

**Christiansburg Planning Commission
Minutes of March 3, 2014**

Present: Matthew J. Beasley
Harry Collins
Ashley Cowen
M.H. Dorsett, AICP
David Franusich
Jonathan Hedrick
Steve Huppert
Craig Moore, Chairperson
Joe Powers, Vice-Chairperson
Nichole Hair, Secretary Non-Voting

Absent: Ann H. Carter
Jennifer D. Sowers

Staff/Visitors: Kali Casper, staff
Jerry Heinline, Building Official
Chief Mark Sisson, Police Chief
Chief Billy Hanks, Fire Chief
David Smith, 2790 Roanoke Street
Linda Ince, 270 Robert Street
Tammy Germany, 215 Robert Street
Sherri Collins, 450 Tower Road
Greg Duncan, 500 Roanoke Street
Linda Hylton, 2790 Roanoke Street
Laura Justice, 2790 Roanoke Street
Glenwood Martin, 1230 Roanoke Street
Several others

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. Hearing no public comments, Chairperson Moore closed the public comment period.

Approval of meeting minutes for February 18, 2014.

Chairperson Moore introduced the discussion. Commissioner Dorsett made a motion to approve the Planning Commission meeting minutes. Commissioner Cowen seconded the motion, which passed 9-0.

Public hearing for a rezoning request by Mark Willard for property located at 205 Robert Street, S.E. tax parcel 527 – ((17 BK A)) – 29R from B-3 General Business to R-2 Two-Family Residential.

Chairperson Moore introduced the discussion. Greg Duncan indicated he was the applicant's cousin and wishing to build a single-family home that would blend into the neighborhood. Ms. Germany of 215 Robert Street asked if it would be a single-family home and asked how to prevent flooding to the neighboring houses as that lot has standing water. Chairperson Moore asked if the Town has received complaints regarding that lot. Ms. Hair responded no. Ms. Ince of 270 Robert Street responded that she has lived there for 12.5 years and the lot has always been flooded. Commissioner Powers asked to see the property on the map. Commissioner Powers asked about the zoning designation. Ms. Hair responded the parcel is zoned business. Commissioner Dorsett asked if it was from the last rezoning where a line was drawn adjoining Roanoke Street. Ms. Hair responded that was more than likely. She added the lot is approximately 80 feet wide and can only accommodate a single-family home, but the request is for R-2 zoning since that is the adjoining zoning. With no more speakers, Chairperson Moore closed the public hearing.

Commissioner Huppert asked where the neighbors live on the map. The neighbors identified their locations. Commissioner Huppert asked about the flooding concern. Ms. Germany noted the lot sits down low and there is the potential for flooding. Commissioner Collins asked about how the applicant will deal with stormwater. Mr. Duncan noted the street has curb and gutter, any runoff will be directed from the house into the street system. Ms. Hair added it will be reviewed in the development process and be discussed further with Engineering. Chairperson Moore asked if there were any proffers being made regarding a single-family home. Ms. Hair indicated there are no proffers but the lot constraints would only allow for a single-family home.

Commissioner Dorsett made a motion to recommend to Town Council the rezoning request for approval. Commissioner Beasley seconded the motion. Commissioner Huppert asked about speaking with Mr. Walters from Engineering first. Commissioner Cowen noted a business use could be built currently. Commissioner Dorsett noted the stormwater issues are generally dealt with during lot grading and the building permit process. Commissioner Moore noted residential use would be a more restrictive land use. He added a rezoning would be in accordance with the Comprehensive Plan Future Land Use Map. The motion passed 9-0.

Conditional Use Permit request by Twin Oak Properties, L.L.C. for a commercial garage at 1230 Roanoke Street (tax parcel 498 – ((7)) – 17 and 18) in the B-3 General Business District.

Chairperson Moore introduced the discussion and reviewed the drafted conditions.

1. The property is to be maintained in a clean, sanitary, and sightly manner.
2. This permit is for a commercial garage, not a body shop or towing service or for conducting bodywork.

Conditional Use Permit request by Twin Oak Properties, L.L.C. for a commercial garage at 1230 Roanoke Street (tax parcel 498 – ((7)) – 17 and 18) in the B-3 General Business District – (continued).

3. All parts, including faulty parts, tires, etc. are to be kept inside the garage or a fully enclosed building (including a roof) until disposal.
4. All waste petroleum products and/or chemicals are to be disposed of properly and are not to accumulate upon the premises. Provisions are to be made for the capture of leaking petroleum products and/or chemicals.
5. There will be no storage of vehicles upon the premises except for vehicles occasionally left for repair. All vehicles left for repair are to be kept on-premises and not within any public right-of-way or adjacent property. All vehicles on the property are to have a State inspection decal that is either valid or dated within 90 days of its expiration.
6. Mechanical work is to be done inside the building and not outside.
7. There are to be no loud offensive noises so as to constitute a nuisance to the residential properties in the vicinity.
8. There are to be no discernible noises to residential properties in the nearby vicinity between 7:00 p.m. and 7:00 a.m.
9. This permit shall be revocable for violations of Chapter 4 "Advertising" of the Christiansburg Town Code occurring on the property.
10. This permit is subject to inspections and approval of the facilities by the Fire Marshall and Building Official.
11. This permit is subject to the requirement of a site plan to be reviewed and approved by Town staff.
12. This permit shall be subject to review by the Planning Commission in one year.

Commissioner Dorsett made a motion to recommend to Town Council the Conditional Use Permit be approved with the drafted conditions. Commissioner Hedrick seconded the motion. Commissioner Huppert asked the applicant if the conditions were acceptable. Mr. Martin responded yes. The motion passed 9-0.

Conditional Use Permit request by Holiday Lodge, Inc. for a dancehall at 2790 Roanoke Street (tax parcel 501 – ((5)) – 2) in the B-3 General Business District.

Chairperson Moore introduced the discussion. Chairperson Moore asked if the Town has received any correspondence. Ms. Hair noted the attorney clarification, building plans, and police data are included in the Planning Commission packet and noted the Building Official, Police Chief, and Fire Chief are all in attendance to answer questions. Commissioner Collins asked the applicant about the percentage of food versus beverages. Mr. Smith responded approximately 75% food and 25% beverages. Commissioner Collins asked about the age for entrance into the establishment. Mr. Smith responded the age is 21. Commissioner Powers asked if the 75% versus 25% is in dollar amounts. Mr. Smith responded yes. Commissioner Collins asked about the petition and if the people under 21 had been to this location. Ms. Hylton clarified anyone 21 and under can eat in the restaurant.

Conditional Use Permit request by Holiday Lodge, Inc. for a dancehall at 2790 Roanoke Street (tax parcel 501 – ((5)) – 2) in the B-3 General Business District – (continued).

Commissioner Collins asked about designated drivers the applicant proposed to use. Ms. Hylton responded the ABC discouraged the business getting involved in providing drivers. Commissioner Collins asked about the hours for alcohol sales. Ms. Hylton responded 6 p.m. to 2 a.m. Commissioner Collins asked when the band stops playing. Ms. Hylton responded 1 a.m.

Commissioner Collins asked about security on the premises. Mr. Smith responded there are bouncers. Commissioner Collins asked Chief Sisson if the applicant would be responsible for actions of people in their building. Chief Sisson responded that criminally they would not be responsible but may be found responsible in civil litigation. Commissioner Collins asked about procedure for noise complaints. Ms. Hair noted the Planning Commission can include conditions regarding noise.

Commissioner Collins asked if the Police Department has any sort of permits for this type of business. Chief Sisson responded no. Commissioner Dorsett asked about noise levels and complaints. Chief Sisson responded the Police Department has investigated complaints. He added the statistics provided are for the last 5 years at 2790 Roanoke Street, which includes 3 different bars and the hotel. Chief Sisson noted there have been a few drunk in publics, which are typical of a bar but no other issues have been documented with the current business owners. He added there was one noise violation in the last five years but there are more than that in residential neighborhoods daily.

Commissioner Franusich asked about a comparison with the rest of Town in terms of call volume. Chief Sisson stated historically there has been increased call volume associated with the property. Commissioner Hedrick asked if the data showing 18 ambulance calls is typical of hotels. Chief Sisson responded that over a 5 year period, it is typical. Commissioner Hedrick asked about the rationale behind a 5 year time frame. Chief Sisson responded the data is what is currently available without a hand search of records. Commissioner Powers noted it is approximately 30 calls a year and asked if that amount is typical of a commercial establishment. Chief Sisson responded that it is likely close to typical. He noted the call volume will increase with a bar. Commissioner Huppert asked about the average age of clientele. Ms. Hylton said they range from 21 to 80 years old. She added the clientele is different and no longer a biker bar. Commissioner Hedrick asked if any additional security measures have been considered. Ms. Hylton responded they need to consider them if approved.

Commissioner Collins asked if smoking was permitted. Ms. Hylton said not in the building. Commissioner Collins asked about an emergency evacuation plan. Ms. Hylton said there are five exits and all are posted. Commissioner Collins asked if Chief Hanks has any concerns from his visit. Chief Hanks responded no concerns and that it seemed orderly. He added they refused service to an intoxicated individual.

Conditional Use Permit request by Holiday Lodge, Inc. for a dancehall at 2790 Roanoke Street (tax parcel 501 – ((5)) – 2) in the B-3 General Business District - (continued).

Commissioner Huppert asked about the number of people allowed in the establishment. Mr. Heinline noted in 2011 the previous applicant requested to operate as a bar. Mr. Heinline added 'bar' is a generic term that does not apply to the building code; instead there are nightclubs and restaurants. The applicant wanted to operate as a restaurant and so tables were required to be placed on the dance floor. Commissioner Huppert asked how many people are permitted. Mr. Heinline responded there can be 193 people as a restaurant based on 5,000 square feet of the building. He added anything exceeding 99 people for a nightclub must have a sprinkler system and anything exceeding 300 people for a restaurant must be sprinkled. Commissioner Hedrick asked if the establishment included a sprinkler system. Ms. Hylton responded there is not a sprinkler system as they do not own the building and the owner will not add one. Commissioner Collins asked how many people would be allowed if the tables were removed from the dance floor. Mr. Heinline responded it would then be considered a nightclub and could only have 99 people. Commissioner Dorsett asked about expanding the restaurant.

Ms. Hylton responded regarding the 10% dance floor area. She added they plan to expand to 12,000 square feet. Mr. Heinline responded that a sprinkler would be required with expansion. He added a restaurant with more than 5,000 square feet must also be sprinkled. Commissioner Hedrick asked for clarification on the number of people allowed. Mr. Heinline responded 99 people as a nightclub and 193 people as a restaurant. Ms. Hair indicated per the Town Attorney, the 10% area does not apply to zoning and building but gives localities the ability to require permits and other licenses for a dance hall.

Ms. Hylton asked about continuing live entertainment as a restaurant. Mr. Heinline responded yes with tables on the dance floor. Mr. Heinline reviewed the process for a change of use within the building code. Commissioner Dorsett asked if the establishment has always been a nightclub. Mr. Heinline responded it may have operated that way but was not permitted as a nightclub. He noted that it was permitted as a restaurant. He added it has not had building code safety issues to his knowledge.

Commissioner Hedrick asked about any regulations regarding charging to enter a restaurant. Mr. Heinline responded nothing in the building code. Ms. Hylton noted they were misled by the previous tenant. Mr. Heinline added the previous tenant was not forthright with the Town. He noted the building plans stamped by an architect show the layout as a restaurant. Commissioner Franusich asked about how to enforce proper usage. Mr. Heinline suggested securing the tables to the floor. Commissioner Huppert asked about a ratio of tables. Mr. Heinline responded it can be designed numerous ways as long as it complies with the building code.

Conditional Use Permit request by Holiday Lodge, Inc. for a dancehall at 2790 Roanoke Street (tax parcel 501 – ((5)) – 2) in the B-3 General Business District (continued).

Commissioner Powers asked about the 5,000 square foot threshold for a sprinkler system. Mr. Heinline responded it would be required for anything over 5,000 square feet and has since 1978. Commissioner Franusich asked if they were grandfathered. Mr. Heinline responded yes and the previous tenant was restricted from using the upstairs. He added one of the inspectors did not know of this previous requirement. Commissioner Powers asked if the landowner has been in contact regarding this. Mr. Heinline has spoken with Mr. Dowdy once about this.

Ms. Hylton asked if they could have more people as a restaurant than a nightclub. Mr. Heinline responded yes. Commissioner Powers noted it would require a sprinkler system due to the size. Mr. Heinline responded it is grandfathered. Commissioner Powers asked if restaurant could be expanded. Mr. Heinline responded it would require a sprinkler system if it was expanded. Commissioner Cowen asked if the applicant still wants a conditional use permit if they are limited to 99 people. The applicants responded no. Mr. Heinline explained the safety concerns an inherent in a nightclub. Commissioner Hedrick noted he will be abstaining from the vote as his church is adjacent to this location. He added that the area is more developed than previously.

Mr. Heinline noted the property could continue to operate as a restaurant. Mr. Heinline added the building code considers the primary use of the building. Multiple commissioners asked for clarification regarding what constitutes a nightclub. Mr. Heinline noted the music creates the nightclub. Commissioner Franusich asked for further clarification. Commissioner Dorsett concurred. Mr. Heinline and Chief Hanks clarified the building code defines it as "any building in which the main use is a place of public assembly that provides exhibition, performance or other forms of entertainment; serves alcoholic beverages; and provides music and space for dancing". Commissioner Dorsett noted without a dance floor, it could be a restaurant with live music. Commissioner Hedrick asked for further clarification. Mr. Heinline and Ms. Hair noted the building code looks at the primary use of the building. Mr. Heinline reviewed the definition again. Commissioner Dorsett asked for clarification. Ms. Hair responded it is regarding the main use of the building. Chief Hanks noted some localities issue two use groups to some buildings as they operate restaurants during the day and nightclubs in the evening. He added this could be considered in the future.

Commissioner Dorsett noted the applicant could have the restaurant, bar, and live music and no dance floor. Commissioner Hedrick responded that is open to interpretation particularly due to the hours of operation. Mr. Smith noted they would like to expand their hours of operation. Ms. Hylton added they have been misled and that they cannot run a business with 85 customers allowed.

Conditional Use Permit request by Holiday Lodge, Inc. for a dancehall at 2790 Roanoke Street (tax parcel 501 – ((5)) – 2) in the B-3 General Business District (continued).

Commissioner Cowen asked if approval of the application would limit the business to 99 people and how they can remain operating as a restaurant. Ms. Hair responded it could be withdrawn, denied, or tabled if there are concerns regarding the use. Commissioner Powers added the request could be withdrawn up until Town Council votes on it. Ms. Hylton responded they would like to withdraw the application in that case. Mr. Heinline noted that as long as the tables remain on the dance floor it can operate as a restaurant.

Ms. Casper clarified that regardless of the outcome of the application for a conditional use permit, they can continue to operate as a restaurant by-right. Ms. Hair noted they could make the decision on how to operate if the request is approved. Ms. Casper added they could use the conditional use permit and increase occupancy in the future if they were able to provide a sprinkler system. Commissioner Huppert suggested a rent increase to pay for the sprinkler system if the owner was interested.

Chairperson Moore noted the conditional use permit could potentially be valid for two years. Commissioner Collins asked how many people have been frequenting the business. Mr. Smith responded approximately 85 on Saturday and 67 on Friday. Ms. Hylton asked if a sprinkler system would allow for more people without tables on the dance floor. Ms. Hair responded yes assuming the conditional use permit is approved by Town Council. Commissioner Hedrick asked about tabling the request until the building is sprinkled. Commissioner Powers responded the Planning Commission must act on it within a reasonable amount of time. Commissioner Dorsett noted the applicant can continue to operate as is and with an approved request, they have two years to put in a sprinkler system and increase occupancy.

Commissioner Collins suggested adding a sign to the property. Ms. Justice noted they would like to make the establishment a better place. Commissioner Collins asked about the ID process. Ms. Justice responded they double-check IDs; once to enter and then again at the bar. Mr. Smith noted underage patrons can eat dinner but cannot come in for the bands. Ms. Hylton responded they check IDs with no exceptions. Commissioner Hedrick recommended checking in with the neighbors. Ms. Hylton added they want to change the reputation of the business.

Chairperson Moore reviewed the drafted conditions:

1. This permit shall be revocable for violations of Chapter 4 "Advertising" of the Christiansburg Town Code occurring on the property.
2. This permit is subject to inspections and approval of the facilities by the Fire Marshall and Building Official.
3. The facility is limited to no more than 6 pool tables.
4. This permit shall be subject to review by the Planning Commission in one year.

Conditional Use Permit request by Holiday Lodge, Inc. for a dancehall at 2790 Roanoke Street (tax parcel 501 – ((5)) – 2) in the B-3 General Business District (continued).

Commissioner Dorsett added she would like to condition hours of operation. Commissioner Dorsett asked about controlling noise in the parking lot. Ms. Hylton responded they have walkers who check the parking lot but cannot control what goes on at the hotel. She added they fenced in the patio to avoid people sneaking in liquor. After discussion, Commissioners came to a consensus on the following additional conditions:

5. All entertainment, including but not limited to bands, karaoke and djs, shall end by 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday and Thursday nights and by 1 a.m. on Saturday and Sunday mornings.
6. Before this Conditional Use Permit may be utilized for the operation of a dancehall/nightclub with more than 99 occupants, a sprinkler system will be required to be installed per Building Code.
7. This permit is nontransferable and to remain with the applicant, Holiday Lodge, Inc.
8. The property is to be maintained in a clean, sanitary, and sightly manner.

Chairperson Moore asked staff for any additional thoughts on conditions. Chief Sisson responded no and he will report back on the data when the permit is reviewed.

Ms. Hair reviewed the drafted conditions:

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3. The facility is limited to no more than 6 pool tables.
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8. The property is to be maintained in a clean, sanitary, and sightly manner.

Conditional Use Permit request by Holiday Lodge, Inc. for a dancehall at 2790 Roanoke Street (tax parcel 501 – ((5)) – 2) in the B-3 General Business District (continued).

Commissioner Cowen made a motion to recommend to Town Council the Conditional Use Permit be approved with the drafted conditions. Commissioner Franusich seconded the motion which passed 8-0, with Commissioner Hedrick abstaining.

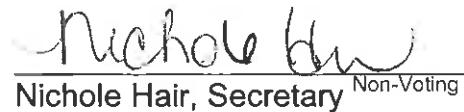
Other business.

Chairperson Moore introduced the discussion. No other business was heard.

There being no more business Chairperson Moore adjourned the meeting at 8:45 p.m.



Craig Moore, Chairperson



Nichole Hair, Secretary

Non-Voting