

**Christiansburg Planning Commission
Minutes of March 31, 2014**

Present: Matthew J. Beasley
Ann Carter
Harry Collins
M.H. Dorsett, AICP
David Franusich
Craig Moore, Chairperson
Joe Powers, Vice-Chairperson
Jennifer D. Sowers
Nichole Hair, Secretary ^{Non-Voting}

Absent: Jonathan Hedrick
Steve Huppert

Staff/Visitors: Kali Casper, staff
Missy Martin, staff
Tracy Howard, Radford Planning Commission Chairperson
Cindy Wells Disney, Montgomery County Planning Commission
Mr. and Mrs. Robert Muttart, 3795 Roanoke Street

Chairperson Moore called the meeting to order at 7:01 p.m. in the Christiansburg Town Hall at 100 E. Main Street, Christiansburg, Virginia, following the pledge of allegiance, to discuss the following items:

Public Comment.

Chairperson Moore opened the floor for public comment. No public comments were made. Chairperson Moore closed the public comment period.

Approval of meeting minutes for March 17, 2014.

Chairperson Moore introduced the discussion. Commissioner Dorsett made a motion to approve the Planning Commission meeting minutes. Commissioner Franusich seconded the motion, which passed 7-0, with Commissioner Carter abstaining from the vote due to being absent from the meeting.

Public hearing on a Conditional Use Permit request by Robert Muttart for a major home occupation for a landscaping business for property located at 3795 Roanoke Street (tax parcel 502 – ((A)) – 51) in the R-2 Two-Family Residential District.

Chairperson Moore introduced the discussion asking the applicant to address the Planning Commission. Mr. Robert Muttart stated he is requesting a major home occupation for his property located at 3795 Roanoke Street.

Public hearing on a Conditional Use Permit request by Robert Muttart for a major home occupation for a landscaping business for property located at 3795 Roanoke Street (tax parcel 502 – ((A)) – 51) in the R-2 Two-Family Residential District - (continued).

Mr. Muttart stated he has been operating his business out of that location for some time now and would like to keep his business in Town Limits. Mr. Muttart indicated he has a landscaping plan he is willing to proffer. Mr. Muttart added there is an AEP substation located adjacent to his property. Mr. Muttart commented he spoke with Assistant Town Manager, Randy Wingfield and Mr. Wingfield commented it would be helpful to buy the property located behind this parcel, so Mr. Muttart did purchase the property. Mr. Muttart stated he has over 3 acres now so he does not feel there is a noise issue or view issue. Mr. Muttart added he would like to stay in the town limits and cannot afford to move after purchasing the adjacent property.

Chairperson Moore asked for any further comments for the public hearing. No comments were made and Chairperson Moore closed the public hearing. Commissioner Collins asked if there is a grandfather clause that can be enabled. Mr. Hair responded Mr. Muttart had received an approved home occupation from the Town, with the stipulation of one truck and one trailer would be allowed on this property. Ms. Hair stated Mr. Muttart's business has grown since the approval and it is now in violation due to that growth. Ms. Hair added Mr. Wingfield has contacted Mr. Muttart regarding the current violations. Ms. Hair stated the property is zoned R-2, Two-Family Residential and she has discussed with Mr. Muttart his options of rezoning or applying for a CUP request. Ms. Hair suggested a major home occupation as an option.

Commissioner Carter clarified with Ms. Hair that Mr. Muttart currently has a minor home occupation. Commissioner Carter stated she is happy his business has grown but Mr. Muttart is currently in violation.

Commissioner Dorsett stated the property is already located in a mixed use area. Chairperson Moore commented the AEP substation was also located in this area and is likely not to go away. Commissioner Carter added there is still surrounding residential.

Commissioner Powers asked Mr. Muttart how long he has lived at property. Mr. Muttart responded he purchased the property around 2001 or so and he has had tenants occupy the space. Mr. Muttart indicated he has not personally lived on the property except for a few days at a time when the weather is bad. Mr. Muttart stated he currently has his mechanic living on the property.

Commissioner Carter added one of the stipulations originally with a minor home occupation is the owner must reside on the property. Commissioner Powers read the definition of a home occupation to the Commissioners.

Commissioner Powers asked Mr. Muttart if the house has a basement and if the two structures were on the property when Mr. Muttart purchased it.

Public hearing on a Conditional Use Permit request by Robert Muttart for a major home occupation for a landscaping business for property located at 3795 Roanoke Street (tax parcel 502 – ((A)) – 51) in the R-2 Two-Family Residential District - (continued).

Mr. Muttart replied the first structure was an existing framed out building and he has added a concrete floor. Mr. Muttart stated the second building was added around 2006 by a contractor. Chairperson Moore asked Mr. Muttart when he purchased the property and Mr. Muttart replied he was not sure. Commissioner Powers commented the real estate records show 2004.

Commissioner Carter added the sign located on the building is in violation. Mr. Muttart responded he could remove the sign by tomorrow.

Commissioner Powers commented his issue was classifying this as a home occupation when Mr. Muttart has more business use on the property than residential and the buildings are much larger than the existing residential home.

Commissioner Dorsett asked Ms. Hair what other options Mr. Muttart would have. Ms. Hair replied he may reduce the vehicles to comply with the current approved home occupation stipulations, which is one truck and one trailer on the property and continue to have an employee occupy the property. Mr. Hair added that administration has agreed to allow someone associated with the business to live on the property. Commissioner Powers clarified with Ms. Hair if the vehicles can just be parked outside or do they work from that location. Ms. Hair responded only one truck and one trailer on site. Mr. Hair also added Mr. Muttart weighed his options to rezone the property to B-3, General Business but it could be considered spot zoning.

Commissioner Powers asked if there is business zoning close to the property. Mr. Muttart replied a quarter of a mile up the road was the convenient store and a quarter of a mile down the road was JC Martin's business, a nursery, and Air Doctor. Mr. Muttart added he originally wanted to rezone the property to a business use but he was advised to apply for a major home occupation instead. Mr. Muttart added he was advised to purchase property adjacent to his by Mr. Wingfield and it would take him out of spot zoning because Mr. Muttart would have more acreage. Mr. Muttart stated he has exhausted all his means now and cannot afford to move his business.

Commissioner Collins asked Mr. Muttart exactly what Mr. Wingfield said to him about purchasing the adjacent property. Mr. Muttart replied Mr. Wingfield told him it would look favorable if he purchased the property but could not guarantee an approval.

Commissioner Franusich asked if neighbors have complained. Mr. Muttart replied no neighbors have made complaints and that a competitor made the complaint. Commissioner Franusich indicated this use does fall out of the home occupation designation and feels this is not the correct type of designation to use.

Public hearing on a Conditional Use Permit request by Robert Muttart for a major home occupation for a landscaping business for property located at 3795 Roanoke Street (tax parcel 502 – ((A)) – 51) in the R-2 Two-Family Residential District - (continued).

Mr. Muttart asked if he could be granted an extension as long as his business does not grow. Commissioner Carter added the property would still be in noncompliance. Ms. Hair responded Mr. Muttart would have to comply with the current home occupation or find another location.

Commissioner Dorsett asked what an allowable use in agriculture zoning is. Commission Powers said typically you find a nursery in an agricultural district.

Chairperson Moore addressed Mr. Muttart stating the Town was not trying to disfranchise the business but the Planning Commission must make decision based on the guidelines and laws, which Town Council looks at the Planning Commission to do. Mr. Moore added the Planning Commission would be discussing the issue and not voting on it tonight. Chairperson Moore commented he knows that Mr. Muttart has invested a lot of money but the Planning Commission cannot waive the ordinances.

Mr. Muttart stated he was aware of a home occupation approval for Eden's Landscaping, which allowed two vehicles and two trailers on his property located in a residential area. Ms. Hair clarified Eden Landscaping did have an approved major home occupation with conditions on the permit which was under review after one year. Ms. Hair stated the business grew and he had to relocate to the county. Mr. Muttart replied he cannot afford to relocate his business after buying the adjacent property behind him.

Chairperson Moore stated approval of a major home occupation does not look promising and another option would be rezoning to Agriculture. Commissioner Franusich stated the use is not an allowable use in Agriculture. Mr. Moore added the Comprehensive Plan was recently adopted and during the planning process the Town did request public comments. The property is proposed as residential in this approved plan.

Mr. Muttart asked if it would be beneficial to use his adjoining properties for approval. Chairperson replied the current major home occupation application is only for the one property and there would be no value to rezoning the property to B-3 going by the adopted Comprehensive Plan.

Commissioner Powers added under the community and economic development section, the Comprehensive Plan does talk about supporting the clustering of residential centers and commercial centers along major highways, which is to deter the development of conflicting land uses and reduce visual clutter. Mr. Powers commented along roads like this residential and businesses need to stay together and not conflict with each other. Chairperson Moore added the Comprehensive Plan was a road map on how to develop the community.

Public hearing on a Conditional Use Permit request by Robert Muttart for a major home occupation for a landscaping business for property located at 3795 Roanoke Street (tax parcel 502 – ((A)) – 51) in the R-2 Two-Family Residential District - (continued).

Chairperson Moore said we should not vote on this tonight. Commissioner Dorsett moved to table it and have the Development Subcommittee review it. Commissioner Carter commented the Town has ordinances the Planning Commission needs to follow. Mr. Moore replied even if the Planning Commission could approve a rezoning, it could be overturned and create legal issues because spot zoning is illegal.

Commissioner Powers stated he would like to have the Planning Commission come back and discuss the issue as a whole and is requesting staff pull the building permits to show the use of the storage buildings. Ms. Hair responded she would also pull the approved home occupation and any violation letters that were sent for the next meeting. Commissioner Carter asked if Ms. Hair had spoken to the Town attorney. Ms. Hair responded she has not but Administration may have since they were handling the issue. She will get clarification on that.

Mr. Muttart asked if he could just have one truck and one trailer and pull everything else off the property. Chairperson Moore responded yes that would bring the property into compliance with the current approved home occupation. Mr. Muttart stated he would be fine if he could be allowed 2 trucks and 2 trailers on the property.

Chairperson Moore said the Planning Commission will look to see what may be permissible and discuss it at the next meeting on April 14th. Mr. Muttart asked how long he would have to move if the answer is no. Ms. Hair clarified the Town Council will make the decision, which could vote different than the Planning Commission. The Planning Commission only provides recommendations to Town Council.

Chairperson Moore has a copy of the aerial maps on the property from 2003 that shows the growth of the business and he tells Mr. Muttart he knows that's exciting but unfortunately the business is not located in the right area.

Commissioner Collins asked if the Planning Commission could show compassion and work with the business. Commissioner Dorsett stated the Planning Commission could not set that precedent and they had to make decisions based on law and ordinances. Commissioner Collins stated he understands both sides. Mrs. Muttart commented they both need to be compassionate. Chairperson Moore said the decision would have an impact on the community and it also impacts the growth and how the community works.

Mr. Muttart added the one building he installed was a pole barn and was told it did not require a permit. Ms. Hair stated that pole barns do require permits. Ms. Martin added during the time Mr. Muttart had the pole barn built if was up to the discretion of the building official and he did not require permits for pole barns at that time. She also added the current building official does require a building permit.

Public hearing on a Conditional Use Permit request by Robert Muttart for a major home occupation for a landscaping business for property located at 3795 Roanoke Street (tax parcel 502 – ((A)) – 51) in the R-2 Two-Family Residential District - (continued).

Chairperson Moore added the Town is trying to be compassionate and understanding of people's needs but it can sometimes cause a propagating effect. Mr. Moore stated the Planning Commission would discuss the request again on April 14th meeting but public comments would not be taken. Mr. Moore added the applicant can attend to listen and he may be asked questions. Mr. Muttart asked if the Commission would like his suggested proffers to review and discuss. Chairperson Moore said yes and asked for any other thoughts from the Planning Commissioners on this issue. No comments were added. Chairperson Moore thanked the applicants for coming out and working through the process. Mr. Muttart thanked the Planning Commission for their time and stated he would remove the sign from the building.

Other business.

Chairperson Moore introduced the discussion. Commissioner Franusich asked Ms. Hair where food trucks can park downtown that is not in town right-of-way. Ms. Hair indicated this issue has come up but there are no provisions within Town Code to address food trucks. It has been Town policy to just require the property owner's permission to park in a parking lot and not on the Town right-of-way. Ms. Hair stated a policy or ordinance may need to be developed at the direction of Town Council. Ms. Hair added Toasted by Casey has been given permission from the Town Manager to park in the Town's parking lot adjacent to Stellar One.

There being no more business Chairperson Moore adjourned the meeting at 7:50 p.m.

Craig Moore, Chairperson

Nichole Hair, Secretary Non-Voting



TOWN OF CHRISTIANSBURG

100 East Main Street
Christiansburg, VA 24073
Phone (540) 382-6120 Fax (540) 381-7238

Home Occupation Application

Applicant: Robert Muttart Phone: 392-4154 Date: 7-7-08

Proposed Home Occupation name (if any): Grass Assassins

Address: 3795 Roanoke St. Zoning District: R-2

Property owner: Robert Muttart Property owner's address: 507 Meadow Ridge Rutherford

1) Provide a detailed description of the proposed home occupation (activities involved, materials and equipment used, methods of operation, etc.): Mowing Company

Truck, Trailer, & mowers

2) What type of product or service will be provided by the proposed home occupation? Service company - Mowing

Service company - Mowing

3) How many persons will be engaged in the proposed home occupation? Please indicate if these persons live on-premises or off-premises of the home occupation. 4 3 people on lot

4) Describe any possible alterations to the premises that might be required to facilitate the proposed home occupation. (Building permits required for any structural changes/additions). None

5) Describe the area of the premises to be used by the proposed home occupation and the use. (for example: attached garage will be used to store supplies, den will contain a desk, computer, and filing cabinets).

Building behind house will be used to store supplies
such as shovels, Mowers, etc.

6) Describe any mechanical, electrical, or other equipment that would be used by the proposed home occupation. No other

7) Describe how, where, and in what amounts materials, supplies, and/or equipment related to the proposed home occupation will be displayed or stored. 1 truck & trailer in Drive way
Misc. equipment stored in building

8) Will people come to the proposed site to obtain any product, view samples, attend instructional/informational classes, or otherwise utilize the site for business purposes? Yes No
 If yes, please explain in detail (please include expected number, frequency, and hours)? _____

9) Will there be a sign for the proposed home occupation? (Signs are not allowed in the R-1 and R-1A districts; a wall-mounted 2-square foot sign may be allowed in the A, R-2, R-3, and R-MS districts only with Conditional Use Permit approval by Town Council and an approved sign permit.) Yes No

10) Will there be any outside indication of a business in connection with the proposed home occupation?
 Yes No If yes, please provide detail. 1 truck & trailer in drive way

11) If trucks or other equipment will be used in the proposed home occupation, describe the vehicles and where would they be parked or stored? other business vehicles will be located off premises.

12) Will the proposed home occupation involve pick-ups or deliveries by UPS, Federal Express, freight carriers, etc. to the proposed home occupation? Yes No If yes, please provide detail (size of vehicle, number of axles, frequency, etc.). _____

 I, the undersigned, understand and agree to the provisions of Chapter 30 "Zoning" of the Christiansburg Town Code regarding home occupations and understand that Conditional Use Permits are required for major home occupations.

Home Occupation Applicant: Robert Mather Date: 7-7-08

Property Owner (if other than applicant): _____ Date: _____

The home occupation was approved / disapproved by Town Council Town Manager / Zoning Administrator contingent upon compliance with Town Code and all specified conditions being met.

7/9/08 _____ Ronice Tapperry _____
 Date Town Manager / Zoning Administrator

Nichole Hair

From: Nichole Hair
Sent: Wednesday, April 02, 2014 3:57 PM
To: PlanningCommission
Cc: Planning
Subject: FW: 3795 Roanoke Street - Muttart CUP request
Attachments: small_aerial_2009.pdf; small_aerial_2011.pdf; small_aerial_2005.pdf; small_aerial_2007.pdf; 3795 Roanoke Street - small aerial.pdf; landscaping plan submitted by Muttart.pdf; 3795 Roanoke Street - approved home occ.pdf; 3795 Roanoke Street - small aerial 2013.pdf

Tracking:

Recipient	Read
PlanningCommission	
Planning	
Missy Martin	Read: 4/2/2014 3:57 PM
Nichole Hair	Read: 4/2/2014 3:57 PM
Sara Morgan	Read: 4/3/2014 8:09 AM
Joe Powers	Read: 4/3/2014 4:47 PM
Harry Collins	Read: 4/4/2014 9:38 AM

Recipient	Read
PlanningCommission	
Planning	
Missy Martin	Read: 4/2/2014 3:57 PM
Nichole Hair	Read: 4/2/2014 3:57 PM
Sara Morgan	Read: 4/3/2014 8:09 AM
Joe Powers	Read: 4/3/2014 4:47 PM
Harry Collins	Read: 4/4/2014 9:38 AM

All~

I have gathered additional information regarding the Muttart property/request.

Attached you will find progressive aerials of the property. There are no building permits on file for any of the buildings. The Town would/does require a permit in order to verify Zoning requirements (setbacks) at a minimum.

Attached is the approved Home Occupation application. Mr. Muttart has had a valid Business License, until recently. Mr. Muttart cannot receive a Business License from the Town because of the violations on the property. Mr. Muttart does not have the business vehicles registered at 3795 Roanoke Street, so taxes on the vehicles cannot be verified.

Attached is the landscaping plan Mr. Muttart submitted during the Public Hearing.

A violation notice was never sent to the property but Mr. Muttart was contacted by the Town on 9/12/11 in regards to the number of vehicles. Mr. Muttart was reminded he is limited to one truck and one trailer, per his approved Home Occupation application. Mr. Muttart indicated he would remove the other vehicles. Mr. Muttart was again contacted on other occasions in regards to the continued violation on his property. Mr. Muttart was contacted on 10/7/13 and advised someone associated with the business needs to live on the property. Mr. Muttart was then advised to apply for a Conditional Use Permit for a major home occupation or rezone the property. At that time Mr. Muttart completed both a CUP and rezoning application and left a \$750 check for a public hearing, but no indication as to which he wished to do. While Mr. Muttart was out of the country this Fall/Winter, Town staff spoke with the manager of Grass Assassins on numerous occasions to inquire about what Mr. Muttart planned to do in regards to the property. No action was taken by Mr. Muttart until March 2014.

Please feel free to inquire about anything else with the property.

Thank you.

Nichole Hair, CZA
Planning Director/Zoning Administrator
100 East Main Street
Christiansburg, VA 24073
(540) 382-6120 x 1130
Fax: (540) 381-7238
nhair@christiansburg.org
www.Christiansburg.org

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Resolution of the Town of Christiansburg Planning Commission

Conditional Use Permit Application

WHEREAS the Christiansburg Planning Commission, acting upon a request by the Christiansburg Town Council to study a request made by Robert Muttart for a Conditional Use Permit (CUP) for a major home occupation for a landscaping business at 3795 Roanoke Street (tax parcel 502 – ((A)) – 51) in the R-2 Two-Family Residential District, has found following a duly advertised Public Hearing that the public necessity, convenience, general welfare and good zoning practices (permit / do not permit) the issuance of a Conditional Use Permit (CUP) to Robert Muttart for a major home occupation for a landscaping business at 3795 Roanoke Street (tax parcel 502 – ((A)) – 51).

THEREFORE be it resolved that the Christiansburg Planning Commission (recommends / does not recommend) that the Christiansburg Town Council approve the Conditional Use Permit with the following condition(s):

1. There is to be no additional equipment stored on the property (other than the number of vehicles currently used by the operation – four trailers with mowing equipment and eight trucks).
2. The property is to be maintained in a clean, sanitary, and sightly manner.
3. This permit shall be revocable for violations of Chapter 4 “Advertising” of the Christiansburg Town Code occurring on the property.
4. This permit shall be subject to review by the Planning Commission and Town Council in one year.

Dated this the 14th day of April 2014.

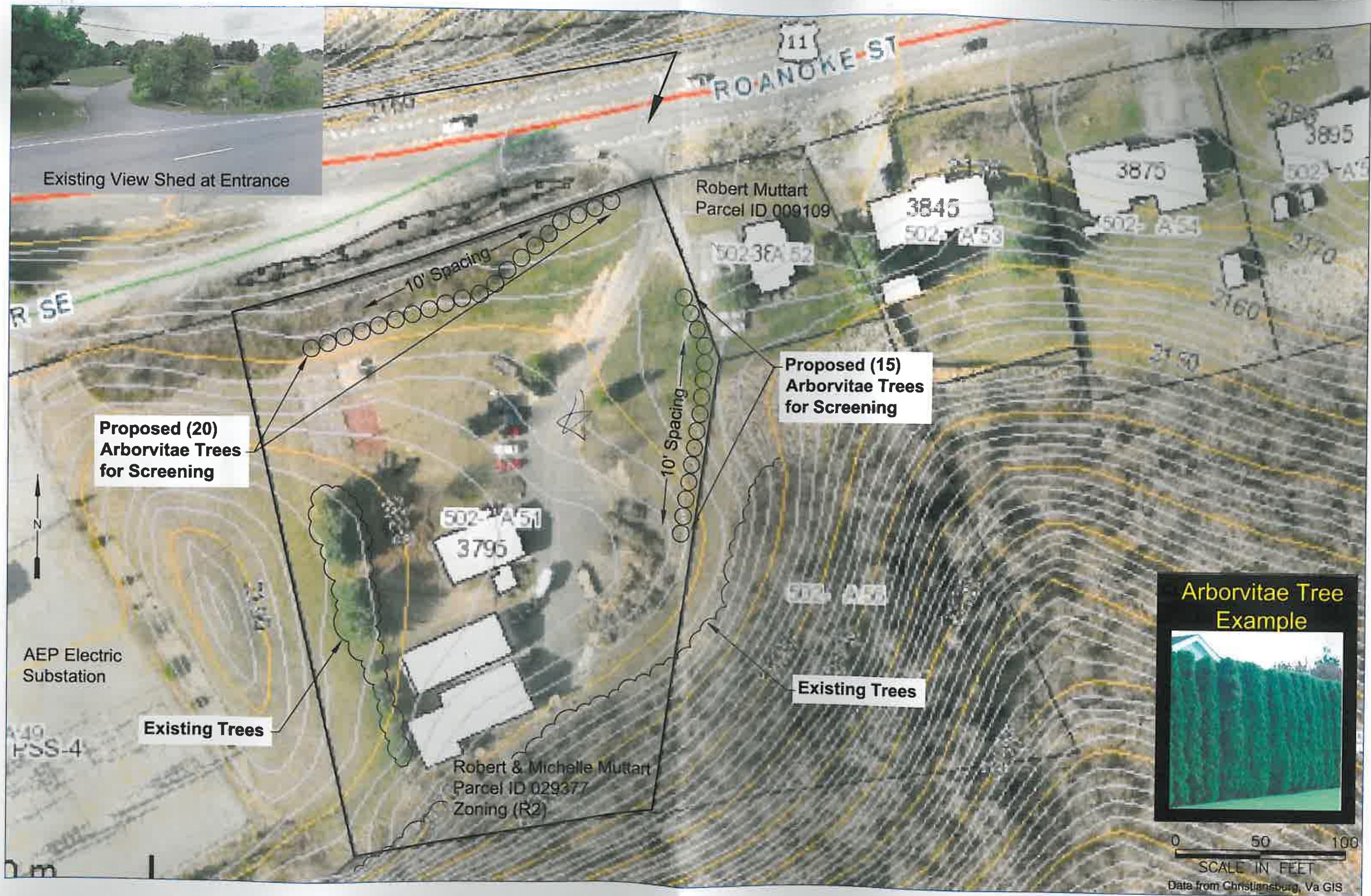
Craig Moore, Chairperson
Christiansburg Planning Commission

The above Resolution was adopted on motion by _____ seconded by _____ at a meeting of the Planning Commission following the posting of a public hearing notice upon the property and a duly advertised Public Hearing on the above request on March 31, 2014. Upon a call for an aye and nay vote on the foregoing resolution, the Commission members present throughout all deliberations on the foregoing and voting or abstaining, stood as indicated opposite their names as follows:

<u>MEMBERS</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Matthew J. Beasley				
Ann H. Carter				
Harry Collins				
M. H. Dorsett, AICP				
David Franusich				
Jonathan Hedrick				
Steve Huppert				
Craig Moore, Chairperson				
Joe Powers, Vice-Chairperson				
Jennifer D. Sowers				

Craig Moore, Chairperson

Nichole Hair, Secretary Non-voting









3795 ROANOKE STREET

2011 Aerial View

0 100 200 300

Feet

