



City of Danville
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Phone: (434) 799-5260

City Planning Commission

AUGUST 10, 2020
3:00 P.M.
CITY COUNCIL CHAMBERS

AGENDA

- I. WELCOME AND CALL TO ORDER
- II. ROLL CALL
- III. ITEMS FOR PUBLIC HEARING

Rezoning Application Request PLRZ20200000155 (PLVAR20200000110), remanded from the Board of Zoning Appeals on a case filed by Mark and Karen Davis, requesting to rezone from HR-C Highway Retail Commercial District to S-R Suburban Residential District 734 Mt. Cross Road, otherwise known as Grid 0708, Block 002, Parcel 000005, of the City of Danville, Virginia, Zoning Map. The applicant requested a variance to allow for a deck constructed without permits onto a legal non-conforming use to remain on a residential property in area zoned HR-C Highway Retail Commercial District. The Board of Zoning Appeals remanded this case to the Planning Commission to review for a possible Zoning Change.

- IV. OTHER BUSINESS
- V. APPROVAL OF MINUTES FROM JUNE 8, 2020
- VI. ADJOURNMENT



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Meeting of August 10, 2020

Subject:

Rezoning Application Request PLRZ20200000155 (PLVAR20200000110), remanded from the Board of Zoning Appeals on a case filed by Mark and Karen Davis, requesting to rezone from HR-C Highway Retail Commercial District to S-R Suburban Residential District 734 Mt. Cross Road, otherwise known as Grid 0708, Block 002, Parcel 000005, of the City of Danville, Virginia, Zoning Map. The applicant requested a variance to allow for a deck constructed without permits onto a legal non-conforming use to remain on a residential property in area zoned HR-C Highway Retail Commercial District. The Board of Zoning Appeals remanded this case to the Planning Commission to review for a possible Zoning Change.

Background:

The property at 734 Mt. Cross Road is located within an HR-C Highway Retail Commercial District. The City's long-range plans for this area are for commercial development to the City/County Line.

The property is developed with a legal non-conforming single family home. As its legal non-conforming, no expansion is permitted. The applicant was notified in January of 2020 of a violation of the Uniform Statewide Building Code for the construction of a deck onto the structure without obtaining permits or the required zoning clearance. Had an attempt been made to obtain permits, the City could have notified the owners that this construction would not be permitted and explained options for attempting to rezone the property.

A request for a variance went to the Board of Zoning Appeals at their meeting of July 16, 2020. The Board heard the case and remanded it to the Planning Commission to determine if a rezoning of the property was a potential solution to change from legal non-conforming to conforming.

Ten (10) notices were sent to surrounding property owners within three hundred (300) feet of the subject property. A full report will be presented at the City Planning Commission meeting on August 10, 2020.

Staff Analysis and Recommendation:

This entire area is zoned HR-C Highway Retail Commercial District. This request could amount to spot zoning. At the Board of Zoning Appeals meeting, the applicant expressed a willingness to discuss rezoning with adjacent legal non-conforming properties to attempt to join this application to bring their properties into conformance.

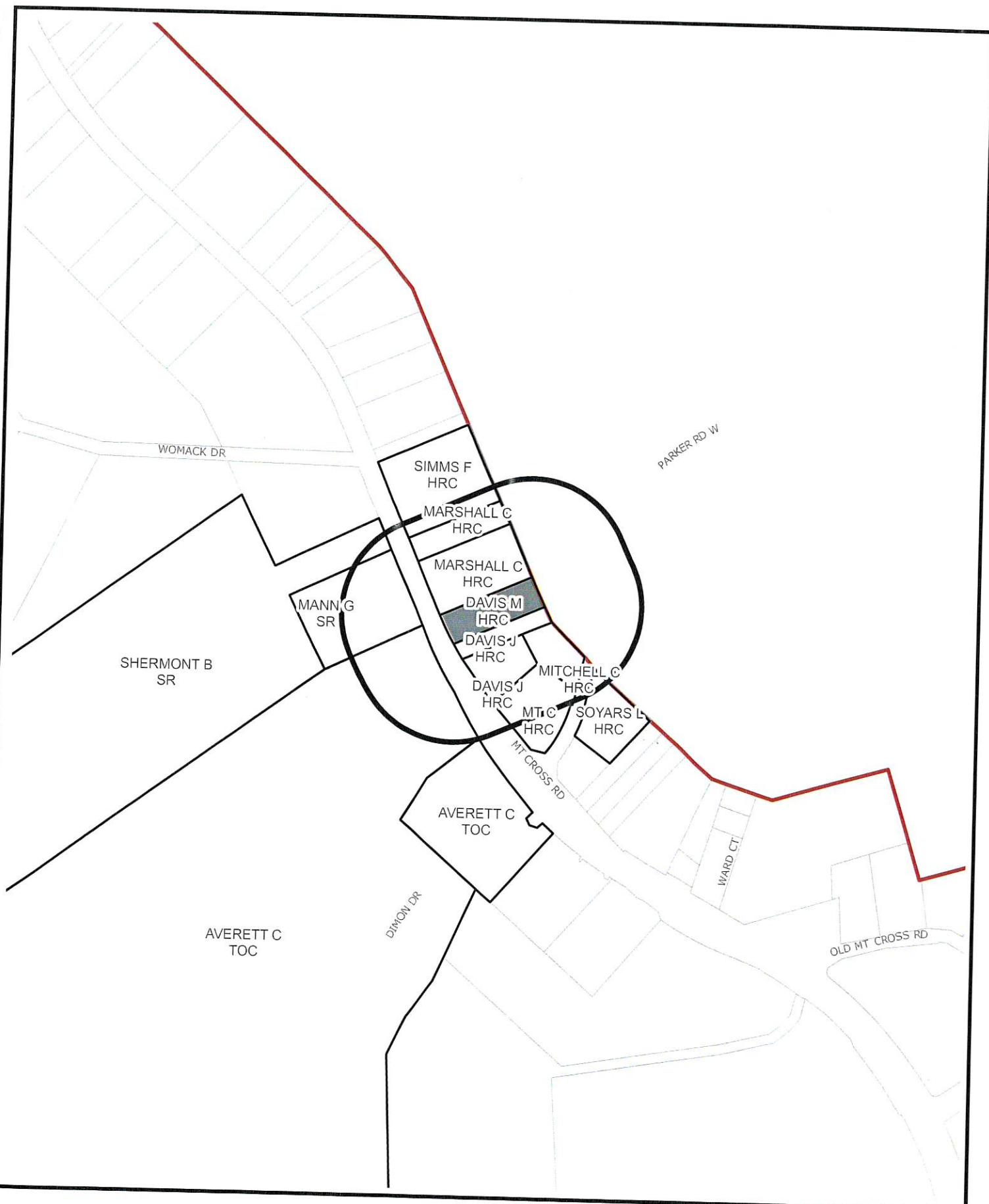
Due to time constraints and COVID issues, the applicant has not had that opportunity. Staff would recommend that this item be continued until the September meeting to afford the applicant sufficient time to contact adjacent property owners to see if they wish to co-join this application.

City Planning Commission Alternatives:

1. Recommend continuation of Rezoning Application Request PLRZ20200000155 (PLVAR20200000110) to a future meeting.
2. Recommend approval of Rezoning Application Request PLRZ20200000155 (PLVAR20200000110) as submitted.
3. Recommend approval of Rezoning Application Request PLRZ20200000155 (PLVAR20200000110) with conditions per Planning Commission.
4. Recommend denial of Rezoning Application Request PLRZ20200000155 (PLVAR20200000110).

Attachments:

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



SURROUNDING PROPERTY OWNERS AND ZONING WITHIN 300 FEET OF SUBJECT PROPERTY



Prepared by:
Planning Division
6/26/2020

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

REZONING REQUEST
DATA SHEET

DATE:	AUGUST 10, 2020
LOCATION OF PROPERTY:	734 Mt. Cross Road (Parcel ID 72873)
PRESENT ZONE:	HR-C Highway Retail Commercial District
ACTION REQUESTED:	The applicant is requesting a variance to allow for a deck constructed without permits onto a legal non-conforming use to remain on a residential property in area zoned HR-C Highway Retail Commercial District.
PRESENT USE OF PROPERTY:	Single-family residence
PROPOSED USE OF PROPERTY:	Same
PROPERTY OWNER (S):	Mark and Karen Davis
NAME OF APPLICANT (S):	same
PROPERTY BORDERED BY:	Single-family residential and commercial uses to the north and south, vacant land and single family residential to the east, and Averett University and a church to the west.
ACREAGE/SQUARE FOOTAGE:	.69 acres
CHARACTER OF VICINITY:	Mixed commercial and residential
INGRESS AND EGRESS:	Mt. Cross Rd
TRAFFIC VOLUME:	High
NEIGHBORHOOD REACTION:	To be reported at the Planning Commission meeting on August 10, 2020.



2019 AERIAL VIEW OF AREA SURROUNDING SUBJECT PROPERTY

Prepared by:
Planning Division
6/26/2020

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PLANNING COMMISSION MINUTES

June 11, 2020

MEMBERS PRESENT

Mr. Wilson
Mr. Garrison
Mr. Bolton
Mr. Dodson
Ms. Evans
Mr. Craft

MEMBERS ABSENT

Mr. Petrick

STAFF

Lisa Jones
Ken Gillie
Clarke Whitfield

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

ITEMS FOR PUBLIC HEARING

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

Mr. Garrison open the Public Hearing.

Ms. Dana Peters, Owner spoke on behalf of this request. There is a little bit of a time line and I think the building is probably the oldest kennel in Danville. I purchased it in 2012 from Marion Wardle, who purchased it from the original owner. It has been in operation and what happened was when I left I moved from Danville in 2017. When I left I had it for sale and I sold it as seller financing so I was still involved and stuff. Well this gentleman did not get a business license and I didn't know that. So, when I took it back over I let the lady who was there running it to continue to do what she was doing. She was a single mom trying to raise her grandkids and I kind of just let her do her thing. I didn't get my business license either until I came out in November. When I came out this last November we cleaned the kennel out and did some repairs to get it looking better and I shut it down. The only time that it has been shut down was in November and the City is not going to know that because the

business license was not renewed. I was two weeks into January and I told Ken that I needed to get my business license and he said that you are no longer grandfathered. So, then I said so what can we do? The inside of the kennel there is no other use for this building. It was built as a kennel. Obviously, I am going to seek the legal and proper way to make sure that I keep my business running. It has never been a hardship because I had an old customer call me just two days ago wanting to know when I was going to open back up. One of the nice things about the kennel that we have is we can handle dogs other places can't. Most places that you have the kennel have to actual physically handle the dog and we do not. We have customers that have dogs that are aggressive. They bring them in and we can kennel them and we never have to touch them. I have ran other business's I ran Dana's Garden in Blair's for nine years. I moved here in 2005 and started my business in 2006 out there and then I bought the kennel in 2012 and moved in 2017. I guess my point is about the building and the structure itself is as a business that is the only thing that it can be. If we can't get this resolved it is an empty building in town. I love my community and I love my time while I was here people supported me and they came to my business's. They purchased my plants and they came to the kennel and we groomed and took care of the animals. It would be really sad to just have a building that is just going to be sitting here because there is nothing else that you can do with this building. It is my fault and I should have gotten my business license last year and I guess that is the other issue is that it still would have been right I'm standing here now. I'm trying to follow the law and it's not like I'm asking the council to do something new or to change something that wasn't already there. The zoning has changed but the actual function of the property has not changed since it was built in 1965. That is my plea I don't want it to crumble to the ground because I can't use it legally.

Mr. Bolton stated did you buy it from the original owner?

Ms. Peters stated no, I bought it from Marion Wardle and she has been there for years and years. She could not come due to her health and I went to see her this morning. Mary was very involved in the community and she groomed for the human society and for me after I bought it. I understand that she bought it from the original owner.

Mr. Bolton stated so not a lot of turn over?

Ms. Peters stated no, between Mary and myself she had one person and that didn't work so, I came and bought it from Mary. It was not shut down either, it just didn't work and I came and took it over and kept going with the business.

Mr. Dodson stated so how many years has it been in operation?

Ms. Peters stated since 65 I think. Richard Kendrick is here and his mom is the one that originally had the building and he will address that because he was heavily involved in all of that. From my understanding it was built in 1965 and it was the County then.

Mr. Wilson stated do you live here?

Ms. Peters stated I live in Utah.

Mr. Wilson stated who is going to run this and what is the plan because you being the owner and making these decisions, I'm just a little curious the owner lives half way around the country.

Ms. Peters stated anytime you have a business and I think there are a number of business's here where the owners don't live here. As a business owner I'm totally invested in this community. This has been my livelihood and people I know face to face. There is not anyone that is more invested in Danville and the success of Danville than a business owner. If Danville doesn't succeed then my business doesn't succeed. Which means that all of my hard work, sweat, tears, and everything that I have put into it goes down the drain and nobody wants to see that.

Mr. Wilson stated my question is like do you have a business plan that includes like let's say that all of this gets approved and it goes to City Council and they approve it, is somebody standing in line to rent this facility?

Ms. Peters stated yes, what I have right now a lady has contacted me, a groomer who is in New York and is going to move to the area. I got two calls a few weeks ago and one is a young man who is looking for a place to groom and the other she is a groomer looking for a place. Those are the two options that I have right now. Obviously, you have to hire good people and that can be a challenge but any business is going to do that. You have to hire people that are going to do it right and I have good oversight because I have good neighbors that will watch and let me know if things are not going right. I'm just an airplane ride away. This is my livelihood and my life and when you spend that amount of time putting into something you don't want to see it crumble. The only time that the kennel has been closed is since November, when I shut it down while I was here.

Mr. Wilson stated one of the recommendations for the Planning Department is for the hours to be 7:00 am to 7:00 pm Monday thru Sunday. Are you agreeable to that?

Ms. Peters stated I was open Monday thru Friday and Saturday they could pick up dogs if they needed to. The other thing if you see where the business is it is a destination only and I don't run it like a retail business. In other words I don't have my person there from 7:00 in the morning to 7:00 at night. With animals you come in take care of their needs and leave and then you come back take care of their needs again. That is how I started running it while I was here. I was not opened on Sunday and the only time I had anything on Sunday if I had somebody out of town and they were trying to leave or whatever and that is only by case by case. I didn't groom on Saturday's or Sunday's and I think on Saturday's we were open to noon for people to pick up their dogs.

Mr. Garrison stated but you do board animals over night?

Ms. Peters stated yes, it is a boarding facility.

Mr. Bolton stated you have proffered everything out but the kennel?

Ms. Peter stated yes, it is a commercial kennel and with the kennel you groom and you take care of the animals. That is what a kennel does and you look at the property there is nothing else you could do there. I recognize if I was on the other side trying to look at she doesn't

have a business license for two years. I understand that but I'm not asking for a change per say. I want the change on the books but it's not a change from what has been going on for the property for years. It is nothing new to that area and we will try to keep things quiet. You do the best that you can do.

Mr. Bolton stated can you put the dogs in at 7 per the person that is complaining?

Ms. Peters stated yes, we can do that we have air conditioners and heaters. We can close in and cut the circulation on for the animals. The only other thing is that we may come back to just let the animals out and right back in but not leave the out or the kennels open all night. I don't want the kennels left open all night because it is still kind of country and anything that moves the dog is going to bark at.

Mr. Craft stated if you let them out at 7 at night wouldn't they be all right till the next morning?

Ms. Peters stated you could but sometimes it depends on the animal.

Mr. Craft stated they might bark at the other animals.

Ms. Peters stated you are there to let them out to use the bathroom and you let them back in and close the door. Sometimes if they drink late in the day they may need to do their thing and you don't want them to while they are sleeping. It's not a constant practice but if I have an animal that is having an issue I need to be there and take care of the animal. We can always take them out in the back yard instead of using the kennel. I believe the gentleman lives on the down side. Really right now I don't use that back side of the kennel because I need to do some repairs back there. All the dogs are on that front side of Ash Street and I think maybe there are eight kennels on that back side and because of that I don't use them unless I absolutely have to. We want to be good neighbors and if there are issues we want to make sure that they are addressed. It doesn't do a business any good if you have people out there bad mouthing only because you are not being a good neighbor to them.

Mr. Craft stated what is the amount of dogs that you have?

Ms. Peters stated when I bought this business it was run down and I don't think I had any more than thirty dogs ever. You could do a lot more obviously.

Ms. Paulette Dean, Director of Danville Human Society. (See attached letter)

Mr. Richard Kendrick, I live across the street and I own four piece of property on that street. I have been there since 1956. My mother built the kennel in 1965 and owned it until 1984 when she decided it was time to retire. It was sold to Marion Wardle from Houston, Texas. Marion owned it for about twenty years and I can't remember when Marion retired but she had a young lady that worked for her that wanted to take the kennel over. I knew at that time the girl was not capable of operating that business and she didn't last three years. At which time Dana bought the kennel and kept it running. The kennel was built in 1965 and mother had a tremendous business at the time. I went to school to do Architect Engineering and I designed the kennel. My mother and I rode around Virginia and Carolina looking at kennels at that time to see how they were built and operating. At the time that she built the kennel it

Mr. Chairman, Members of the Commission, and Staff:

My name is Paulette Dean and I have been the director of the Danville Area Humane Society for 28 years. We have operated the city public animal shelter since 1984.

We have a long-standing relationship with the Danville Pet Resort since its days as the Danville Pet Lodge. We have used that facility to help us deal with an overflow of animals. In fact, during the summer of 2005, we had received through cruelty cases, 60 large dogs. We needed a place to board some of those dogs so we would still have runs available for the other stray dogs that would come through our doors. Since those dogs were in limbo while the cases worked through ways through the court system, we also wanted to have our adoptable dogs at the shelter so the public could see them. Danville Pet Lodge helped us in that case and in others.

When Dana Peters Nielsen purchased the facility, the cooperation continued. She also helped us with boarding dogs and a couple of cats when we received too many animals to safely and comfortably manage at the shelter. An open-admission shelter is always one phone call, one cruelty case, one hoarding case away from being over-run.

Through the years, we referred people to the Pet Lodge and Resort for grooming and boarding if they did not want to board an animal at their veterinary clinic for whatever reason and had personal reasons for wanting to change where they go.

That boarding facility has value to the community, as it provides needed services of safe boarding and grooming.

I have known Dana for many years since she first moved to Danville in 2005. I know her to be a woman of high ethics. I can imagine how she felt when she realized she had overlooked acquiring a business license. I felt that way years ago when I discovered I had failed to pay federal and state income taxes for one month. I literally felt sick.

We paid stiff penalties, but didn't have to move out of the shelter or stop doing non-profit work as a humane society. Simple mistakes don't always require great sacrifices.

In this time when small businesses face unusual challenges, I hope that you will consider helping Mrs. Nielsen to save the Danville Pet Lodge. It provides a needed service to pet owners, and as a result, to the community.

was the most modern kennel in the state of Virginia. It is maintained as one of the nicest kennels anywhere around and I would certainly hate for the kennel not to be in operation. For one reason because it was my mother's business that she put her heart into. She was a very animate animal lover and I hate to see anything happen to an animal. She would sit up all night with animals if need be because they were sick or anything. It is a nice facility and I live across the street. I have no problem with the requirements that has been set forth if she wants to operate from 7 to 7. I don't have any problem with the dogs barking and I don't actually pay any attention to it. I guess because I'm so use to it and I would love to see Dana get the kennel back open again.

Mr. Dodson stated do you think that the noise would bother other neighbors other than you?

Mr. Kendrick stated no sir, I live the closest. The property that way there is nothing there. I own the next house and the vacant lot there. Like Dana said my side of the kennel is the side that all the dogs will be on. There is a fence there and it blocks the view of any animal in the outside room from seeing people come down the street. They are not barking at people coming down the street because they can't see them. Having dogs inside and out it does not take but a few minutes to clean the kennel the way it is designed. It does not take a lot of time to keep the kennel clean. Mother had severe surgery in 1977, I ran the kennel for over a year during her recovery. I know what it takes to operate the kennel as well. It is simple once you get your routine down and it doesn't take long. Danville doesn't really need another empty building sitting around. There are a lot of people that use this kennel. When mother had it all the rooms were full every weekend and her hours were from 7:00 am to 5:00 pm. She would go down at 8:00 pm and put the dogs back inside and that is the way that she would run it.

Ms. Sarah Gentry, I live next to the brick house. We have been down there for over thirty years and I don't know what somebody is talking about a dog barking. I'm still trying to figure that out. I haven't heard any dogs barking and I am right next to the kennel on the other side from Richard. I've never had any trouble other than Marion talking me into taking a stray cat that she found. I don't see anything wrong with having the kennel there. It has been there the whole time that I have lived there. It is not disturbing me and I'm the one that is closest other than Richard.

Mr. Garrison closed the Public Hearing.

Mr. Wilson stated what regulations govern the condition here? In other words like assuming this goes through. How do we know about other like compliance regulations that are govern by the state by local regulated kennels and the care for animals? Does it just open up and whatever condition it is off we go.

Mr. Gillie stated if we could I would like to ask Paulette she probably is much more familiar with the regulations state level than I am. We would look at it from the building code to make sure the structure itself is safe but the operations and care of the animals I do not know and I always call her if I don't know.

Ms. Dean stated any boarding facility, any veterinarian clinic, any animal shelter, any rescue group, and any private owner of any companion animal, are held to the exact same

standards. They must provide adequate food, water, shelter, space and temperature. It is all very well spelled out in the law. If someone did have a problem with the care of the animals. I have never had a complaint about Danville Pet Resort. I have had complaints about the care of animals at other places. The authorities go in and I am the humane investigator I would go in and look. It is all very well spelled out and very well defined in state law.

Mr. Wilson state I guess my question is the facility was built in 1965 it looks like it was built in 1965. Will there be a new set of regulations by the fact that now it went out of business and it's going back in business. Is there anything that would require them to upgrade or is it in compliance right now.

Ms. Dean stated it's in compliance because the codes of the law in the regulations don't care about the outside of the facility. All they care about is disease transmission things like that inside. We go through the same inspection at the animal shelter that if we ever received a complaint that the kennel would have to go through.

Mr. Bolton stated I don't have a question, this is for Ken. Was this submitted as conditional? If we would to recommend approval as submitted it would be as?

Mr. Gillie stated yes the applicant has proffered everything out except for the commercial kennel so if you want to recommend approval of rezoning it would be a conditional rezoning.

Mr. Garrison stated the only thing that we would have to add are the hours.

Mr. Gillie stated if you feel to add the hours you would do that with the special use permit process. The conditional zoning you could put the hours.

Mr. Wilson stated I think there is one larger issue here that I would love for us to talk about. The spot zoning thing my only concern is in the future in setting it up this way where other people will come up behind us and say well you did for them. I know we have done this before. I know there is no major opposition, before I know we will go forward with this but are we setting in precedent with this in our recommendation to City Council. Are there any problematic issues that we need to talk about?

Mr. Garrison stated I think what we are looking at with the spot zoning issue, is there a reason for services? Is there a needed service in the City? My understanding is that it is incumbent for the person asking for the special use permit and the zoning change to give us enough justification that even though we might think it is spot zoning there is a justifiable reason and that alone would cover that. I had the same question and the same question was asked by Mr. Petrick when he was here. The question is have they presented enough evidence that there is a requirement for this business to exist in order for it to be not illegal spot zoning. That is a question that we have to answer for by ourselves.

Mr. Wilson stated I just wanted to put it out there before we just move on. I'm not a dog owner or a person in that system. I thought that Paulette made a strong case for having over flow. There is opportunity there that this could serve some larger causes of business. What I'm saying is that it has a role to play. If anybody sees it differently I would love to hear it.

Mr. Garrison stated I came in from the start wondering whether or not if it would be spot zoning. So I ask the question who has to say that there is a need? As far as I am concerned Ms. Dean comes in here and says she has a need for this kennel to operate then that gets us past the point where illegal spot zoning. That is my opinion.

Ms. Evans stated my opinion is we have approved rezoning application for an apartment building that was clearly an apartment building because it had lost its right to be an apartment. I don't see any difference here it was built as a kennel there is no else that it could be used for. So that is my feeling.

Mr. Bolton made a motion to recommend approval of Rezoning Application PLRZ20200000058 as submitted. Mr. Craft seconded the motion. The motion was approved by a 6-0 vote.

Mr. Wilson makes a motion to recommend approval of Special Use Permit PLSUP20200000059 with the condition of hours 7am to 7pm as conditions submitted by staff. Mr. Dodson seconded the motion. The motion was approved by a 6-0 vote.

IV. OTHER BUSINESS

Mr. Gillie stated the request for a special use permit at 180 Franklin Court for a day care center was withdrawn by the applicant so that will not be coming back to you. The request for rezoning at 1113 Franklin Turnpike the applicant requested that it be held over to the July meeting to give him the opportunity to meet with the neighbors. Now that we are in phase 2 this should allow the applicants efficient time to get a group meeting together with the folks there to try to dissolve any issues. I would still wait for them to respond back and I plan on having that in July at our next meeting. We will have a meeting in July.

Mr. Gillie stated if I could I wanted to announce that today will be Mr. Wilson's last meeting with Planning Commission. He tendered his letter of resignation to be effective at the end of the meeting today. I just want to thank him for his service and I really appreciate everything that you have done for us and you will be sorely missed.

Mr. Wilson said just an explanation on that because my daughter is having her first child and our first grandchild. We are going to be active participants in the care of her so it will require us to be gone during the middle of the week and I think someone making the decisions and things of that need to be here all the time. Thank you it has been an interesting experience. It has been really good and I appreciate it a lot thank you.

Mr. Gillie stated he would like to give Mr. Petrick a get well soon.

Mr. Garrison stated one other thing, the parking we had parking regulations and a work session and it has never come back before us. Are we still going to look that parking regulation?

Mr. Gillie stated we are still going to look at that as you can tell right now I am the only staff covering the Planning Commission and I'm not in the Planning Commission any more so right now we have no staff. We have no ability to work on that, we are trying. We are looking at possibly subbing that out and hiring consultants to do some outside work for us. We do not have staff to do.

Mr. Garrison stated I just didn't want it to get lost.

Mr. Gillie stated It hasn't gotten lost we have a lot of code changes potentially coming up.

V. APPROVAL OF MINUTES

The April 13, 2020 minutes were approved by unanimous vote.

VI. ADJOURNMENT

With no further business, the meeting adjourned at 3:50 p.m.

APPROVED