

**CHRISTIANSBURG TOWN COUNCIL  
CHRISTIANSBURG, MONTGOMERY CO., VA.  
MINUTES OF MARCH 18, 2008 AT 7:30 P.M.**

A REGULAR MEETING OF THE CHRISTIANSBURG TOWN COUNCIL, MONTGOMERY COUNTY, CHRISTIANSBURG, VA. WAS HELD AT THE CHRISTIANSBURG TOWN HALL, 100 EAST MAIN STREET, CHRISTIANSBURG, VA, ON MARCH 18, 2008 AT 7:30 P.M.

COUNCIL MEMBERS PRESENT: Mayor Ballengee, Councilmembers Barber, Canada, Carter, Huppert, Stipes, and Wade. COUNCIL MEMBERS ABSENT: None. Also present Town Manager Terpenny, Assistant Town Manager Helms, Town Clerk Stipes, Planning Director Wingfield, and Town Attorney Guynn.

PLANNING COMMISSION MEMBERS PRESENT: Commissioners Booth, Byrd, Carter, Moore, Poff, Simmons, and Vanhoozier. PLANNING COMMISSION MEMBERS ABSENT: None.

MAYOR BALLENGEE stated there was a quorum present of Council Members and Planning Commission Members.

PLEDGE OF ALLEGIANCE led by Clerk of Council Stipes.

**JOINT PUBLIC HEARING**

1. Rezoning request by Medhi Hazer for property at 910 Peppers Ferry Road, N.W. (tax parcels 434 – ((A)) – 19 and 20) from A Agricultural to B-1 Limited Business. The property contains approximately 0.63 acres and is scheduled as Mixed Use - Residential/Limited Business in the Future Land Use Map of the Christiansburg Comprehensive Plan. Mr. Steve Semones of Balzer and Associates addressed Council on behalf of the applicant. The applicant plans to build an approximately five thousand square foot building to be used as a physicians' office for herself and one other doctor. Mr. Semones said that he projects approximately thirty to forty vehicles would enter the parking lot during peak hours. The lot is currently empty. Mr. Dennis Lytton owns adjoining property and he voiced his concern with additional traffic, and with the current unkempt condition of the property. He asked that this request not be approved until Route 114 has been widened. Ms. Hazer commented that she is aware that the property has not been properly maintained, and that this would be a property improvement project.

**REGULAR MEETING**

MAYOR BALLENGEE called the Regular Meeting of Council to order and asked if there were any additions or corrections to the Minutes of March 4, 2008. There being none, the minutes were approved as presented.

**CITIZEN HEARINGS:**

MAYOR BALLENGEE opened the Citizen Hearings for those desiring to address Council.

**PLANNING COMMISSION'S RECOMMENDATIONS ON THE JOINT PUBLIC HEARING REQUESTS:**

1. Rezoning request by Medhi Hazer for property at 910 Peppers Ferry Road, N.W. (tax parcels 434 – ((A)) – 19 and 20) from A Agricultural to B-1 Limited Business. The property contains approximately 0.63 acres and is scheduled as Mixed Use - Residential/Limited Business in the Future Land Use Map of the Christiansburg Comprehensive Plan. At Chairperson Simon's request, Secretary Terpenny read the Planning Commission's resolution recommending Town Council approve the rezoning as requested. The vote was unanimous with one abstention.
2. Planning Commission's recommendation on the Conditional Use Permit request by D.L. Draughn for property at 655 Depot Street for residential use in the B-3 General Business District. (This request was tabled for further review at the March 4, 2008 meeting.) Secretary Terpenny read the Planning Commission's resolution recommending Town Council deny the CUP request. The Planning Commission vote is as follows: Four in favor, two opposed, one absent.

MR. DONALD AGEE TO ADDRESS COUNCIL REGARDING SEWER ON ELK DRIVE. Mr. Donald Agee, along with his wife, Naomi, submitted to Council a request that the Town run a sewer line from the Radford Street connection to 1355 and 1365 Radford Street on up to lots 50, 51, and 52 on Elk Drive. The couple's daughter, Caroline Brizendine, and her family plan to build a house on the lots on Elk Drive. Elk Drive has been surveyed and marked for sewer extension. This area was

incorporated into the Town in 1988. Mr. Agee thanked Council for the opportunity to speak. Town Manager Terpenny said that the plans for extending the sewer lines to the Elk Drive area are complete. He also stated that the project has been in the budget, and the Town hopes to begin the project during the 2008 – 2009 fiscal year.

There being no one else to address Council, MAYOR BALLENGEE closed the Citizen Hearings.

DISCUSSIONS BY MAYOR AND COUNCIL MEMBERS:

COUNCIL ACTION ON THE PLANNING COMMISSION'S RECOMMENDATIONS ON THE JOINT PUBLIC HEARING REQUESTS:

1. Rezoning request by Medhi Hazer for property at 910 Peppers Ferry Road, N.W. (tax parcels 434 – ((A)) – 19 and 20) from A Agricultural to B-1 Limited Business. The property contains approximately 0.63 acres and is scheduled as Mixed Use - Residential/Limited Business in the Future Land Use Map of the Christiansburg Comprehensive Plan. Councilman Barber made a motion to accept the Planning Commission's recommendation to approve the rezoning as requested. Councilman Wade seconded the motion, and Council voted as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.
2. Conditional Use Permit request by D.L. Draughn for property at 655 Depot Street for residential use in the B-3 General Business District. (This request was tabled for further review at the March 4, 2008 meeting.) Manager Terpenny stated that the new information submitted tonight by Mr. Draughn, was reviewed and considered by the Planning Commission when making its decision to recommend Town Council deny the request. Councilman Huppert commented that after attending both Planning Commission workshops, visiting the disheveled site, and considering the proffers submitted by the builder to keep the facade in character with historic Cambria, he believes the request should be considered. Councilman Canada pointed out that although this area has been designated "business development" by the Town, the land does not lay well for a business because of the elevation. He further commented that it will be difficult to deny this request, because of the "historical factor", when the proffers submitted by the developer are in keeping with historical character and can be included as conditions in the CUP. Councilman Barber commented that there are many buildings in the Cambria area that don't meet the characteristics of a "historical" building, and with the new proffers submitted by the developer, he is inclined to support the request. Councilman Barber stated that it needs to be recognized that the land buyer and the developer took the time to come up with conditions that would be satisfactory to the Cambria area, per Council's previous discussion about this request, and that they are willing to negotiate. Councilman Barber then made a motion to deny the Planning Commission's recommendation to deny the request, seconded by Councilman Canada. At Mayor Ballengee's direction, Town Clerk Stipes polled Council as follows: Barber – AYE, Canada – AYE, Carter – NAY, Huppert – AYE, Stipes – NAY, and Wade – AYE. Councilman Wade commented he, too, attended the workshops, and much of the new information submitted by the developer is what the Planning Commission and residents said they wanted. He also visited the site and remarked that it is currently neglected and this development will be an improvement. Councilman Wade said he supports the request, with the proffers set as conditions of the CUP. Manager Terpenny told Council that the Planning Commission recommends that Council consider creating an overlay district for development standards in the Town's three historic districts. Manager Terpenny said that the Town's engineering department will review/approve the site plans, and will monitor the site to ensure that the developer meets the conditions set forth in the CUP. The CUP can be revoked at anytime for noncompliance. Councilman Canada made a motion to issue the Conditional Use Permit, with the following conditions: 1) All roofs on residential structures shall be installed with "Architectural" shingles; 2) All siding on residential structures shall be "dutch lap" or "bead board" vinyl siding; 3) All foundations will be brick veneered with a "tumble style" brick; 4) Exterior doors will be six panel doors in a color complementary to the siding; 5) Siding color will be complementary to the existing Cambria Depot; 6) All windows facing Cambria Street will be patterned with 6 over 6 pattern "grilles"; 7) No more than 2 units will share the same façade setback; 8) Gable ends of buildings will utilize "scallop style" siding in a complementary color to the building siding; 9) All siding trim will be white to provide "framing" of the buildings similar to the renovated houses on Depot Street; 10) All units facing Depot Street will have a "shed roof" front porch at least 4' wide and would have a minimum 3' high banister with pickets; 11) The CUP will expire if the developer deviates from residential use. The motion was seconded by Councilman Barber. After further discussion by Council, Councilman Canada made a motion to amend his previous motion to include a condition that states, "There shall be substantial compliance with Concept Plan #5, prepared by Gay and Neel, Inc. (Job No. 1946.0 dated 1/16/08)"; and to delete the condition that the CUP will expire if the developer deviates from residential use. The motion was seconded by Councilman Wade, and Mayor Ballengee asked Town Clerk Stipes to poll Council on the motion, as follows: Barber – AYE, Canada – AYE, Carter – AYE, Huppert – AYE, Stipes – AYE, and Wade – AYE.

TAX EXEMPTION FOR ELDERLY AND HANDICAPPED. Town Manager Terpenny explained that, in the past, the Town has adopted Montgomery County's guidelines for providing tax exemptions to the elderly and the handicapped, and the County

bases it's guidelines on State guidelines. The County has recently adjusted its threshold for providing the tax exemption, based on State legislation. Qualifications now are income must be no greater than Thirty Thousand Dollars (\$30,000) per year, with a net worth not to exceed One Hundred Thousand Dollars (\$100,000). Only the elderly and the handicapped can qualify for the tax exemption. Manager Terpenny noted that the increased threshold is not enough to impact the Town's budget. Councilman Canada made a motion that the Town adopt Montgomery County's adjusted guidelines for the tax exemption. The motion was seconded by Councilman Wade, and Council voted as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.

GO GREEN VIRGINIA INITIATIVE. Councilman Barber made a motion to participate in the Go Green Virginia Initiative sponsored by the Virginia Municipal League. Councilman Stipes seconded the motion and Council voted as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.

CHRISTIANSBURG CEMETERY CORPORATION – TRANSFER OF ASSETS. Each Councilmember was given a copy of the financial statement for review. Town Manager Terpenny presented to Council a Resolution signed by the Cemetery Board transferring cemetery assets to the Town of Christiansburg. Mayor Ballengee expressed gratitude to Councilwoman Ann Carter for her seventeen years of dedication to Sunset Cemetery, for which she received no compensation. Councilman Stipes expressed his gratitude as well, saying that being on the Town's Cemetery Committee gave him insight into the daily operations of the cemetery. Councilman Barber agreed and commented that he is pleased with the transfer and believes the Town is fulfilling its moral obligation to its citizens, as well as ensuring the integrity of years of work by the cemetery board members. Councilman Barber made a motion to approve the transfer of assets from the Sunset Cemetery Board to the Town of Christiansburg, seconded by Councilman Huppert. Council voted as follows: AYES: Barber, Canada, Huppert, Stipes, and Wade. NAYS: None. ABSTAIN: Carter. Mayor Ballengee said he will appoint a Cemetery Committee, headed by Councilmen Stipes and Barber, in the near future.

MR. STIPES AND MR. CANADA – Street Committee Recommendations on:

1. Plat showing Relocation/Vacation of Boundary Line and Subdivision of Property for Guy F. Ellett, 3 lots, Roanoke Street, Miller Street, and Robert Street. Councilman Stipes reported that this request is to create three lots out of the existing two lots, and to adjust the boundary lines accordingly. All is in order with the plat and Councilman Stipes made a motion to approve the plat seconded by Councilman Wade. Council voted as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.

MAYOR BALLENGEE reported that Mr. Shane Adams of the Montgomery County Chamber of Commerce will be at the April 15<sup>th</sup> meeting to present on the Tourism Committee. Mayor Ballengee asked Council to bring to him any questions they may have for Mr. Adams.

CLOSED MEETING:

1. MAYOR BALLENGEE requested a Closed Meeting under Section 2.2-3711A(3), *Code of Virginia*, for the discussion or consideration of the acquisition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. On motion by Councilman Canada, seconded by Councilman Barber, Council voted to enter into a Closed Meeting. Town Clerk Stipes polled Council as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.
2. COUNCILMAN BARBER made a motion to end the Closed Meeting and enter into Regular Meeting, seconded by Councilman Huppert. Town Clerk Stipes polled Council as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.
3. CERTIFICATION – Councilman Stipes moved to certify that the Town Council of the Town of Christiansburg, meeting in Closed Meeting, to the best of each member's knowledge, discussed only the matters lawfully exempt from open meeting requirements by Virginia Law and only such matters as are identified in the Resolution to enter into Closed Meeting. Councilwoman Carter seconded the certification and Council voted as follows: AYES: Barber, Canada, Carter, Huppert, Stipes, and Wade. NAYS: None.

TOWN MANAGER REPORTS:

TOWN MANAGER TERPENNY brought before Council problems concerning a Conditional Use Permit issued to Thomas Nossee, agent for property owner, Don Bailey, at 10 Badger Street, for a body shop. The CUP was amended in November, 2006. Since that amendment, there have been numerous violations of the CUP and the property is currently in violation of several of the conditions of the CUP. A copy of the Conditional Use Permit is attached herewith as reference. Mr. Thomas Nosse, the

property tenant and owner of the body shop was present, but the property owner, Don Bailey, is the person responsible for compliance with the CUP. The violations have been an ongoing issue, and Mr. Nosse argued that many of the cars declared "inoperable" by the Town are in fact operable cars in need of body repairs. Mr. Nosse said he has made progress in the past several months moving the cars from visibility, per the CUP, but he still has not cleared the weeds and underbrush. Mr. Nosse said he has repeatedly asked Mr. Bailey to bring the site into compliance, but he seems unmotivated to comply with the conditions set and agreed upon in the CUP. Mr. Nosse said this is his only source of income and he can not afford to lose his business. Councilman Canada asked about the Town's options in a situation such as this. Manager Terpenny replied that Town Council has the authority to revoke the CUP, essentially shutting down the operation, or it can extend graces as it desires. Town Attorney Guynn commented that it may be hard to pursue this as a legal matter, but that a court summons may be the push Mr. Bailey needs to bring his property into compliance. Councilman Canada pointed out that the tenant also needs to do his part in caring for the property. After much discussion, the consensus of Council is to direct Town Attorney Guynn to contact the Commonwealth's Attorney to decide the steps necessary for holding the owner of the property liable for CUP compliance. Mr. Guynn will then provide a letter to Mr. Bailey via hand-delivery by the Christiansburg Compliance Officer. Mr. Nosse was given two weeks to bring violations he is responsible for into compliance. These violations include the number and location of inoperable vehicles on the site.

ADJOURN:

There being no further business to bring before Council the meeting was adjourned at 9:50 P.M.

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Michele M. Stipes, Clerk of Council

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Richard G. Ballengee, Mayor