDA	MOUNTAIN PIERIS	3 GAL.		18" MIN.		4' O.C.



PARKING TABULATION

162 UNITS x 1 SPACE / UNIT = 162
SPACES REQUIRED
PARKING PROPOSED = 231 SPACES
PARKING RATIO = 231 SPACES / 162
UNITS = 1.4 SPACES / UNIT

OPEN SPACE REQUIREMENT

OPEN SPACE RATIO REQUIREMENT = 15%
TOTAL SPACE PROPOSED: 6.59 ACRES
OPEN SPACE PROPOSED: 2.30 ACRES
BUILT UPON SPACE PROPOSED: 4.2 ACRES
OPEN SPACE RATIO PROPOSED: 2.30 / 6.59 = 35%



RIVER RUN EXECUTIVE OFFICES
SUITE-B
110 EXCHANGE STREET
DANVILLE, VA. 24541
N.C. LICENSE # C-2577
VA. LICENSE # 0404-001401

PHONE NO. (434) 792-3680
FAX NO. (434) 792-3685
www.landeng.com

STUART STREET DEVELOPMENT
KEITH WALDEN
DANVILLE, VA

REZONING EXHIBIT

REVISIONS	NO.	DATE	DESCRIPTION	BY

Sheet No.

1

of 1

Date: 12/16/21

Scale: 1"=50'

Project No.

VA\NML-SS1\ENG\JMS\2021-01-19-22 APARTMENTS

SPECIAL USE PERMIT REQUEST DATA SHEET PLSUP 2021-422

PUBLIC HEARING DATES: MARCH 7, 2022
PLANNING COMMISSION AT 3PM

LOCATION OF PROPERTY: STEWART STREET

PRESENT ZONE: OT-R OLD TOWN RESIDENTIAL AND M-R MULTIFAMILY
RESIDENTIAL

PROPOSED ZONE: NO CHANGE

ACTION REQUESTED: SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT
WILL CONSOLIDATE PROPERTIES AND VACATE PORTIONS
OF CITY-OWNED STREETS FOR AN APARTMENT
DEVELOPMENT.

PRESENT USE OF PROPERTY: VACANT

PROPOSED USE OF PROPERTY: MULTIFAMILY RESIDENTIAL

FUTURE LAND USE DESIGNATION: RESIDENTIAL

PROPERTY OWNER (S): CWC HOLDINGS LLC

NAME OF APPLICANT (S): KEITH WALDEN

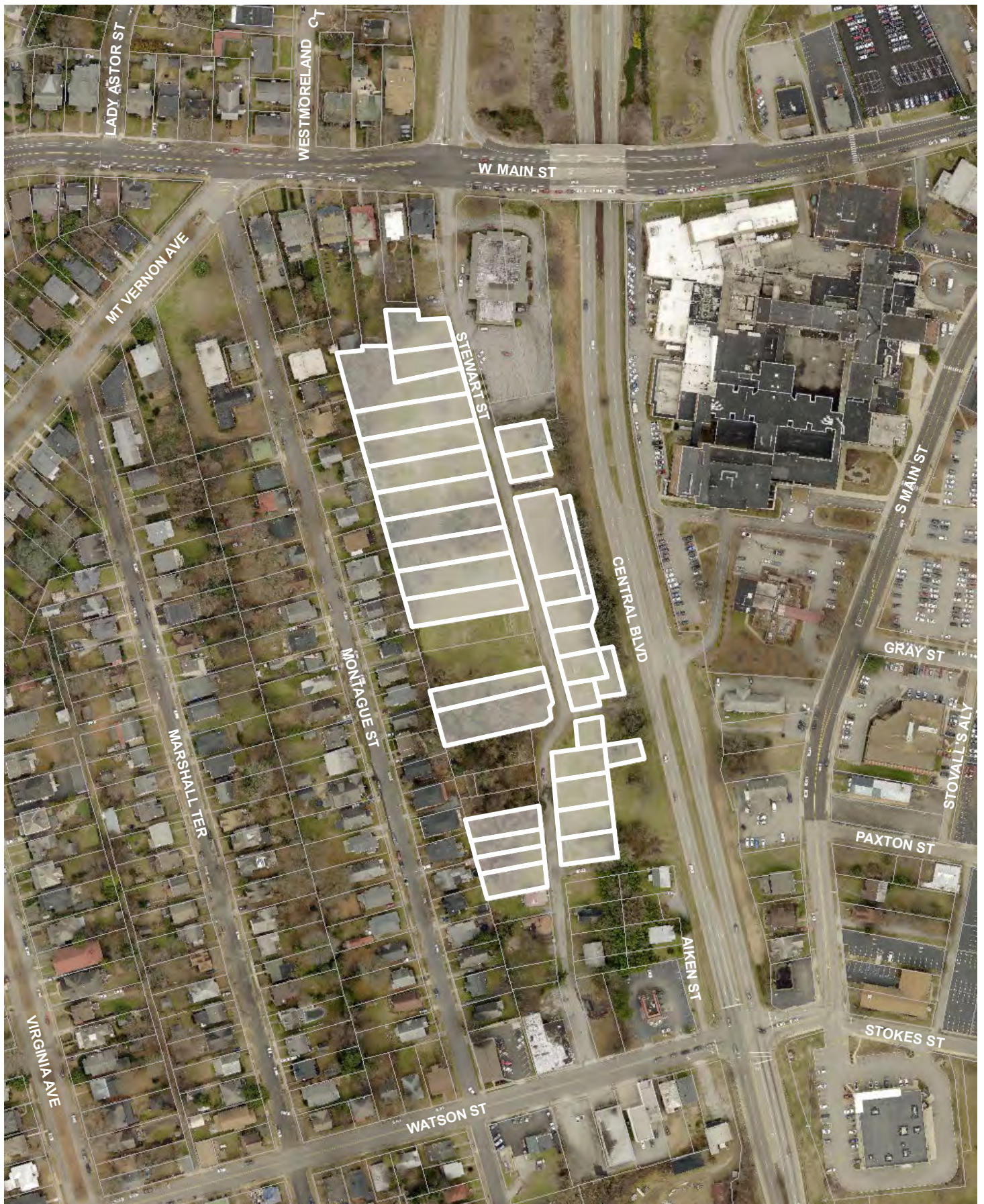
PROPERTY BORDERED BY: RESIDENTIAL

ACREAGE: APPROXIMATELY 6.75 ACRES TOTAL

CHARACTER OF VICINITY: RESIDENTIAL NEIGHBORHOOD

INGRESS AND EGRESS: WEST MAIN STREET

TRAFFIC VOLUME: MINOR ARTERIAL – 7200 AADT (2019)

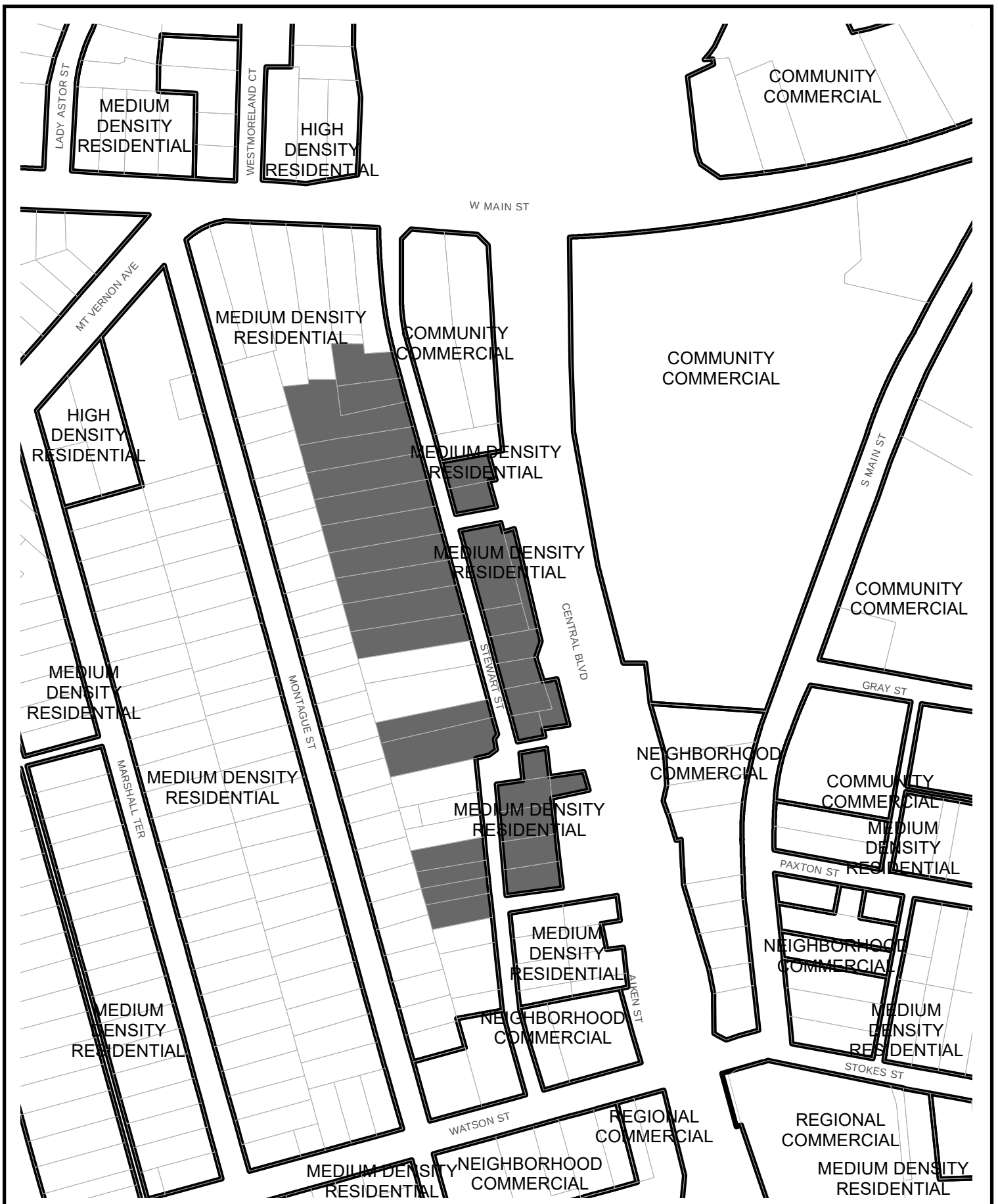


2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY



Prepared by:
Planning Division
11/23/2021

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
11/23/2021

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Council Letter

City of Danville, Virginia



CL-2747

New Business D.

City Council Regular Meeting

Meeting Date: 04/05/2022

Subject: New City Code Section 23.2 to Designate Outdoor Refreshment District and Establishing Rules and Regulations therefore

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

COUNCIL ACTION

Business Meeting: 04/05/2022

SUMMARY

City Staff is seeking approval from City Council to designate a portion of the River District as an Outdoor Refreshment Area and adopt regulations thereof to facilitate the public consumption of alcohol in certain circumstances.

BACKGROUND

The State has recently authorized localities to establish designated Outdoor Refreshment Areas to authorize the public consumption of alcohol in certain circumstances. State law requires that any ordinance adopting such a district must set certain regulations on such consumption, including time limitations, a public safety plan, and ABC licensing rules. The attached proposal incorporates all required rules required by the State and prohibits the consumption of alcohol in certain City buildings, schools, churches, and upon City trails. Private property owners retain the right to exclude the consumption of alcohol upon their property. As a separate ABC license is required in order to operate such district, this law would not take effect until such license has been granted.

RECOMMENDATION

City staff recommends that City Council adopt the attached ordinance designating the Outdoor Refreshment District and establishing rules and regulations therefore.

Attachments

Ordinance

Attachment

Map

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2022____.____

AN ORDINANCE AMENDING AND REORDAINING THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, TO ADD A NEW CHAPTER 23.2, ENTITLED "OUTDOOR REFRESHMENT AREA."

WHEREAS, The Virginia General Assembly approved to §4.1-206.3 and §4.1-128.1 of the Virginia Code, permitting the City to designate an outdoor refreshment area, subject to approval by the Alcoholic Beverage Control Board (ABC), in which the limited possession of alcoholic beverages in designated public places shall be allowed; and

WHEREAS, The City, subject to approval by the ABC, wishes to designate the entire portion of the River District south of the Dan River as an outdoor refreshment area.; and

WHEREAS, Danville City Council finds it necessary to enact an ordinance to conform the language of the Danville City Code with the Code of Virginia.

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Danville, Virginia, that the Code of the City of Danville, Virginia, 1986, as amended, is hereby amended and reordained to add a new Chapter 23.2, entitled "Outdoor Refreshment Area" as attached hereto and made a part hereof, as if fully set forth herein; and

BE IT FURTHER ORDAINED, that all other provisions and Paragraphs, Subparagraphs, Sections, Articles, and Chapters of the Code be, and the same are hereby continued in full force and effect unless and until the same are hereafter amended or repealed.

APPROVED:

Mayor

ATTEST:

Clerk

Approved as to
Form and Legal Sufficiency:

City Attorney

Chapter 23.2- OUTDOOR REFRESHMENT AREA

Sec. 23.2-1. Purpose and intent.

The purpose and intent of this article is to conform to §4.1-206.3 and §4.1-128.1 of the Virginia Code, permitting the City to designate an outdoor refreshment area, subject to approval by the Alcoholic Beverage Control Board (ABC), in which the limited possession of alcoholic beverages in designated public places shall be allowed.

Sec. 23.2-2. Designation and boundaries of outdoor refreshment area.

The City, subject to approval by the ABC, hereby designates the entire portion of the River District south of the Dan River as an outdoor refreshment area. A map of such area is attached hereto as Exhibit "A" and a copy shall be available for public inspection.

Sec. 23.2-3. Licensee required.

The rules and allowances contained herein shall only become effective upon the granting of a designated outdoor refreshment area license by ABC to an eligible licensee. Such licensee shall file a copy of their ABC license with the City Clerk. Such licensee shall be prohibited from selling alcoholic beverages pursuant to the designated outdoor refreshment area license and shall be responsible for abiding by the terms of the license and any other ABC laws or regulations to which the licensee is subject. Such licensee shall have no more than sixteen (16) events held pursuant to §4.1-206.3 of the Virginia Code within a single calendar year. No such event shall exceed three (3) consecutive days.

Sec. 23.2-4. Drinking alcoholic beverages in public places.

Notwithstanding the prohibition on the drinking of alcoholic beverages in public places imposed by §4.1-308 of the Virginia Code, it shall not be unlawful to drink alcohol in any public place within the designated outdoor refreshment area, including outdoor seating, public sidewalks, public plazas, and private businesses lacking an ABC license, subject to the following conditions:

1. Any alcohol consumed within the outdoor refreshment area must have been purchased from an ABC-licensed vendor located within the outdoor refreshment area.
2. Except when on the premises of an ABC-licensed vendor, any alcohol consumed within the outdoor refreshment area must be contained in paper, plastic, or similar disposable containers with a capacity of no more than 16 fluid ounces that clearly display the name or logo of the ABC-licensee from which the alcoholic beverage was purchased.
3. No alcohol may be consumed upon privately-owned property within the outdoor refreshment area, unless such privately-owned property consents. Any private property owner, or his designee, within the designated outdoor refreshment area who wishes to prohibit the consumption of alcohol on his property should indicate his preference by signage at the public entrance of the property indicating "no alcohol permitted on premises" or other notice of similar language. Nothing in this ordinance shall limit a

private business from requiring an individual to leave their premises at any time for any lawful reason. Individuals remaining on the property of a private business after being asked to leave are trespassing and may be subject to arrest under State and City law.

4. No alcohol may be consumed upon or within the following City-owned buildings or facilities: City Hall and the James F. Ingram Justice Center including the appurtenant parking lot, the Charles Harris Financial Center including the appurtenant parking lot, the Ruby B. Archie Public Library including the appurtenant parking lot, Galileo Magnet School including the appurtenant parking lot, the City bus terminal including the appurtenant parking lot, the City storage warehouse including the appurtenant parking lot, the Public Safety Center and Fire Station including the appurtenant parking lot, and the City auditorium.
5. No alcohol may be consumed upon or within the following City-owned buildings or facilities, unless such consumption has been approved by a separate license has been issued by ABC pursuant to State law: the Danville Science Center, the City Market, the Carrington Pavilion, and any City park.
6. No alcohol may be consumed upon or within the Social Services building including the appurtenant parking lot.
7. No alcohol may be consumed upon or within Danville Public Schools-owned property or upon the exterior premises of any private or parochial school or an institution of higher learning.
8. No alcohol may be consumed upon any City bus or other transit vehicle.
9. No alcohol may be consumed upon the City Riverwalk Trail.
10. No alcohol may be consumed upon the exterior premises of any church, synagogue, mosque, or other place of religious worship.
11. No alcohol may be consumed in a public place between the hours of midnight and 8:00 AM.

Sec. 23.2-5. Public Safety Plan.

- a. Nothing in this article shall modify any other law pertaining to trespassing or to alcohol, including but not limited to prohibitions on public intoxication, drinking while driving, driving while intoxicated, and illegal alcohol sales.
- b. The Police Department shall regularly patrol the designated outdoor refreshment area to monitor compliance with the provisions of this ordinance and shall coordinate with the licensee regarding the provision of adequate security for all special events within the designated outdoor refreshment area.
- c. The Police Department shall report any suspected violation of any licensing provisions outlined in Va. Code §4.1-206 to the Virginia Alcoholic Beverage Control Authority as soon as is practicable.
- d. If deemed necessary for the protection of the public safety, the Police Department, in coordination with the City Manager, may close to vehicular traffic any public streets within the designated outdoor refreshment area during any licensed event.

-
- e. The boundary of the designated outdoor refreshment area shall be clearly marked with permanent signage at all places where a public sidewalk intersects with said boundary. The signage shall face the interior of the designated outdoor refreshment area and indicate “no alcohol beyond this point”.
 - f. The City Manager, in coordination with the Police Department shall identify and designate at least one (1) pickup area for transportation network company (TNC) vehicles pursuant to his authority under Section 39-21 of the Code of the City of Danville.

Sec. 23.2-6. City manager authority.

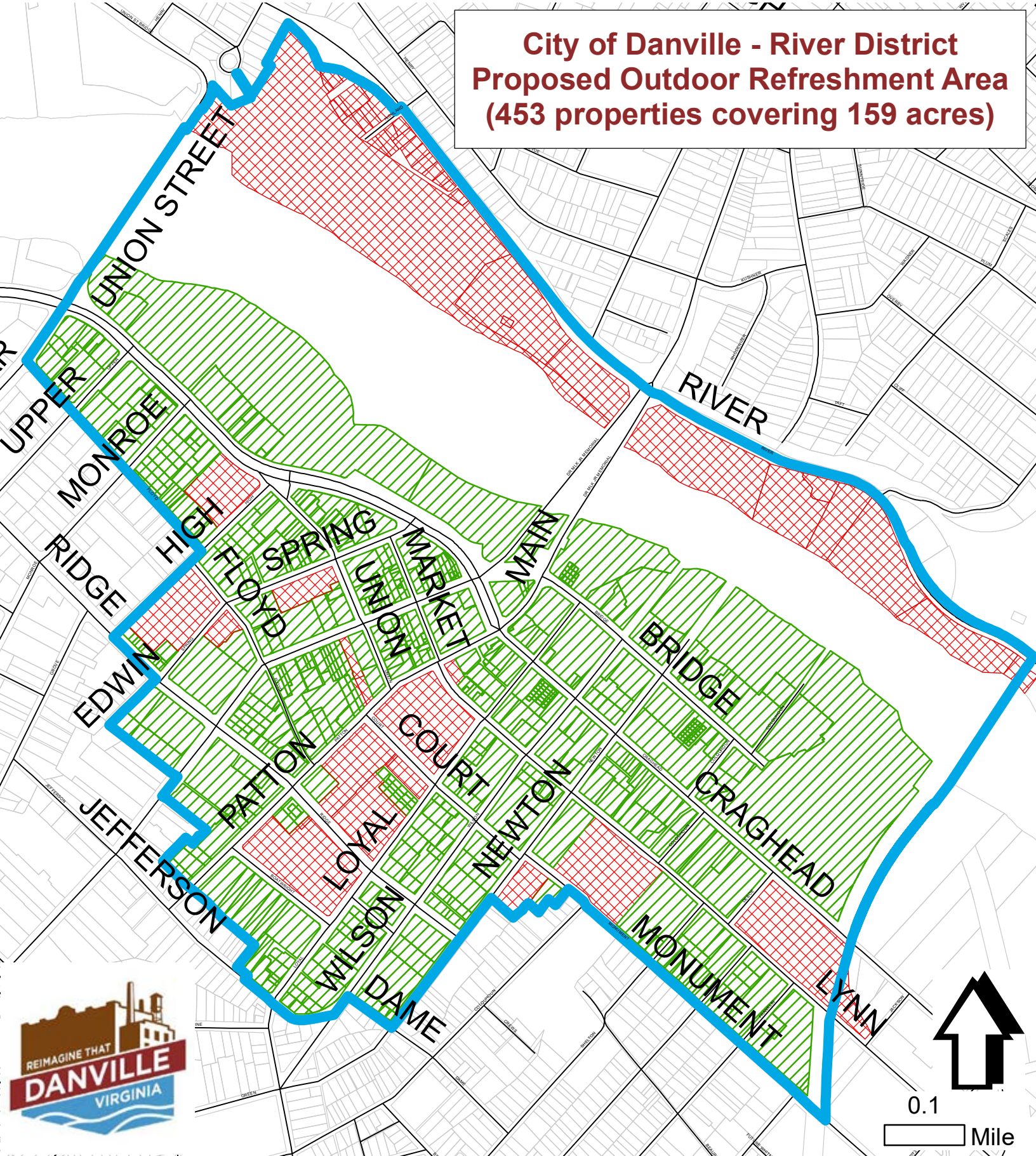
The City Manager is hereby authorized to take such actions and issue such regulations as he deems necessary to ensure that the public safety and welfare is protected within the designated outdoor refreshment area, including security-related decisions, the design and placement of required signage, and providing for the enforcement of this article.

Sec. 23.2-7. Violations of chapter—Penalty.

Violators of this article shall be guilty of a class 4 misdemeanor.

Secs. 23.2-8—23.-15. Reserved.

City of Danville - River District Proposed Outdoor Refreshment Area (453 properties covering 159 acres)



REFRESHMENT AREA

 IN

 OUT

OTHER LEGEND ITEMS

 Tax Parcels

 River District Boundary

 Streets

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.

Council Letter

City of Danville, Virginia



CL-2738

New Business E.

City Council Regular Meeting

Meeting Date: 04/05/2022

Subject: Consideration of Updates to Financial Policies

From: Michael Adkins, Director of Finance

COUNCIL ACTION

Business Meeting: 04/05/2022

SUMMARY

The City's financial policies regarding debt need to be altered to allow for the School Bonds that will be issued in conjunction with the 1% local sales tax option. The debt service for the School Bonds will be covered by revenues resulting from the 1% local option sales tax. The City's debt policy will be reworded to exclude the School Bonds from calculating debt and debt service limits, so that the customary limits for general obligation debt are not impacted. Section 9 of the City's financial policies address debt. A draft of the changes to section 9 are attached with the proposed additional language underlined and in red.

BACKGROUND

The Virginia General Assembly approved HB 1634, which was signed into law by the Governor on March 19, 2019, and which took effect on July 1, 2019, as Chapter 648 of the 2019 Acts of the General Assembly of the Commonwealth of Virginia. HB 1634 is codified at Virginia Code §58.1-605.1. It provides the City of Danville with the statutory authority to levy a general retail sales tax at a rate not to exceed one percent (1%) to provide revenue solely for capital projects for the construction or renovation of schools in the City of Danville if approved by a majority of the voters in a referendum, held in accordance with Virginia Code §24.2-684 and initiated by a resolution of the Council of the City of Danville. This resolution was passed by City Council on June 1, 2021, and the citizens of Danville voted to approve this in November 2021. After analyzing the revenue that is expected to be generated by this 1% local option sales tax, and working with Davenport & Company, it was determined that general obligation bonds in an amount of \$129 million should be issued, subject to change with interest rate changes. The resulting debt service will be covered in full by the 1% local option sales tax revenue, with any excess revenue being used for pay-as-you-go school capital needs. City Council approved issuance of these School Bonds at the regular meeting held March 15, 2022.

The City's debt policies were developed under the assumption that all general obligation debt would be supported by regular recurring tax revenues in the General Fund. Issuing School Bonds in the amount of \$129 million would potentially place the City in violation of its debt policies and/or severely limit the ability to issue traditional general obligation bonds for general governmental projects in the future. The 1% local option sales tax is a specific, restricted revenue with a set life that will be used to service the debt for the School Bonds. For this reason, it is appropriate to add language to the debt policy that will exclude the School Bonds that are supported by the 1% local sales tax option from calculating the City's general obligation debt limits.

RECOMMENDATION

Staff recommends approving the attached debt policy revisions.

Attachments

Resolution

Debt Policy Drafted Changes

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2022-____.____

A RESOLUTION APPROVING AND AMENDING THE CITY OF DANVILLE'S FINANCIAL POLICIES TO CHANGE ITEM 9.2 ENTITLED "CITY OF DANVILLE STANDARDS" OF SECTION 9, ENTITLED "DEBIT MANAGEMENT" TO ALLOW FOR THE SCHOOL BONDS FUNDED BY THE 1% LOCAL SALES TAX OPTION.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Danville, Virginia, that the Financial Policies of the City of Danville be amended to change Item 9.2 entitled "City of Danville Standards" of Section 9, entitled "Debt Management", to allow for the school bonds funded by the 1% local sales tax option, a copy of which is attached hereto and made a part hereof, as if fully set out herein, and the same be, and hereby is, approved.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to
Form and Legal Sufficiency:

City Attorney

9. Debt Management

City recognizes the primary purpose of facilities and equipment is to support provision of public services. Using debt financing to meet the capital needs of the community, the City must balance between debt financing and "pay-as-you-go" methods. The City realizes failure to meet the demands of growth may inhibit its continued economic viability but also realizes too much debt may have detrimental effects.

9.1 General Authority

The Constitution of Virginia and State Code authorizes localities to issue debt within certain limitations. The Constitution restricts the amount of General Obligation debt – that is, debt payable from general municipal revenues and backed by the full faith and credit of a city – to 10% of the assessed valuation of real property in the jurisdiction plus any applicable limitations set forth in the city's charter. In determining the debt applicable to the 10% legal debt limit, the following types of debt are excluded:

- Notes issued in anticipation of the collection of revenue and maturing within 12 months;
- Bonds secured by the full faith and credit of the municipality, for which the principal and interest payments are made with revenues earned by the utility or facility (double-barrel bonds);
- Bonds of the municipality, the principal and interest on which are payable exclusively from the revenues and receipts of a utility system or other specific undertaking from which a city may derive a revenue (revenue bonds); and
- Financial instruments on which the debt service payments are contingent upon annual appropriations by the governing body (lease purchase agreements and reimbursable agreements).

With the following exceptions, the City Charter is more restrictive in providing that no debt shall be issued until approved by a majority of the qualified voters at an election. Issuance of the following may be authorized by City Council without voters' approval:

- Up to \$6 million of bonds in any one fiscal year to finance capital expenditures, excluding capital improvements related to water, sewer, gas, and/or electric improvements.
- Up to \$10 million of bonds in any one fiscal year to finance capital expenditures relating to the City's water, sewer, gas, or electric systems or other undertaking from which the City may derive a revenue.
- Up to \$25 million of bonds or notes in anyone fiscal year for capital

expenditures relating to the City's water treatment, wastewater treatment, stormwater treatment, solid waste disposal, or recycling facilities, and any extraordinary maintenance improvements or expansions of transmission, and distribution infrastructure for the electric or gas systems.

- Bonds of any amount necessary to pay costs or expenditures related to annexation.
- Refunding bonds issued to refinance existing debt.
- Notes issued in anticipation of revenue not to exceed \$500,000 with a maximum maturity of 24 months.
- Contractual obligations other than bonds and notes, such as lease-purchase contracts.

9.2 City of Danville Standards

The City will maintain the following standards to ensure a higher level of financial security than that afforded by meeting minimum State standards:

- Debt to Assessed Value: Debt supported by General Fund tax revenue will not exceed 3.0% of total taxable assessed value of property within City limits. For the purposes of calculating this ratio, assessed value shall include real property and personal property. Debt supported by the 1% sales tax dedicated to school construction shall be excluded from this limit as long as revenues generated by the 1% sales tax are sufficient to pay debt service on the related school construction debt.
- Debt Service to Expenditures: Debt service paid from general tax revenue will not exceed 10% of total General Fund Expenditures, including transfers out. Debt supported by the 1% sales tax dedicated to school construction shall be excluded from this limit as long as revenues generated by the 1% sales tax are sufficient to pay debt service on the related school construction debt.
- Debt Payout Ratio: The City will structure its bond issues to maintain an overall 10-year payout ratio (the amount of principal retired within 10 years) of not less than 60%. Debt supported by the 1% sales tax dedicated to school construction shall be excluded from this limit as long as revenues generated by the 1% sales tax are sufficient to pay debt service on the related school construction debt.
- Derivatives: The City will not use interest rate exchange agreements, swaps, or other derivatives in managing its debt portfolio.

Other standards adhered to by the City of Danville include the following:

- No debt will be issued until an ordinance has been adopted by Council by affirmative vote of two-thirds (six of nine) of its members.

- Long-term borrowing for capital improvements will be confined to such improvements and projects that cannot be reasonably financed from current revenues.
- In consideration of bond issue cost, bond issues shall be appropriately sized, preferably not less than \$3 million. Several projects may be grouped together in a single bond issue. However, no single project element should cost less than \$100,000, as lower level expenditures will be included in operating budgets and financed with current revenues.
- Capital improvements that are financed by issuing general obligation bonds, revenue bonds, or other long-term debt, including lease-purchase obligations, will be repaid within a period not to exceed the expected useful life of the improvement.
- Unless required to be credited to a trustee held account by requirements of a trust indenture, it is the accounting policy of the City to recognize temporary investment earnings on bond proceeds in the General Fund in order to match transfers out to the Debt Service Fund for bond interest expenditures.
- To maintain a predictable debt service burden, the City will give preference to debt that carries a fixed interest rate. However, consideration may be given to variable rate debt. Conservative estimates will be used in budgeting variable rate debt service interest expenses. Variable rate debt will be limited to no more than 20% of total outstanding debt.

9.3 Long & Medium-Term Debt

The City makes use of general obligation and revenue bonds for debt financing normally extending over 20 to 30 years and lease-purchase financing for debt paid over five to 10 years.

- General Obligation Bonds -- General obligation bonds will be used for public improvement projects that have a direct benefit to the citizens of Danville. General obligation bonds may be used to finance utility projects if doing so is more cost effective than using revenue bonds.
- Revenue Bonds -- The City uses revenue bonds to finance utility projects when general obligation bonds are not feasible or cost effective.
- Lease-Purchases -- Lease-purchase obligations, bonds, or other debt instruments may be used as a medium-term (4 to 10 years) method of borrowing for the financing of vehicles, specialized equipment, or capital improvements. Assets with a longer useful life may be lease financed if it is determined it is in the City's best interest. The equipment or improvement must have an expected life of more than five years and cost in excess of \$100,000. Such debt will be paid

before expiration of the expected life of the equipment or improvement acquired.

9.4 Short-Term Debt

The City's policies regarding fund balance and unrestricted cash reserves are designed to eliminate the need to borrow to meet operating cash flow requirements. However, from time to time, as part of an overall plan to stabilize utility rates and manage its utility business over a multi-year planning period, the City may borrow on a short-term basis through the issuance of short-term notes or through the procurement of a line of credit. Security for the notes or line of credit may include a pledge of utility revenues on a gross or net basis or the general obligation pledge of the City. Bond Anticipation Notes (BANs) may be issued for capital related cash purposes to reduce the debt service during the construction period of a project or to provide interim financing. BAN financing is limited to five years or less.

Council Letter

City of Danville, Virginia



CL-2730

New Business F.

City Council Regular Meeting

Meeting Date: 04/05/2022

Subject: Consideration of Moral Obligation with Virginia Community Capital

From: Corrie Bobe, Director of Economic Development

COUNCIL ACTION

Business Meeting: 04/05/2022

SUMMARY

On March 8, 2022, the Industrial Development Authority of Danville, Virginia (IDA) approved financing terms from Virginia Community Capital (VCC) for the purchase and renovation of an industrial building in Danville, Virginia. This 20,164 square foot building is at 1 Ecomnets Way in Airside Industrial Park, which totals approximately 5 acres. The total cost to purchase and renovate this building is \$3,195,000. Staff has worked with VCC to finalize the financing for this project and a moral obligation from the City is required as part of this agreement.

BACKGROUND

The Industrial Development Authority of Danville, Virginia (IDA) self-funded the purchase of 1 Ecomnets Way, a 20,164 square foot industrial building located in Airside Industrial Park, on July 15, 2021 for \$925,000. Through a loan with Virginia Community Capital (VCC), the IDA will be able to finance the purchase of this building and cover costs for tenant improvements, which is estimated to total \$2,161,482. The loan will be amortized over a 20-year period with a 10-year term. VCC will allow interest-only payments during the 12-month construction phase and the interest rate will be fixed at 3.8% for 72 months. The IDA will enter into a lease agreement with a future tenant that will cover the debt service for this loan, in addition to a small administrative fee.

The bank is requesting a moral obligation from the City as part of its commitment to lend.

RECOMMENDATION

Staff recommends that Council approves a moral obligation as prepared by the City Attorney and the attorney representing Virginia Community Capital

Attachments

Resolution

Attachment

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2022 - ____.

A RESOLUTION AUTHORIZING AND APPROVING EXECUTION OF A MORAL OBLIGATION AGREEMENT BY AND BETWEEN THE CITY OF DANVILLE, VIRGINIA AND VIRGINIA COMMUNITY CAPITAL, A VIRGINIA BANKING CORPORATION.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Danville, Virginia, that a Moral Obligation Agreement, substantially in the form attached hereto and made a part hereof as if full set out herein, between the City of Danville and Virginia Community Capital, a Virginia banking corporation Company be, and the same hereby is, approved; and

BE IT FURTHER RESOLVED, that the City Manager, or his designee, be, and he is hereby, authorized and directed to execute such Moral Obligation Agreement on behalf of the City.

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO
FORM AND LEGAL SUFFICIENCY:

City Attorney

MORAL OBLIGATION AGREEMENT OF CITY OF DANVILLE

THIS MORAL OBLIGATION AGREEMENT made as of the ____ day of _____, 20__, by and between the **CITY OF DANVILLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the “**City**”), and **VIRGINIA COMMUNITY CAPITAL**, a Virginia banking corporation (“**Virginia Community Capital**”), to-wit:

Background

A. The Industrial Development Authority of Danville, Virginia (the “**Authority**”), was created under the Industrial Development and Revenue Bond Act (§15.2-4900 et seq.) of the Code of Virginia to promote development, industry and trade.

B. In an effort to promote development, trade, and the local economy, the Authority will purchase and renovate 20,164 square foot industrial building in Airside Industrial Park located at 1 Ecomnets Way, Danville, VA (Tax Parcel ID 77394) (the “**Project**”).

C. The Authority has obtained a commitment from Virginia Community Capital to finance up to Three Million One Hundred Ninety-Five Thousand and 00/100 Dollars (\$3,195,000.00) (the “**Loan**”) of the projected costs of the Project, and, as part of that financing commitment, Virginia Community Capital requires the moral obligation of the City to repay the Loan with Virginia Community Capital in the event that the Authority fails to do so.

Agreement

NOW, THEREFORE, for and in consideration of the covenants and the mutual benefit to be derived therefrom and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. In the event the Authority fails to repay the indebtedness associated with the Loan, in the principal amount not to exceed Three Million One Hundred Ninety-Five Thousand and 00/100 Dollars (\$3,195,000.00) provided by Virginia Community Capital, in accordance with the terms of its repayment stated therein, the City hereby acknowledges that, to the extent permitted by law, it has a moral obligation to pay Virginia Community Capital such amounts otherwise due from and payable by the Authority. In the event of nonpayment by the Authority, Virginia Community Capital, by its duly authorized representative, shall submit an appropriation request to the City in the amount sufficient to make current payments on the Loan then due Virginia Community Capital by the Authority and other amounts, if any, in order to protect and maintain the Authority’s ownership interest in the Project (collectively, the “**Deficiency Amount**”). Subject to the making of an appropriation pursuant to the provisions of this Paragraph 1, the City shall pay Virginia Community Capital the amount of such appropriation as soon as practicable.

2. Virginia Community Capital shall apply any funds so appropriated and paid to it by the City pursuant to this Agreement toward the Authority’s obligations under the Loan

provided to it by Virginia Community Capital.

3. Until such time that there is no longer a Deficiency Amount, the City Manager of the City (the “**City Manager**”) shall include any Deficiency Amount due Virginia Community Capital with respect to the Loan in his budget submitted to the City Council for the following fiscal year as an amount to be appropriated to or in respect of the Project. The City Manager shall deliver to Virginia Community Capital, within fifteen (15) days after the adoption of the City’s budget for each fiscal year in which a Deficiency Amount was requested as provided herein, but not later than July 15 of each year, a letter, on letterhead of the City Manager’s Office, stating whether the City Council has appropriated for payment to Virginia Community Capital an amount equal to the Deficiency Amount.

4. If at any time Virginia Community Capital believes there is a Deficiency Amount or that amounts appropriated by City Council are insufficient to fulfill the Authority's Loan obligations, Virginia Community Capital shall notify the City Manager of the Deficiency Amount or such insufficiency and the City Manager shall request a supplemental appropriation from City Council in the amount necessary to make such payment.

5. The City Manager shall present each request for appropriation pursuant to Paragraph 4 above to City Council and City Council shall consider such request at City Council’s next regularly scheduled meeting at which it is possible to satisfy any applicable notification and all other legal requirements. Not later than five (5) business days after such meeting, the City Manager shall notify Virginia Community Capital as to whether the amount so requested was appropriated. If City Council shall fail to make any such appropriation, the City Manager shall add the amount of such requested appropriation to the amount to be requested in the next fiscal year.

6. The City Council hereby undertakes a non-binding obligation to appropriate such amounts as may be requested from time to time pursuant to Paragraphs 3, 4 and 5 above, to the fullest degree and in such manner as is consistent with the Constitution and laws of the Commonwealth of Virginia. The City Council, while recognizing that it is not empowered to make any binding commitment to make such appropriations in future fiscal years, hereby states its intent to make such appropriations, as may be necessary, consistent with this Agreement.

7. Nothing herein contained is or shall be deemed to be a lending of the credit of the City to Virginia Community Capital, the Authority, the Project or to any other person or entity (unless specifically set forth otherwise), and nothing herein contained is or shall be deemed to be a pledge of the faith and credit or the taxing power of the City, nor shall anything herein contained legally bind or obligate the City Council to appropriate funds for the purposes described herein.

8. Any notices or requests required to be given hereunder shall be deemed given if hand-delivered or sent by registered or certified mail, postage prepaid, addressed as follows:

If to the City: City of Danville, Virginia
Municipal Building, Patton Street
P. O. Box 3300
Danville, VA 24543
Attention: City Manager

With a copy to: The City Attorney's Office
Municipal Building, Patton Street
P.O. Box 3300
Danville, VA 24543
(434) 799-5122

If to Virginia
Community Capital:
Virginia Community Capital
110 Peppers Ferry Road NW
Christiansburg, VA 24073
Attention: Cindy Snider, AVP,
Small Business Loan Officer

9. If any clause, provision, or paragraph of this Agreement shall be held illegal or invalid by a court, the illegality or invalidity of such clause, provision, or paragraph shall not affect any of the remaining clauses, provisions, or paragraphs hereof, and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision, or paragraph had not been contained herein. In case any question should arise as to whether any provision contained herein shall be in violation of law, then such provision shall be construed to be the agreement of the parties hereto to the full extent permitted by law.

10. This Agreement and the performance thereof shall be governed by and enforced under the laws of the Commonwealth of Virginia, and if legal action by either party is necessary for or with respect to the enforcement of any or all of the terms and conditions hereof, then exclusive venue therefore shall lie in the City of Danville, Virginia.

11. This Moral Obligation Agreement supersedes all prior understandings and agreements of the parties with respect to the subject matter hereof and contains the entire agreement and understanding of the parties in connection with the transactions contemplated hereby.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the City of Danville, Virginia has caused its name to be subscribed hereunto by its City Manager, as authorized and directed by the City Council, City of Danville, and its seal to be hereto affixed and attested by the City Clerk, and Virginia Community Capital has caused its name to be subscribed hereunto by Cindy Snider, as its duly authorized representative, all as of the date first above written.

CITY COUNCIL, CITY OF DANVILLE

By: _____
Name: Ken Larking
Title: City Manager

(SEAL)

Attest:

City Clerk

VIRGINIA COMMUNITY CAPITAL

By: _____
Name:
Title:

(SEAL)

Council Letter

City of Danville, Virginia



CL-2752

New Business G.

City Council Regular Meeting

Meeting Date: 04/05/2022

Subject: Appropriation of Byrne Justice Assistance Grant Funds

From: Earl B. Reynolds, Jr., Deputy City Manager

COUNCIL ACTION

First Reading: 04/05/2022

Final Adoption: 04/19/2022

SUMMARY

HB 2017, Youth Diversion Programs, was passed by the Virginia General Assembly during the 2021 Session. The City of Danville supported the passage of the Youth Justice and Division Program legislation which allows for the development of alternatives to strict juvenile court intervention. Until this legislation was passed, no such alternatives were available in Virginia. The text of the subject legislation is attached.

In August 2021, The Center for Youth and Family Advocacy (CYFA) was retained to guide the process of establishing a program in Danville that meets the legislative requirements and has full community support. A task of CYFA was to help obtain additional funding to support planning and program development activities.

BACKGROUND

In December 2021, the Commonwealth's Department of Criminal Justice Services approved a Byrne Justice Assistance Grant award in the amount of \$75,000 to assist with the further development of two program initiatives: the Promoting Empathy through Equitable Resolution (PEER) and Youth PEER Court (YPC) programs, to ensure compliance with the 2021 Youth Diversion Programs Legislation. The required match is covered by funds already appropriated to support the work being carried out by the Center for Youth and Family Advocacy on behalf of the City.

RECOMMENDATION

It is recommended that the City Council adopt the attached ordinance which will authorize the appropriation of the Byrne Justice Assistance Grant in the amount of \$75,000.

Attachments

Ordinance

Legislation

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2022-_____._____

AN ORDINANCE AMENDING THE FISCAL YEAR 2022 BUDGET APPROPRIATION ORDINANCE BY INCREASING REVENUE FROM THE VIRGINIA CRIMINAL JUSTICE SERVICES BOARD FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD IN THE AMOUNT OF \$75,000 WITH A LOCAL SHARE IN THE AMOUNT OF \$25,000 TO BE USED TO STRENGTHEN THE YOUTH JUSTICE DIVERSION PROGRAM.

WHEREAS, the City of Danville, has received an award from the Department of Criminal Justice Services Board (DCJS) under the Edward Byrne Justice Assistance Grant (JAG) Program in the amount of \$75,000; and

WHEREAS, this grant is named in honor of NYPD Officer Edward Byrne, who was murdered in the line of duty on February 26, 1988, while serving on a detail that was protecting a witness who had agreed to testify against local drug dealers; and

WHEREAS, the funding from this award will be used to assist with the further development of two program initiatives, the Promoting Empathy through Equitable Resolution (PEER) and Youth PEER Court (YPC), to ensure compliance with the 2021 Youth Justice Diversion Program Legislation; and

WHEREAS, the grant will require matching funds in the amount of \$25,000, which will be taken from the Federal American Rescue Plan.

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Danville, Virginia, that the Fiscal Year 2022 Budget Appropriation Ordinance be, and the same is hereby, amended by increasing revenues to anticipate the receipt of funds in the amount of \$75,000 from the Department of Criminal Justice Services (DCJS) under the Edward Byrne Memorial Justice Assistance Grand (JAG) program and appropriating the same as follows:

ANTICIPATED REVENUE

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Federal DCJS-Byrne JAG Youth Engagement	61753000-48230	\$75,000

ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
DCJS-Byrne JAG Youth Engagement	61753999-50	\$75,000

AND BE IT FURTHER ORDAINED, that a transfer from Federal American Rescue Plan revenue and appropriation is hereby authorized to cover the local share as follows:

TRANSFER FROM

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Federal American Rescue Plan	61667000-48060	\$25,000
American Rescue Plan	61667999-50	\$25,000

TRANSFERRED TO

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Federal Aid	61753000-48060	\$25,000
DCJS-Byrne JAG Youth Engagement	61753999-50	\$25,000

AND BE IT FURTHER ORDAINED, that this appropriation shall be a continuing appropriation and shall carry forward from year to year until expended for the purpose for which appropriated; and

BE IT FINALLY ORDAINED, that all other accounts and provisions of the Fiscal Year 2022 Budget Appropriation Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

Mayor

ATTEST:

City Clerk

Approved as to
Form and Legal Sufficiency:

Deputy City Attorney

§ 16.1-309.11. Youth justice diversion program

A. For the purposes of this section, "youth justice diversion program" means a diversionary program that (i) is monitored by a local youth justice diversion program advisory committee; (ii) uses juvenile volunteers as lawyers, jurors, and other court personnel; (iii) uses volunteer attorneys as judges; (iv) conducts peer trials of juveniles who are referred to the program by the intake officer; and (v) imposes various sentences emphasizing restitution, rehabilitation, accountability, competency building, and education, but not incarceration.

B. Any jurisdiction may establish a youth justice diversion program upon establishment of a local youth justice diversion program advisory committee and approval of the youth justice diversion program by the chief judge of the juvenile and domestic relations district court that serves such jurisdiction. Each local youth justice diversion program advisory committee shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of the youth justice diversion program that serves the jurisdiction. Advisory committee membership may include, but shall not be limited to, the following persons or their designees: (i) a judge from the juvenile and domestic relations district court that serves such jurisdiction; (ii) the attorney for the Commonwealth; (iii) the public defender or a member of the local criminal defense bar in jurisdictions in which there is no public defender; (iv) the clerk of the court in which the youth justice diversion program is located; (v) a representative of the Department of Juvenile Justice from the local office that serves the jurisdiction; (vi) a local law-enforcement officer; (vii) a representative of a local school in such jurisdiction; (viii) a representative of juvenile court services; (ix) a representative of a juvenile detention center or group home; (x) a representative of a local children and family services agency; and (xi) any other persons selected by the local youth justice diversion program advisory committee.

C. Each local youth justice diversion program advisory committee shall establish criteria for the eligibility and participation of juveniles alleged to have committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult in the youth justice diversion program, with the consent of the juvenile's parent or legal guardian.

D. Each local youth justice diversion program advisory committee shall establish policies and procedures for the operation of the youth justice diversion program to attain the following goals: (i) early intervention in and prevention of delinquent behavior; (ii) providing positive alternative sanctions for offenders by providing a peer-driven sentencing mechanism that allows young people to take responsibility, to be held accountable, and to make restitution; (iii) advocating for fair, constructive, and restorative sentences predicated on sensitivity to the unique needs and the diversity of the participating juveniles; and (iv) developing positive citizenship attitudes, encouraging civic engagement, and promoting educational success through a diversity of service learning opportunities, strategies, and activities.

E. All records and reports concerning juvenile participants in a local youth justice diversion program made available to members of a local youth justice diversion program advisory committee and volunteers of a local youth justice diversion program and all records and reports

identifying a juvenile participant that are generated by the committee or program from such reports shall be confidential and shall not be disclosed, except as authorized by other applicable law.

F. A juvenile referred to a youth justice diversion program may be required to contribute to the cost of the program pursuant to guidelines developed by the local youth justice diversion program advisory committee.

2021, Sp. Sess. I, c. [457](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.