



Town of Christiansburg Planning Commission Tuesday, May 29, 2018 Agenda

Planning Commission

Chairperson

Jennifer D. Sowers

Vice-Chairperson

Hil Johnson

Non-Voting Secretary/

Planning Director

Andrew Warren

Other Members

Ashley Briggs
Catherine Clifton
Harry Collins
Mark Curtis
Jessica Davis
Jeananne Knees
Craig Moore
Ann Sandbrook

Town Manager

Randy Wingfield

Town Attorney

Guynn &
Waddell, P.C.

**Planning
Commission's
Next Meeting:
Monday, June 18,
2018 at 7:00 p.m.**

WORK SESSION

Planning Commission will meet in the Christiansburg Town Hall located at 100 E. Main Street on **Tuesday, May 29, 2018 at 6:00 PM** to hold a work session on a Conditional Use Permit request by Peggy Beasley for a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance at 255, 275, and 365 Starlight Drive, S.E., (Tax Map Nos. 529 – A – 12; 529 – A – 13; and 529 – A – 14) in the B-3, General Business zoning district.

REGULAR MEETING

Planning Commission will meet in the Christiansburg Town Hall located at 100 E. Main Street on **Tuesday, May 29, 2018 at 7:00 PM** for the purpose of allowing the full Commission to review the following:

PLEDGE OF ALLEGIANCE

- 1) Public comments – 5 minute limit per citizen.
- 2) Approval of Planning Commission Minutes for May 14, 2018 meeting.
- 3) Public Hearing on a Conditional Use Permit request by Marie E. March, agent for Big Bear Properties LLC/Fatback Soul Shack LLC for a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance at 2440 Roanoke Street (Tax Map Nos. 500 – A – 8A; 500 – A – 8; and 500 – A – 9B, 9C, 9D) in the B-3, General Business zoning district.
- 4) Public Hearing on a Conditional Use Permit request by Marie E. March, agent for Big Bear Properties LLC/Due South BBQ LLC for a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance at 1465 and 1495 Roanoke Street (Tax Map No. 529 – 8 – 27) in the B-3, General Business zoning district.
- 5) Discussion/Action on a Conditional Use Permit request by Peggy Beasley for a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance at 255, 275, and 365 Starlight Drive, S.E., (Tax Map Nos. 529 – A – 12; 529 – A – 13; and 529 – A – 14) in the B-3, General Business zoning district.
- 6) Other Business.

For a description of the preceding items or to view the Town's Zoning Map, Zoning Ordinance, and Future Land Use Map, please contact the Planning Department in the Christiansburg Town Hall, 100 East Main Street during office hours of 8:00 a.m. - 5:00 p.m. Monday through Friday. Written comments may be sent to the address below; please allow adequate mailing time. For any further assistance, please contact Andrew Warren, Planning Director at (540) 382-6120 ext.1130 or awarren@christiansburg.org.

**Christiansburg Planning Commission
Minutes of May 14, 2018**

Present:

Ashley Briggs
Catherine Clifton
Harry Collins
Jessica Davis
Hil Johnson, Vice-Chairperson
Craig Moore
Ann Sandbrook
Andrew Warren, Secretary Non-Voting

Absent:

Mark Curtis
Jeananne Kries
Jennifer D. Sowers, Chairperson

Staff/Visitors:

Will Drake, staff
Jared Crews, staff
Adam Carpenetti, staff
Chris Waltz, 1370 Rigby Street
Christopher Larson, Elliston, VA
Dennis Kiernan, 1380 Starlight Court
Johnathon Taylor 685 School Lane
Stacy Martin, 782 New River Road
Sandra Thomas, 1365 Starlite Court
Eric Roth, 195 Willow Oak Drive
Gordon Shapiro, Shapiro & Kurtin

Vice-Chairperson Johnson called the meeting to order at 7:00 p.m. in the Christiansburg Town Hall at 100 E. Main Street, Christiansburg, Virginia.

Public Comment

Vice-Chairperson Johnson opened the floor for public comment.

Chris Waltz, 1370 Rigby Street, provided the Planning Commission with a collection of communications between Town officials, Town staff, and citizens obtained through a Freedom of Information Act request. Mr. Waltz pointed out quotes from the communications that he felt demonstrated a lack of open government,

misinformation, and the targeting of local businesses by the Town.

Christopher Larson, 1167 Brick Road, Elliston, Virginia, stated he is not a resident of Christiansburg but is employed in Christiansburg and has paid taxes to the Town. Mr. Larson stated he feels the Town is limiting free speech and the need for businesses to obtain a Conditional Use Permit is not in line with the concept of liberty. Mr. Larson stated the Town is representing a minority of its constituency with its Noise Ordinance, which most citizens do not support.

With no further comments, Vice-Chairperson Johnson closed the floor for public comment.

Approval of Planning Commission Minutes for April 30, 2018 Meeting

Vice-Chairperson Johnson introduced the discussion. Commissioner Moore made a motion to approve the April 30, 2018 Planning Commission meeting minutes. Commissioner Briggs seconded the motion, which passed 7-0.

Public Hearing on a Conditional Use Permit request by Peggy Beasley for a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance at 255, 275, and 365 Starlight Drive, S.E., (Tax map nos. 529 - A - 12; 529 - A - 13; and 529 - A - 14) in the B-3, General Business Zoning district.

Vice-Chairperson Johnson opened the public hearing.

Mr. Warren explained the request before the Commission was the first Conditional Use Permit under the new Noise Ordinance and noted Town staff will provide the Planning Commission with any additional information desired. Mr. Warren reminded the Commission of the new noise allowance levels and the process for measurement and enforcement of the Noise Ordinance.

Mr. Warren explained Ms. Beasley, Starlite Drive-In, was requesting an allowance for short bursts of sound not exceeding 75 decibels and not lasting for more than 60 seconds at once. Mr. Warren stated Ms. Beasley was also requesting that the theater be allowed to run the first movie of an evening according to daytime noise allowance levels. Mr. Warren noted the standards requested would extend Mondays through Sundays until 1:00 am.

Dennis Kiernan, 1380 Starlight Court, stated he lives behind the Starlite Theater with a son who has a neurological disorder. Mr. Kiernan stated nothing in the application put forth by Ms. Beasley demonstrated the Noise Ordinance would negatively affect the business of Starlite Drive-In and he feels the business could follow the ordinance without modification. Mr. Kiernan noted the theater does not operate year-round but has requested year-round exemptions to the Noise Ordinance and pointed out the application requested the allowance of concerts. Mr. Kiernan stated he felt the

behavior of Starlite Drive-In has been adversarial and no effort has been made to reach out to its neighbors in relation to complaints. Mr. Kiernan stated it is difficult to sleep during loud portions of movies such as gunshots or screaming and noted windows in his home have shaken due to noise.

Johnathon Taylor, 685 School Lane, stated he was present on behalf of Ms. Beasley. Mr. Taylor stated Starlite Drive-In had continuously worked with Town officials and neighbors of the property to address issues with noise. Mr. Taylor stated the noise of the current sound system was no louder than previous speakers used on the property and noted the windows of Ms. Beasley's home had never shaken due to noise despite her living on the theater property. Mr. Taylor stated the Starlite Drive-In has lost \$100,000 due to issues related to its ongoing conflicts with the Town.

Stacy Martin, 782 New River Road, played a video clip he had recorded of music being played at The Farmhouse and asked why no complaints had been received due to the noise levels as music could be heard in houses on neighboring properties. Mr. Martin stated he has gone to areas surrounding Starlite Drive-In and he has not been able to clearly hear the films. Mr. Martin stated he felt Starlite Drive-In's request was reasonable and that information was kept from citizens and the Planning Commission when the Noise Ordinance was drafted. Mr. Martin noted foliage was a possible solution to blocking the spread of sound but asked the Commission to consider the financial limits of businesses.

Mr. Martin noted his concern that people using pressure washers and children being loud while playing outside will have police showing up to enforce the Noise Ordinance.

Sandra Thomas, 1365 Starlite Court, stated she has lived at her home since 1978 and only recently heard of Starlite Drive-In affecting neighboring properties with noise. Ms. Thomas stated she walked the street outside her home and could not hear noise from the theater over the traffic of Roanoke Street and Interstate 81. Ms. Thomas stated she feels the opinion of the majority of neighbors should be considered over the complaints of a minority.

Christopher Larson, Elliston, Virginia stated he is a patron of the theater and he fears the new Noise Ordinance will force Starlite Drive-In out of business. Mr. Larson stated Town residents will travel elsewhere if the theater is no longer operating. Mr. Larson stated he has spoken with residents of Christiansburg as well as people traveling through Town and none have mentioned being bothered by the noise of the Starlite Drive-In. Mr. Larson asked whether there was an agenda behind the complaints against the noise at Starlite Drive-In.

Eric Roth, 195 Willow Oak Drive, stated he had been led to believe the Town was not targeting any businesses with the new Noise Ordinance. Mr. Roth urged the Commission to work with Ms. Beasley to find a compromise through the Conditional

Use Permit process.

Gary Chandler, 1340 Starlite Court, stated he lives directly behind Starlite Drive-In. Mr. Chandler stated he has never been bothered by the noise from the theater and Ms. Beasley has been a good neighbor. Mr. Chandler noted the theater was in place before residential uses were established in the area.

With no further comment, Vice-Chairperson Johnson closed the public hearing.

Public Hearing on a Rezoning request by Guy Matthew and Wendy W. Funk at 1800 Depot Street, N.E. (Tax Map nos. 498 – A – 90 and 498 – A – 90A) in the B-3, General Business zoning district to the R-1, Single Family Residential zoning district. The property is designated as Residential on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.

Vice-Chairperson Johnson opened the Public Hearing.

Mr. Funk stated they moved from Roanoke and have been living at 1800 Depot Street, NE for about three weeks. Mr. Funk added he works in Radford and moved to Christiansburg to live at this historic property. Mr. Funk stated there is no immediate intent to run the home as a bed and breakfast despite the property's use in the past. Mr. Funk explained they would like to rezone the property so it will be subject to residential taxation as opposed to commercial taxation.

With no further comment, Vice-Chairperson Johnson closed the Public Hearing.

Discussion on a Conditional Use Permit request by Peggy Beasley for a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance at 255, 275, and 365 Starlight Drive, S.E., (Tax map nos. 529 - A – 12; 529 – A – 13; and 529 – A – 14) in the B-3, General Business Zoning district.

Vice-Chairperson Johnson opened the discussion and noted the Commission is willing to seek solutions to address noise level conflicts within the Town.

Mr. Warren reminded the Commission noise levels would be measured at the source of the complaint and noted the Starlite Drive-In is surrounded by residential uses. Mr. Taylor explained Starlite Drive-In was requesting for the additional noise allowance to be measured from receiving properties.

Ms. Beasley stated the theater operates on Thursday through Sunday beginning at 7:00 p.m. from April to September.

Mr. Warren noted Starlite Drive-In had requested additional noise allowance only on the first showing each night as the second showing would be broadcast through car radios rather than the outdoor speaker system.

Ms. Beasley stated the standard run time of movies is generally around two and a half hours, meaning the theater usually operates until around 1:00 a.m.

Commissioner Collins asked why 75 decibels was being requested. Mr. Taylor stated 75 decibels would account for spikes in noise such as shouts or gunshots but noted the theater has not reached that level of sound up to this point in the current season.

Commissioner Sandbrook asked staff to provide the Commission with the decibel level that would wake someone up from sleeping.

Commissioner Moore asked whether a timeframe for the additional noise allowance could be set based on the theater's operating season. Mr. Taylor stated additional allowance from the beginning of April to the end of September or possibly October could meet the needs of the theater.

Vice-Chairperson Johnson asked staff to attempt to independently determine the validity of conflicting reports such as whether windows were shaken by noise. Mr. Warren stated he would check with Chief Sisson to see if police reports noted rattling windows.

Mr. Taylor stated the decibel level of Starlite has never exceeded 60 decibels at the property line based on his measurements this season. Mr. Taylor explained he has used an A-weighted decibel meter for the measurements. Mr. Martin showed the Commission pictures of noise level readings from Flint Drive and Starlight Court taken during movie showings.

Mr. Taylor noted the theater would be willing to ask for only a 65 decibel allowance. Mr. Taylor invited the Commission to hold a public meeting on site at the Starlite Drive-In in order to listen to the noise levels of the movies.

Gordon Shapiro, Shapiro & Kurtin, asked if the property would be held to the "plainly audible" noise determination outlined in the Noise Ordinance if the Conditional Use Permit were granted. Mr. Warren stated the ordinance still carries the language regarding plainly audible noises but the Commission could discuss whether that measurement would be addressed in the Conditional Use Permit. Mr. Shapiro stated his law office feels the "plainly audible" language is unconstitutional and the Town should consider possible legal repercussions if that measurement is used.

Mr. Taylor stated the rear of the property is covered by a chain-link fence as well as trees in most places. Commissioner Briggs asked if the theater would be willing to plant additional trees in the less dense areas along the fence. Ms. Beasley and Mr. Taylor stated the theater would be willing to explore that option.

Commissioner Sandbrook asked about C-weighted decibel, or dBC, measurements

and how they would be regulated by the Conditional Use Permit. Mr. Taylor noted there is no bass currently in Starlite Drive-In's sound system which minimizes dBC levels.

Commissioner Sandbrook asked about Starlite Drive-In's request for additional noise allowances for concerts. Mr. Taylor explained concerts would be regulated under the same standards requested for movies. Mr. Taylor explained concerts would not run later than 9:00 p.m. Commissioner Sandbrook requested the wording of the Conditional Use Permit address both concerts and movies.

The Commission determined that it would be helpful to hold a site visit to gain an idea of the noise levels. Mr. Taylor stated traffic noise from Roanoke Street and I-81 could be more accurately captured around 6:00 p.m. and noted the ambient noise level generally drops around 7:00 or 8:00 p.m.

Vice-Chairperson Johnson asked Mr. Warren and Mr. Taylor to find a time to hold the public meeting on site.

Mr. Warren explained the flea market held at Starlite Drive-In was regulated under its existing Conditional Use Permit and those standards would remain.

The Commission decided to hold a work session at 6:00 p.m. on May 29, 2018 to further discuss the Conditional Use Permit.

With no further comment Vice-Chairperson Johnson closed the discussion.

Discussion/Action on Rezoning request by Guy Matthew and Wendy W. Funk at 1800 Depot Street, N.E. (Tax Map nos. 498 – A – 90 and 498 – A – 90A) in the B-3, General Business zoning district to the R-1, Single Family Residential zoning district. The property is designated as Residential on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.

Vice-Chairperson Johnson opened the discussion.

Mr. Warren noted the property is currently used as a single-family home and the proposed change is to the zoning rather than the use. Mr. Warren explained the land could be evaluated as a residential property and be taxed accordingly if the rezoning is approved. Mr. Warren stated the property would likely be difficult to develop commercially as it is partially in the floodplain and is considered a historic property.

Mr. Warren stated if a bed and breakfast use was desired for the property in the future, a rezoning to the B-3 district would be required. Ms. Funk stated there is no immediate intent to operate a bed and breakfast at the property and added she understood a rezoning would be required. Mr. Funk noted there is a home and carriage house on the property.

Commissioner Collins noted the property was designated as Residential on the Future Land Use Map.

Ms. Funk stated there are no current plans to develop the vacant parcel located next to AutoZone. Mr. Funk stated this parcel would be difficult to develop.

Mr. Warren explained access to Roanoke Street from the vacant parcel could be established under R-1 zoning while access to a business use on that property from Roanoke Street would probably not be allowed due to safety concerns.

Commissioner Moore stated there would be safety concerns with access to Roanoke Street from the parcel regardless of zoning.

Mr. Funk stated the family intended to use the property as one large parcel and he would be willing to vacate the lot line between the two parcels. Commissioner Moore noted a proffer could be used to ensure no connection to Roanoke Street would be established.

The following proffer was discussed:

“There shall not be a driveway entrance installed on Roanoke Street from Tax Map Parcels 498-A 90 or 498-A 90A. If desired in the future, a driveway access to Tax Map Parcel 498-A 90A shall have a shared access with Tax Map Parcel 498-A 90.”

Commissioner Collins motioned to recommend Town Council approve the rezoning request with the proffer as discussed. Commissioner Briggs seconded the motion, which passed 7-0.

Mr. Warren stated the Town Council Public Hearing on the rezoning request would be held June 12, 2018.

With no further discussion, Vice-Chairperson Johnson closed the discussion.

Other business.

Vice-Chairperson Johnson opened the discussion.

Mr. Warren stated a Comprehensive Plan Sub-Committee meeting was held earlier tonight and the following amendments to the Comprehensive Plan were discussed:

- Reinstate and update of the history section
- New language and edits made to the technology section to include broadband and its importance to the Town’s future.

Mr. Warren explained the Code of Virginia requires localities review their Comprehensive Plan every 5 years and noted a more in-depth review of the Comprehensive Plan would likely occur during the summer and fall.

Commissioner Sandbrook announced a “Talk of the Town” event would be held by Downtown Christiansburg, Inc. on May 17 at 6:30 p.m. at the Oaks Bed and Breakfast.

Commissioner Collins announced the New River Valley Regional Commission would be holding a special event May 15 to grant Special Citizens Awards.

Adam Carpenetti, Town IT Director, presented the Planning Commission with information regarding the Town’s transition to Office 365 software. Mr. Carpenetti also discussed email retention policies with the Commission.

With no other business, Vice-Chairperson Johnson adjourned the meeting at 8:44 p.m.

Jennifer D. Sowers, Chairperson

Andrew Warren, Secretary Non-Voting



ESTABLISHED
NOVEMBER 10, 1792

INCORPORATED
JANUARY 7, 1833

MAYOR
D. MICHAEL BARBER

COUNCIL MEMBERS
SAMUEL M. BISHOP
HARRY COLLINS
STEVE HUPPERT
MERISSA SACHS
HENRY SHOWALTER
BRADFORD J. "BRAD" STIPES

TOWN MANAGER
RANDY WINGFIELD

ASSISTANT TO THE TOWN
MANAGER
ADAM CARPENETTI

DIRECTOR OF
FINANCE/TOWN TREASURER
VALERIE L. TWEEDIE,
CPA, CFE, CGFM

CHIEF OF POLICE
MARK SISSON

CLERK OF COUNCIL
MICHELE M. STIPES

TOWN ATTORNEY
GUYNN & WADDELL, P.C.

Town of Christiansburg, Virginia 24073

100 East Main Street ~ Telephone 540-382-6128 ~ Fax 540-382-7338

Planning Department

Staff Report

Application Type: Conditional Use Permit

Applicant: Marie E. March, agent for Big Bear Properties LLC/Fatback Soul Shack LLC

Location: 2440 Roanoke Street

Proposal: Loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance.

Request

The Town of Christiansburg has received a Conditional Use Permit request by Marie E. March, agent for Big Bear Properties LLC/Fatback Soul Shack LLC for a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance at 2440 Roanoke Street (Tax Map Nos. 500 – A – 8A; 500 – A – 8; and 500 – A – 9B, 9C, 9D) in the B-3, General Business zoning district. The subject property is used as a restaurant and features live music entertainment.

In the B-3, General Business District, a Conditional Use Permit is required for a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance in the General Business (B-3) zoning district, per Sec. 42-336 (60) of the *Christiansburg Town Code*.

Background

This Conditional Use Permit — along with the CUP from the same owner for Due South BBQ — are the second and third applications received for a petition to exceed the Noise Ordinance after Town Council's adoption of an amendment to its Noise Ordinance, Chapter 24 "Nuisances" on April 24, 2018. The amended Noise Ordinance prohibits noise that is plainly audible within another person's enclosed dwelling unit or exceeds the sound pressure levels on the property of another person during the time periods specified in Table 1, Sec. 24-33 of the *Christiansburg Town Code*.

Table 1. Maximum Permissible Sound Pressure Levels

Outdoor Sound Level Limit in dB(A)		
Sound Receiving Zoning District	Day Period: 7:00 am-10:00 pm	Night Period: 10:00 pm-7:00 am
Agricultural-A, Residential-R-1A, R-1, R-2, R-3, R-MS, and Mixed-Use-MU-1, MU-2	57 dB(A)	52 dB(A)
Business-B-1, B-2, B-3	65 dB(A)	65 dB(A)

(i) On Friday and Saturday nights only, the Night Period shall begin at 11:00 pm instead of 10:00 pm.

(ii) Sounds that are heard outdoors that are audibly apparent to have a low-frequency emphasis (e.g., bass frequencies) may also be measured with sound level meter set on dB(C) scale, Fast response. The resultant dB(C) measurements shall not exceed the dB(A) values of Table 1 by more than 5 decibels in any sound receiving zoning district for the specified time period.

The Conditional Use Permit option was added to the Noise Ordinance and the Zoning Ordinance at this time to provide for properties to exceed the Noise Ordinance on a recurrent nature. Under the Noise Ordinance, permitted sound pressure levels are dependent on the time of day the sound is being generated and the zoning district of the property receiving the sound. In the business zoning districts (B-1, B-2, and B-3), sound generated on one person's property may not exceed 65 decibels on the property of another person at any time of the day. In all other zoning districts (excluding industrial zoned property), sound generated on one person's property may not exceed 57 decibels during the daytime period (7:00 am – 10:00 pm) or 52 decibels during the nighttime period (10:00 pm – 7:00 am). On Friday and Saturday nights, the daytime period is extended an additional hour and the nighttime sound pressure levels do not have to be observed until 11:00 pm.

Sound pressure levels are measured in A-weighted decibels, dB(A). In order to regulate sounds that have a low-frequency emphasis, the Noise Ordinance also provides for sounds to be measured on the dB(C) scale and those measurements are not to exceed the values given in Table 1, Sec. 24-33 by more than 5 decibels.

Application

Based on the attached emails on May 8 and May 12 with Marie March, as well as a discussion with Marie and Jared March on May 25, the following items have been offered by the Applicant in consideration for their Conditional Use Permit application.

- 1) The maximum noise measurements shall be 85 dB(A) from a receiving residential use property for amplified music in order to be heard above the ambient noise level of traffic on Interstate 81 on Thursday, Friday, Saturday, and Sunday nights until midnight.
(The Applicant has proposed these levels that are above the maximum 65 dB(A) level in the B-3 zoning district given its proximity to the interstate and the high level of the resting ambient noise in the area. It was mentioned by Mrs. March that the ambient noise level at the Shell Station located at 2375 Roanoke Street is 70 dB(A) to 90 dB(A). Mrs. March has asked the Town to take measurements of the ambient noise levels and measurements when an event was happening. The Town has purchased a decibel meter meeting all the recommended requirements. Staff believes that it will be possible to have readings performed with the new equipment prior to the next scheduled Planning Commission meeting on June 18, 2018. Mrs. March mentioned in her 5/8/2018 email that this standard was proposed to cover live music on Thursday, Friday, and Saturday nights and most likely church events and fundraiser events on Sunday not lasting past 10PM.)
- 2) The noise ordinance standards shall not apply to any receiving property of loudspeaker, sound amplification, and outdoor sound system noise for business or industrial uses within industrial or business zoning districts (B-1, B-2, B-3, I-1, or I-2 zoning districts).
(The property is surrounded by B-3 zoned property that extends along Roanoke Street. There is also some B-3 zoned property along Houchins Road. The closest industrially zoned property is along Houchins Road and within the Christiansburg Industrial District approximately 600 feet from the subject property. There are residential properties further down Roanoke Street in the Simmons Street/Fairview Street area that are zoned B-3 and still would be subject to the noise limitations stated in standards #1 and #3.)

- 3) In lieu of measuring the sound indoors with the plainly audible measurement, sound measurements taken indoors shall measure 85 dB(A) on residential property. (*The Applicant will need to clarify whether the standard is intended to cover residentially zoned properties or residential properties in general.*)
- 4) Any noise measurement within an enclosed dwelling unit shall also require the windows of the dwelling unit to be closed.
(The definition of enclosed dwelling in the newly adopted ordinance “means the dwelling unit has its doors closed.” It was written to not require windows being shut in case the complainant had their windows open due to hot weather or preference at the time of the complaint. This standard would require the windows to be shut prior to any decibel reading being taken.)
- 5) Complaint-based enforcement only.
(In a statement provided by the Police Department, the Town does not routinely patrol for noise violations and the majority of noise investigations are complaint-based. However, officers are responsible for investigating potential violations they witness and cannot be restricted to only complaint-based enforcement.)
- 6) Name and address of complainant needs to be public record (not anonymous) – police should follow up with us the next business day so we can discuss any current employee issues and see if there is a retaliatory issue at play.
(In a statement provided by the Police Department, not providing complainant information is a fundamental part of police procedure and in some instances may be regulated by the Virginia Freedom of Information Act. This condition would not be enforceable if other state and federal protections applied. Mr. and Mrs. March did want to state that knowing where a complaint is coming from is important for them to be able to resolve the noise issue if it arises.)

Other Land Use Information

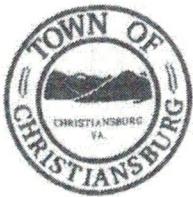
The property is not located within the 100-Year Flood Hazard Area or a Historic District. The property is not located within an Urban Development Area. The adjoining properties are zoned B-3, General Business and are comprised of commercial uses.

Public Hearing Dates

The Planning Commission Public Hearing is scheduled for Tuesday, May 29, 2018 and the Town Council Public Hearing is scheduled for Tuesday, June 26, 2018.

List of attachments included with staff report

1. Conditional Use Permit application	3. Zoning map
2. Aerial map	4. Adjoining properties



TOWN OF CHRISTIANSBURG

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

Conditional Use Permit Application

Landowner: Big Bear properties / FATBACK SOUL SHACK LLC / Due South BBQ LLC
Address: 2198 Sowers Rd.

Agent: MARIE E. MARCH

Address: _____

Phone: 540-230-7582

Phone: _____

I am requesting a Conditional Use Permit to allow a loudspeaker/sound amplification/
outdoor sound system in excess of the noise ordinance
on my property that is zoning classification B-3 under Chapter 42: Zoning of the
Christiansburg Town Code.

My property is located at 2440 Roanoke Street + 1465 Roanoke St.

Tax Parcel(s): 500-A 9B, 9C, 9D

Fee: N/A

I certify that the information supplied on this application and any attachments is accurate and true to the best of my knowledge. I understand that Conditions may be placed on my property in regards to the above mentioned use/activity. I also understand that the Conditional Use Permit may be revoked and/or additional Conditional Use Permits required should questions regarding conformity arise.

Signature of Landowner(s): See Attached, Handwritten Appendix A Date: _____

with Signature.

Date: May 7, 2018

Date: _____

This request was approved / disapproved by a vote of the Christiansburg Town Council on _____.
Any Conditions attached shall be considered requirements of the above request.

Appendix A

Per our recorded concerns, in print and in media, at numerous Town Hall hearings and meetings-

We, hereby, are Not in favor of this measure being imposed by Government on our businesses and on our rights.

We built our businesses under a code that exempted our businesses.

If this Conditional Use Permit prevents future Government intrusion and Overreach and we are left Unimpeded. Then we will continue to invest and do great things in the community.

If we continue to be harassed by Government, then we will challenge the Validity of your actions all the way to the United States Supreme Court.

We will fight for our rights, for small business rights, for property owners' rights, for Church and Religious freedom, for Women's rights, for Musicians' and Artists' rights and All person's seeking entertainment and happiness- in order to teach you, The Town of Christiansburg Town Government- that this is and will always be, an idea and a country worth fighting for, America.

Sincerely,

Marie E March

Andrew Warren

From: Marie March <mariemarch78@hotmail.com>
Sent: Saturday, May 12, 2018 9:26 AM
To: Andrew Warren
Subject: Re: CUP schedule - Fatback Soul Shack and Due South

Andrew,

Yes, for Due South and Fatbacks we need to ask for decibel measurements to be taken indoors, in lieu, of the plainly audible "measurement". Also, need to request that any complainer is documented and investigated (no anonymous complaints!) In the restaurant business we work with drug convicted folks, felons, sex offenders etc and have to fire some of these characters from time to time. Many times they will attempt to cause us problems shortly after being job terminated. For example- the health Dept will not investigate anonymous claims and will seek our help for recent bad situations that resulted in job termination. So, we feel that CPD needs to consider this when investigating a complaint and thoroughly investigate individual complaining and ask us as to any current "situations" .. Another current example going on right now at Due South (we have had to call officers about) there's a fellow living in a trailer behind DSBBQ that has yelled racist remarks at a black employee for past two years. It would not surprise me if he decides to report a noise violation in the future and cause everyone a lot of headache.

We have been through quite an ordeal with having a police officer come into our lawfully operating place of business at FBSS and shut down a lawfully operating event (completely illegal and unconstitutional on the part of the Town). So, we are asking to be treated with at least as much respect and dignity as you treat your police officers or your town council. Our businesses bring thousands of tourists and families to Cburg and WE know the value we bring to the area, whether our local politicians realize it or not.

Here's additions we need on both CUP permits-

- 1) Complaint-based enforcement only
- 2) Name and address of complainer needs to be public record (not anonymous)- police should follow up with us the next business day so we can discuss any current employee issues and see if there is a retaliatory issue at play.
- 3) decibel readings taken indoors (residential) 95 decibel (in lieu of plainly audible)
- 4) no enforcement of noise ordinance on receiving land if land is zoned business or industrial
- 5) days and hours - Thursday, Friday, Sat and Sunday until 12am. Provisions for allowable noise are extended until these times

Also, we would like a definition added to your code if not already- "indoors" means- an "enclosed dwelling"- all windows and doors are closed- for measurement purposes. Not an officer stepping inside a threshold with windows and doors open and taking a reading. Is "enclosed" and or "indoors" defined?

Thanks,
Marie

Sent from my iPhone

On May 11, 2018, at 4:36 PM, Andrew Warren <awarren@christiansburg.org> wrote:

Marie,

The decibel readings aren't intended to be taken indoors typically under the new ordinance standards. Plainly audible would be the standard used indoors. Having said that, the CUP application can include

the standards you think you need. One may be decibel level indoors instead of measuring plainly audible with the manufactured homes to the back?

Thanks,
Andrew

From: Marie March [mailto:mariemarch78@hotmail.com]
Sent: Friday, May 11, 2018 12:27 PM
To: Andrew Warren
Subject: Re: CUP schedule - Fatback Soul Shack and Due South

Andrew,
Sounds great, I believe we will be good with 90 decibels at Due south bbq. I still want to ascertain- these are measured from complaint at receiving household ..indoors? That was never very clear.
Thanks,
Marie

Sent from my iPhone

On May 11, 2018, at 9:56 AM, Andrew Warren <awarren@christiansburg.org> wrote:

Hi Marie,
Here is the schedule I had sent over for Fatback Soul Shack before. The schedule for Due South is the same. As we talked over the phone, you all are encouraged to attend each meeting as you all are the best to represent your applications. I do want to catch up with you early next week regarding the Due South application so I am clear on the standards exceeding the noise ordinance that you would like to propose. Please call me with any questions.
Best,
Andrew
382-6120 ext. 1130

Tuesday, May 8, 2018 *completed this past Tuesday*	<i>Schedule public hearing with Town Council (on Consent Agenda)</i>
Tuesday, May 29, 2018	Planning Commission Public Hearing *due to Memorial Day*
Monday, June 18, 2018	Planning Commission Action
Tuesday, June 26, 2018	Town Council Public Hearing
Tuesday, July 10, 2018	Town Council Action

Andrew Warren

From: Marie March <mariemarch78@hotmail.com>
Sent: Tuesday, May 8, 2018 4:17 PM
To: Andrew Warren
Subject: Re: Conditional Use Permit

Andrew,

Yes, per your email below, these are the standards with the addition of days/ hours. Hours for events will be until midnight -days will be Thursday, Friday and Saturday nights (seldom on Thursdays/ but we are working with out of town booking agents and could potentially get a big name group for a Thursday if passing thru.) Also, area Churches are holding revivals and we do have some fundraisers planned for Sunday's so we will not be going later than 10p but will be louder than ambient on Sundays.

Thanks,

Marie

Sent from my iPhone

On May 8, 2018, at 3:05 PM, Andrew Warren <awarren@christiansburg.org> wrote:

Marie,

Please provide standards that you believe will exceed the noise ordinance for both businesses.

From your previous email, are these the standards you want to put forward for Fatback Soul Shack?

- Fence being 8' in height privacy/ wood panels for privacy/ noise screen.
- Music will be 90- 125 decibels in order to get above ambient noise of interstate.

Where there any other standards that are anticipate exceeding such as the hours?

I will have a chance to catch up with the Police Chief tomorrow afternoon to be able to see about your earlier request for getting sound readings. If you want to move forward with the standards above, just let me know.

Andrew

From: Marie March [<mailto:mariemarch78@hotmail.com>]
Sent: Tuesday, May 8, 2018 11:06 AM
To: Andrew Warren
Subject: Re: Conditional Use Permit

Andrew,

Attached is permit for Fatback Soul Shack LLC, Big Bear Properties LLC (entity that owns the 2 properties) and Due South BBQ LLC. Am also attaching see Appendix A- with signature- to further go on record with disapproval of being forced to comply with these new measures at our places of business. We are willing and hopeful a CUP will solve the "noise" problem, but I don't foresee any good coming from this process (other than 3 vacant seats in next year's election and some brand new folks coming to Town Council.)

And per your sign compliment, I know Jim at Power Zone is happy to finally have his sign as well, though Route 8 donuts not so much 😞

Thanks,
Marie

From: Andrew Warren <awarren@christiansburg.org>
Sent: Monday, May 7, 2018 12:23 PM
To: Marie March
Subject: RE: Conditional Use Permit

Marie,

This sounds good. I know it is hard to figure out what the decibel levels should be given the ambient noise level. I'm happy to continue this conversation further. I will do some research and I will see where we are with being able to provide some readings.

Please give me a call about the property you have in mind. I have been working with some folks on similar projects.

It's a good consideration to go ahead and get the CUP for Due South since you will be at the meetings already. The music would be pretty well contained indoors so I'm not positive of the impact, but I see your point that the units are right there to the back of the building.

Your Fatback Soul Shack sign looks good from I-81.

Call at anytime

Thanks,
Andrew

(540)382-6120 ext. 1130

From: Marie March [mailto:mariemarch78@hotmail.com]
Sent: Friday, May 4, 2018 1:27 PM
To: Andrew Warren
Subject: Re: Conditional Use Permit

Hi Andrew,

We are planning on our fence being 8' in height privacy/ wood panels for privacy/ noise screen.

Also, I need help filling out CUP permit. I have no idea how many decibels we need to put on permit. My guess is music will be 90- 125 decibels in order to get above ambient noise of Interstate and Lee Hwy (Roanoke Street)- ambient decibels fluctuate 65-90. We may have our band at Fatbacks tomorrow play outside on the stage (weather permitting) and try to get some readings with our phones.

Additionally, on another completely different subject- we are working with some folks on a project to provide drug rehab and housing. We have been very involved with To Our House organization (and United Way) for many years. Those are some of the Churches and organizations that we heavily contribute to. Anyway, there is a property in Cburg that we are looking at to rehab and I'd like to discuss that with you.

Perhaps you could bring ANSI certified decibel meter sometime next week to Fatbacks to take some readings of ambient, we can fill out permit (I'm also concerned with Due South BBQ being caught up in this- the trailers located immediately behind the restaurant are definitely a cause of concern for our music there as well- do I need to fill out a permit for DSBBQ too?)

Thanks,

Marie March

From: Andrew Warren <awarren@christiansburg.org>

Sent: Tuesday, May 1, 2018 8:12 PM

To: Marie March

Subject: RE: Conditional Use Permit

Ok. Let me look into this further.

Please let me know if the application information is clear enough when you have a chance.

Thanks,

Andrew

From: Marie March [mailto:mariemarch78@hotmail.com]

Sent: Tuesday, May 1, 2018 4:07 PM

To: Andrew Warren

Subject: Re: Conditional Use Permit

Yes- we have no idea what decibels to put down- ambient is 70-90 currently at shell station across the street

Sent from my iPhone

On May 1, 2018, at 3:59 PM, Andrew Warren <awarren@christiansburg.org> wrote:

Hi Marie,

Here is an application with sample information attached. Let me know if you have trouble reading my writing.

The remaining information that would be needed besides what is on the form is:

- 1) Adding the landowner information.
- 2) Signing the application *If an LLC owns the land, then a member
or registered agent should sign*

The "agent" information at the top of the form probably does not need to be filled out if you plan to be the lead representative. The "agent" information is generally for a third party like an engineering firm or architect when it is acting on behalf of the owner.

Did you also have a question on other information to provide? Such as proposing details estimated hours/days of operation, location on the site and direction of the speaker system, possible proposed sound mitigating factors (fence, landscaping, etc.), and/or the proposed decibel level limits on the property or adjacent properties. Just let me know.

Thanks,
Andrew

From: Marie March [<mailto:mariemarch78@hotmail.com>]

Sent: Tuesday, May 1, 2018 1:36 PM

To: Andrew Warren

Subject: Re: Conditional Use Permit

I honestly have no idea how to fill this out. Am not sure what to put? Can someone help me to fill it out

Sent from my iPhone

On May 1, 2018, at 1:16 PM, Andrew Warren <aawarren@christiansburg.org> wrote:

Marie,

I wanted to check in to see if you all were still planning to submit the conditional use permit application to be on the next agenda cycle. I typically send the items to the Town Clerk by the end of today to place on the consent agenda, but I can wait a bit if needed to send it to her.

If it won't be available by Thursday morning, it can still be scheduled at the next meeting by Randy if more time is needed. In this case, we would need the application by Tuesday, May 8 by noon for the meeting that evening. Just let me know.

Thanks,
Andrew

From: Andrew Warren
Sent: Friday, April 27, 2018 12:35 PM
To: 'Marie March'; Randy Wingfield
Subject: RE: Fatback mural

Marie,

I noticed that the CUP schedule formatting might not have been on separate lines for each meeting as intended. Please find the table below with the same information in an easier to read format. All meetings start at 7PM.

Thanks,

Andrew

Tuesday, May 8, 2018	Schedule public hearing with Town Council (on Consent Agenda)
Tuesday, May 29, 2018	Planning Commission Public Hearing *due to Memorial Day*
Monday, June 18, 2018	Planning Commission Action
Tuesday, June 26, 2018	Town Council Public Hearing
Tuesday, July 10, 2018	Town Council Action

----Original Message----

From: Andrew Warren
Sent: Wednesday, April 25, 2018 4:08 PM
To: 'Marie March'; Randy Wingfield
Subject: RE: Fatback mural

Hi Marie,

A mural with the drawings you provided (they are attached also) would not be considered a sign and be subject to the sign ordinance. The best guidance I can provide moving forward for other drawings is that it would not be considered a sign if it is not advertising for specific events and featured artists, it does not depict food/drink items that are sold at the restaurant, or have the name of any business, hours of operation, or other information about the business. If there are any questions once you have a more specific layout for what will be painted on the fence, please contact me.

As I understand it, the fence that is being proposed is 6 feet in height. Is this correct? I just wanted to confirm.

Fence permits are not required, but there are a number of items to consider when placing a fence on your property: (1) Locate

your property corners to ensure the fence is being placed within your property. If you are unsure about the location of property corners, many plats showing the boundaries of property can be located in the Clerk of Circuit Court's office, specifically the Records Room, in the Montgomery County Courthouse at 55 East Main St., Suite 1, Christiansburg, VA - (540) 382-5760. I believe you have contacted VDOT, but you will want to continue to work with them to ensure that it is in compliance with state requirements when bordering a limited access interstate; (2) there are no setback requirements for fences but barbed wire and electric fences are not allowed within five feet of and parallel to any street right-of-way; (3) a fence may be placed in a public utility or drainage easement on your property; however, it is your responsibility to move the fence if the easement needs to be accessed or to make sure that drainage is not impeded by the placement of the fence. The plat of your property should show any easements on the property if they exist; and (4) if you are placing a fence on a corner lot, a 20-foot site triangle needs to be met to ensure the safety of road users. The site triangle is an area formed by a straight line connecting two points, one in each street, on the adjacent street right-of-way line 20 feet distant from the intersection of the two street right-of-way lines which border the property. [Town Code Sec. 30-14(a)].

Attached also is the Conditional Use Permit application. The use will be "a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Chapter 24". On an attached sheet to the application, please describe the activities anticipated to exceed the noise ordinance. Details could include items such as estimated hours/days of operation, location on the site and direction of the speaker system, possible proposed sound mitigating factors (fence, landscaping, etc.), and/or the proposed decibel level limits on the property or adjacent properties. Please contact me to discuss any specifics further. The next public hearing schedule is as follows if the application is received by Tuesday, May 1st:

Tuesday, May 8, 2018 - schedule public hearing with Town Council (on Consent Agenda)
Tuesday, May 29, 2018 - Planning Commission Public Hearing *held on Tuesday due to Memorial Day*
Monday, June 18, 2018 - Planning Commission Action
Tuesday, June 26, 2018 - Town Council Public Hearing
Tuesday, July 10, 2018 - Town Council Action

Again, please email or call (540)382-6120 (ext.1130) for any questions or clarifications. I am available to meet if it is more convenient.

Thanks,
Andrew

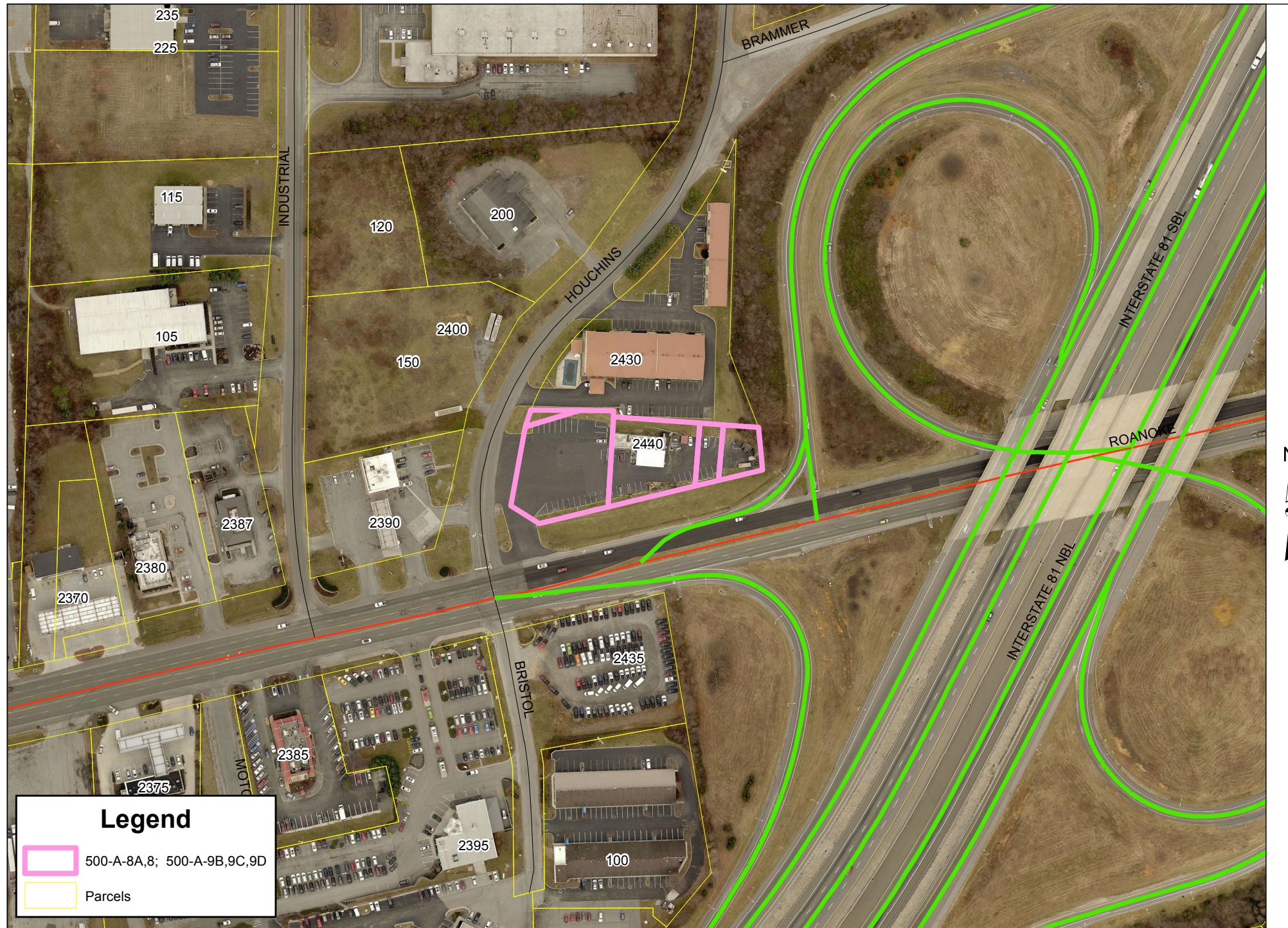
-----Original Message-----

From: Marie March [mailto:mariemarch78@hotmail.com]
Sent: Wednesday, April 25, 2018 8:40 AM
To: Andrew Warren; Randy Wingfield
Subject: Fatback mural

Andrew,
I need a reply email in regards to last night conversation that we
are approved for fence and mural.
Also, how do I apply for free CUP

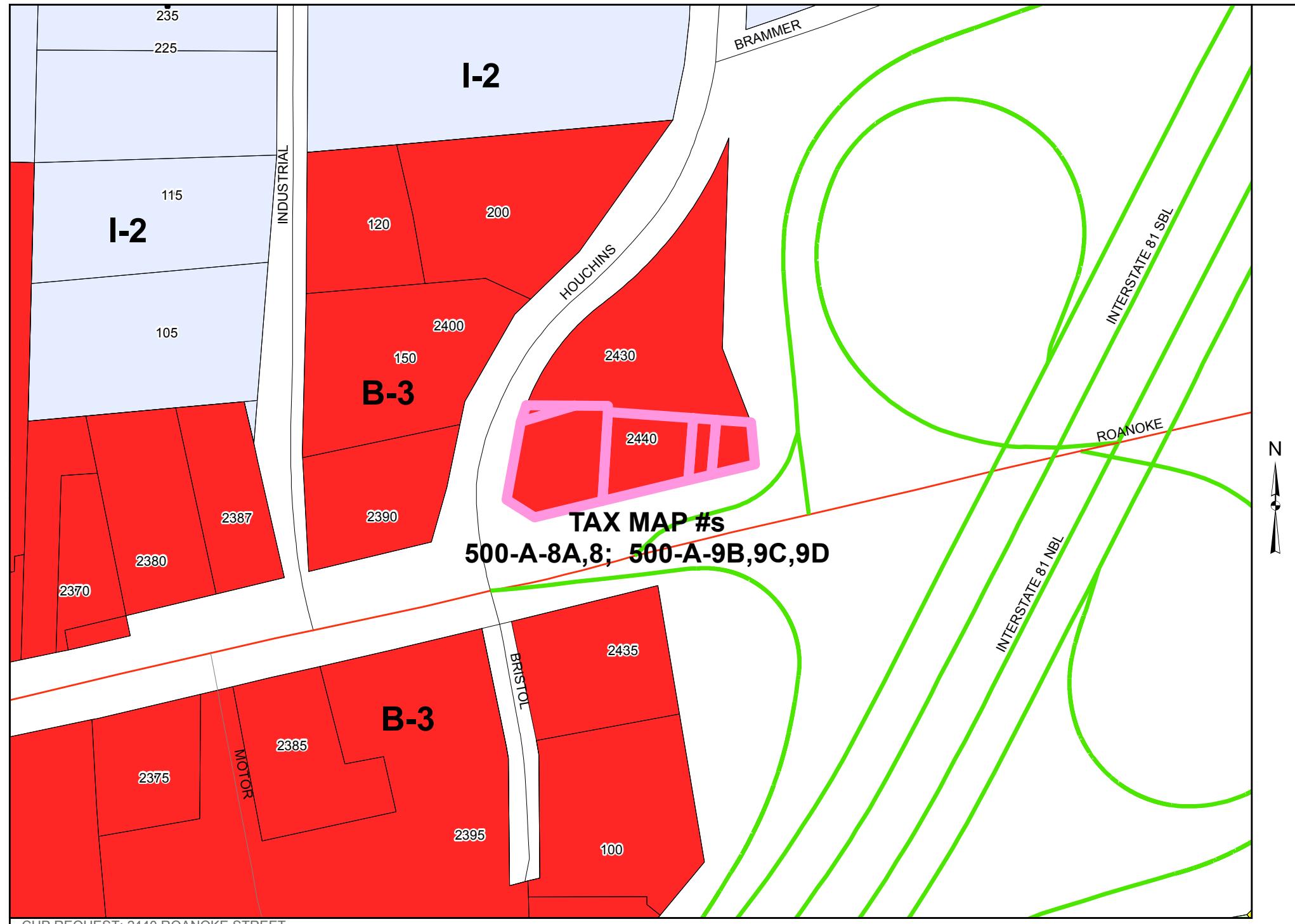
Marie

Sent from my iPhone
<CUP_sample fatback.pdf>



PLANNING COMMISSION PUBLIC HEARING: MAY 29, 2018
TOWN COUNCIL PUBLIC HEARING: JUNE 26, 2018

0 200 400 600
Feet



CUP:2440 ROANOKE STREET

Adjoining Property Owners

<u>Tax Map #</u>	<u>Owner(s)</u>		<u>Mailing Address</u>	<u>City, State, Zip</u>
500- A 8A	BIG BEAR PROPERTIES LLC		2198 SOWERS RD NE	FLOYD VA 24091
500- A 8	BIG BEAR PROPERTIES LLC		2198 SOWERS RD NE	FLOYD VA 24091
500- A 9B,9C,9D	BIG BEAR PROPERTIES LLC		2198 SOWERS RD NE	FLOYD VA 24091
500- A 9B,9C,9D	BIG BEAR PROPERTIES LLC		2198 SOWERS RD NE	FLOYD VA 24091
500- A 9B,9C,9D	BIG BEAR PROPERTIES LLC		2198 SOWERS RD NE	FLOYD VA 24091
501- 1 8	CRACKER BARREL OLD COUNTRY	STORE INC	P O BOX 787	LEBANON TN 37088
500- A 10	HASH INVESTMENTS LLC		P O BOX 1499	CHRISTIANSBURG VA 24068
501- 2 1,2,3A	SIMANDHAR LLC		3210 S MAIN ST	HARRISONBURG VA 22801
501- 2 1,2,3A	SIMANDHAR LLC		3210 S MAIN ST	HARRISONBURG VA 22801
500- A 9	VISHNUDEV LLC		2430 ROANOKE ST	CHRISTIANSBURG VA 24073
500- 2 1	WHITE/CHRISTIANSBURG-SKYVIEW LLC		P O BOX 2122	PULASKI VA 24301
500- A 7	WHITE/WILDWOOD LLC		P O BOX 2122	PULASKI VA 24301



Town of Christiansburg, Virginia 24073

100 East Main Street ~ Telephone 540-382-6128 ~ Fax 540-382-7338

ESTABLISHED
NOVEMBER 10, 1792

INCORPORATED
JANUARY 7, 1833

MAYOR
D. MICHAEL BARBER

COUNCIL MEMBERS
SAMUEL M. BISHOP
HARRY COLLINS
STEVE HUPPERT
MERISSA SACHS
HENRY SHOWALTER
BRADFORD J. "BRAD" STIPES

TOWN MANAGER
RANDY WINGFIELD

ASSISTANT TO THE TOWN
MANAGER
ADAM CARPENETTI

DIRECTOR OF
FINANCE/TOWN TREASURER
VALERIE L. TWEEDIE,
CPA, CFE, CGFM

CHIEF OF POLICE
MARK SISSON

CLERK OF COUNCIL
MICHELE M. STIPES

TOWN ATTORNEY
GUYNN & WADDELL, P.C.

Planning Department

Staff Report

Application Type: Conditional Use Permit

Applicant: Marie E. March, agent for Big Bear Properties LLC/Due South BBQ LLC

Location: 1465 & 1495 Roanoke Street

Proposal: Loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance.

Request

The Town of Christiansburg has received a Conditional Use Permit request by Marie E. March, agent for Big Bear Properties LLC/Due South BBQ LLC for a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance at 1465 and 1495 Roanoke Street (Tax Map No. 529 - 8 - 27) in the B-3, General Business zoning district. The subject property is used as a restaurant and features live music entertainment.

In the B-3, General Business District, a Conditional Use Permit is required for a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance in the General Business (B-3) zoning district, per Sec. 42-336 (60) of the *Christiansburg Town Code*.

Background

This Conditional Use Permit — along with the CUP from the same owner for Fatback Soul Shack — are the second and third applications received for a petition to exceed the Noise Ordinance after Town Council's adoption of an amendment to its Noise Ordinance, Chapter 24 "Nuisances" on April 24, 2018. The amended Noise Ordinance prohibits noise that is plainly audible within another person's enclosed dwelling unit or exceeds the sound pressure levels on the property of another person during the time periods specified in Table 1, Sec. 24-33 of the *Christiansburg Town Code*.

Table 1. Maximum Permissible Sound Pressure Levels

Outdoor Sound Level Limit in dB(A)		
Sound Receiving Zoning District	Day Period: 7:00 am-10:00 pm	Night Period: 10:00 pm-7:00 am
Agricultural-A, Residential-R-1A, R-1, R-2, R-3, R-MS, and Mixed-Use-MU-1, MU-2	57 dB(A)	52 dB(A)
Business-B-1, B-2, B-3	65 dB(A)	65 dB(A)

(i) On Friday and Saturday nights only, the Night Period shall begin at 11:00 pm instead of 10:00 pm.

(ii) Sounds that are heard outdoors that are audibly apparent to have a low-frequency emphasis (e.g., bass frequencies) may also be measured with sound level meter set on dB(C) scale, Fast response. The resultant dB(C) measurements shall not exceed the dB(A) values of Table 1 by more than 5 decibels in any sound receiving zoning district for the specified time period.

The Conditional Use Permit option was added to the Noise Ordinance and the Zoning Ordinance at this time to provide for properties to exceed the Noise Ordinance on a recurrent nature. Under the Noise Ordinance, permitted sound pressure levels are dependent on the time of day the sound is being generated and the zoning district of the property receiving the sound. In the business zoning districts (B-1, B-2, and B-3), sound generated on one person's property may not exceed 65 decibels on the property of another person at any time of the day. In all other zoning districts (excluding industrial zoned property), sound generated on one person's property may not exceed 57 decibels during the daytime period (7:00 am – 10:00 pm) or 52 decibels during the nighttime period (10:00 pm – 7:00 am). On Friday and Saturday nights, the daytime period is extended an additional hour and the nighttime sound pressure levels do not have to be observed until 11:00 pm.

Sound pressure levels are measured in A-weighted decibels, dB(A). In order to regulate sounds that have a low-frequency emphasis, the Noise Ordinance also provides for sounds to be measured on the dB(C) scale and those measurements are not to exceed the values given in Table 1, Sec. 24-33 by more than 5 decibels.

Application

Based on the attached emails on May 8 and May 12 with Marie March, as well as a discussion with Marie and Jared March on May 25, the following items have been offered by the Applicant in consideration for their Conditional Use Permit application.

- 1) The maximum noise measurements shall be 85 dB(A) from a receiving residential use property for amplified music on Thursday, Friday, Saturday, and Sunday nights until midnight.
(The Applicant has proposed these levels that are above the maximum 65 dB(A) level in the B-3 zoning district given the proximity of the manufactured homes to the rear of the restaurant. It is anticipated that any music would be in the restaurant building and possibly in the "Pig Pen" area. Mrs. March has asked the Town to take measurements of the ambient noise levels and measurements when an event was happening. The Town has purchased a decibel meter meeting all the recommended requirements. Staff believes that it will be possible to have readings performed with the new equipment prior to the next scheduled Planning Commission meeting on June 18, 2018.)
- 2) The noise ordinance standards shall not apply to any receiving property of loudspeaker, sound amplification, and outdoor sound system noise for business or industrial uses within industrial or business zoning districts (B-1, B-2, B-3, I-1, or I-2 zoning districts).
(The property is surrounded by B-3 zoned property that extends along Roanoke Street and a portion of Starlight Drive. The closest industrially zoned property is located along Bell Road approximately 2000 feet from the subject property. There are residential use properties adjacent to the subject property along Roanoke Street and Starlight Drive that are zoned B-3 and still would be subject to the noise limitations stated in standards #1 and #3.)
- 3) In lieu of measuring the sound indoors with the plainly audible measurement, sound measurements taken indoors shall measure 85 dB(A) on residential property. *(This will*

cover residential properties in general.)

- 4) Any noise measurement within an enclosed dwelling unit shall also require the windows of the dwelling unit to be closed.
(The definition of enclosed dwelling in the newly adopted ordinance “means the dwelling unit has its doors closed.” It was written to not require windows being shut in case the complainant had their windows open due to hot weather or preference at the time of the complaint. This standard would require the windows to be shut prior to any decibel reading being taken.)
- 5) Complaint-based enforcement only.
(In a statement provided by the Police Department, the Town does not routinely patrol for noise violations and the majority of noise investigations are complaint-based. However, officers are responsible for investigating potential violations they witness and cannot be restricted to only complaint-based enforcement.)
- 6) Name and address of complainer needs to be public record (not anonymous) – police should follow up with us the next business day so we can discuss any current employee issues and see if there is a retaliatory issue at play.
(In a statement provided by the Police Department, not providing complainant information is a fundamental part of police procedure and in some instances may be regulated by the Virginia Freedom of Information Act. This condition would not be enforceable if other state and federal protections applied. Mr. and Mrs. March stated that knowing where a complaint is coming from is important for them to be able to adjust and resolve the noise issue if it arises.)

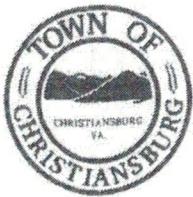
The property is not located within the 100-Year Flood Hazard Area or a Historic District. The property is not located within an Urban Development Area. The adjoining properties are zoned B-3, General Business and are comprised of commercial and residential uses.

Public Hearing Dates

The Planning Commission Public Hearing is scheduled for Tuesday, May 29, 2018 and the Town Council Public Hearing is scheduled for Tuesday, June 26, 2018.

List of attachments included with staff report

1. Conditional Use Permit application	3. Zoning map
2. Aerial map	4. Adjoining properties



TOWN OF CHRISTIANSBURG

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

Conditional Use Permit Application

Landowner: Big Bear properties / FATBACK SOUL SHACK LLC / Due South BBQ LLC.
Address: 2198 Sowers Rd.

Agent: MARIE E. MARCH

Address: _____

Phone: 540-230-7582

Phone: _____

I am requesting a Conditional Use Permit to allow a loudspeaker/sound amplification/
outdoor sound system in excess of the noise ordinance
on my property that is zoning classification B-3 under Chapter 42: Zoning of the
Christiansburg Town Code.

My property is located at 2440 Roanoke Street + 1465 Roanoke St.

Tax Parcel(s): 500-A 9B, 9C, 9D

Fee: N/A

I certify that the information supplied on this application and any attachments is accurate and true to the best of my knowledge. I understand that Conditions may be placed on my property in regards to the above mentioned use/activity. I also understand that the Conditional Use Permit may be revoked and/or additional Conditional Use Permits required should questions regarding conformity arise.

Signature of Landowner(s): See Attached, Handwritten Appendix A Date: _____

with Signature.

Date: May 7, 2018

Date: _____

This request was approved / disapproved by a vote of the Christiansburg Town Council on _____.
Any Conditions attached shall be considered requirements of the above request.

Appendix A

Per our recorded concerns, in print and in media, at numerous Town Hall hearings and meetings-

We, hereby, are Not in favor of this measure being imposed by Government on our businesses and on our rights.

We built our businesses under a code that exempted our businesses.

If this Conditional Use Permit prevents future Government intrusion and Overreach and we are left Unimpeded. Then we will continue to invest and do great things in the community.

If we continue to be harassed by Government, then we will challenge the Validity of your actions all the way to the United States Supreme Court.

We will fight for our rights, for small business rights, for property owners' rights, for Church and Religious freedom, for Women's rights, for Musicians' and Artists' rights and All person's seeking entertainment and happiness- in order to teach you, The Town of Christiansburg Town Government- that this is and will always be, an idea and a country worth fighting for, America.

Sincerely,

Marie E March

Andrew Warren

From: Marie March <mariemarch78@hotmail.com>
Sent: Saturday, May 12, 2018 9:26 AM
To: Andrew Warren
Subject: Re: CUP schedule - Fatback Soul Shack and Due South

Andrew,

Yes, for Due South and Fatbacks we need to ask for decibel measurements to be taken indoors, in lieu, of the plainly audible "measurement". Also, need to request that any complainer is documented and investigated (no anonymous complaints!) In the restaurant business we work with drug convicted folks, felons, sex offenders etc and have to fire some of these characters from time to time. Many times they will attempt to cause us problems shortly after being job terminated. For example- the health Dept will not investigate anonymous claims and will seek our help for recent bad situations that resulted in job termination. So, we feel that CPD needs to consider this when investigating a complaint and thoroughly investigate individual complaining and ask us as to any current "situations" .. Another current example going on right now at Due South (we have had to call officers about) there's a fellow living in a trailer behind DSBBQ that has yelled racist remarks at a black employee for past two years. It would not surprise me if he decides to report a noise violation in the future and cause everyone a lot of headache.

We have been through quite an ordeal with having a police officer come into our lawfully operating place of business at FBSS and shut down a lawfully operating event (completely illegal and unconstitutional on the part of the Town). So, we are asking to be treated with at least as much respect and dignity as you treat your police officers or your town council. Our businesses bring thousands of tourists and families to Cburg and WE know the value we bring to the area, whether our local politicians realize it or not.

Here's additions we need on both CUP permits-

- 1) Complaint-based enforcement only
- 2) Name and address of complainer needs to be public record (not anonymous)- police should follow up with us the next business day so we can discuss any current employee issues and see if there is a retaliatory issue at play.
- 3) decibel readings taken indoors (residential) 95 decibel (in lieu of plainly audible)
- 4) no enforcement of noise ordinance on receiving land if land is zoned business or industrial
- 5) days and hours - Thursday, Friday, Sat and Sunday until 12am. Provisions for allowable noise are extended until these times

Also, we would like a definition added to your code if not already- "indoors" means- an "enclosed dwelling"- all windows and doors are closed- for measurement purposes. Not an officer stepping inside a threshold with windows and doors open and taking a reading. Is "enclosed" and or "indoors" defined?

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Sent from my iPhone

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Sent: Friday, May 11, 2018 12:27 PM
To: Andrew Warren
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Best,
Andrew
382-6120 ext. 1130

Tuesday, May 8, 2018 *completed this past Tuesday*	<i>Schedule public hearing with Town Council (on Consent Agenda)</i>
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Monday, June 18, 2018	Planning Commission Action
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Andrew Warren

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To: Andrew Warren
Subject: Re: Conditional Use Permit

Andrew,

Yes, per your email below, these are the standards with the addition of days/ hours. Hours for events will be until midnight -days will be Thursday, Friday and Saturday nights (seldom on Thursdays/ but we are working with out of town booking agents and could potentially get a big name group for a Thursday if passing thru.) Also, area Churches are holding revivals and we do have some fundraisers planned for Sunday's so we will not be going later than 10p but will be louder than ambient on Sundays.

Thanks,

Marie

Sent from my iPhone

On May 8, 2018, at 3:05 PM, Andrew Warren <awarren@christiansburg.org> wrote:

Marie,

Please provide standards that you believe will exceed the noise ordinance for both businesses.

From your previous email, are these the standards you want to put forward for Fatback Soul Shack?

- Fence being 8' in height privacy/ wood panels for privacy/ noise screen.
- Music will be 90- 125 decibels in order to get above ambient noise of interstate.

Where there any other standards that are anticipate exceeding such as the hours?

I will have a chance to catch up with the Police Chief tomorrow afternoon to be able to see about your earlier request for getting sound readings. If you want to move forward with the standards above, just let me know.

Andrew

From: Marie March [<mailto:mariemarch78@hotmail.com>]
Sent: Tuesday, May 8, 2018 11:06 AM
To: Andrew Warren
Subject: Re: Conditional Use Permit

Andrew,

Attached is permit for Fatback Soul Shack LLC, Big Bear Properties LLC (entity that owns the 2 properties) and Due South BBQ LLC. Am also attaching see Appendix A- with signature- to further go on record with disapproval of being forced to comply with these new measures at our places of business. We are willing and hopeful a CUP will solve the "noise" problem, but I don't foresee any good coming from this process (other than 3 vacant seats in next year's election and some brand new folks coming to Town Council.)

And per your sign compliment, I know Jim at Power Zone is happy to finally have his sign as well, though Route 8 donuts not so much 😞

Thanks,
Marie

From: Andrew Warren <awarren@christiansburg.org>
Sent: Monday, May 7, 2018 12:23 PM
To: Marie March
Subject: RE: Conditional Use Permit

Marie,

This sounds good. I know it is hard to figure out what the decibel levels should be given the ambient noise level. I'm happy to continue this conversation further. I will do some research and I will see where we are with being able to provide some readings.

Please give me a call about the property you have in mind. I have been working with some folks on similar projects.

It's a good consideration to go ahead and get the CUP for Due South since you will be at the meetings already. The music would be pretty well contained indoors so I'm not positive of the impact, but I see your point that the units are right there to the back of the building.

Your Fatback Soul Shack sign looks good from I-81.

Call at anytime

Thanks,
Andrew

(540)382-6120 ext. 1130

From: Marie March [mailto:mariemarch78@hotmail.com]
Sent: Friday, May 4, 2018 1:27 PM
To: Andrew Warren
Subject: Re: Conditional Use Permit

Hi Andrew,

We are planning on our fence being 8' in height privacy/ wood panels for privacy/ noise screen.

Also, I need help filling out CUP permit. I have no idea how many decibels we need to put on permit. My guess is music will be 90- 125 decibels in order to get above ambient noise of Interstate and Lee Hwy (Roanoke Street)- ambient decibels fluctuate 65-90. We may have our band at Fatbacks tomorrow play outside on the stage (weather permitting) and try to get some readings with our phones.

Additionally, on another completely different subject- we are working with some folks on a project to provide drug rehab and housing. We have been very involved with To Our House organization (and United Way) for many years. Those are some of the Churches and organizations that we heavily contribute to. Anyway, there is a property in Cburg that we are looking at to rehab and I'd like to discuss that with you.

Perhaps you could bring ANSI certified decibel meter sometime next week to Fatbacks to take some readings of ambient, we can fill out permit (I'm also concerned with Due South BBQ being caught up in this- the trailers located immediately behind the restaurant are definitely a cause of concern for our music there as well- do I need to fill out a permit for DSBBQ too?)

Thanks,

Marie March

From: Andrew Warren <awarren@christiansburg.org>

Sent: Tuesday, May 1, 2018 8:12 PM

To: Marie March

Subject: RE: Conditional Use Permit

Ok. Let me look into this further.

Please let me know if the application information is clear enough when you have a chance.

Thanks,

Andrew

From: Marie March [mailto:mariemarch78@hotmail.com]

Sent: Tuesday, May 1, 2018 4:07 PM

To: Andrew Warren

Subject: Re: Conditional Use Permit

Yes- we have no idea what decibels to put down- ambient is 70-90 currently at shell station across the street

Sent from my iPhone

On May 1, 2018, at 3:59 PM, Andrew Warren <awarren@christiansburg.org> wrote:

Hi Marie,

Here is an application with sample information attached. Let me know if you have trouble reading my writing.

The remaining information that would be needed besides what is on the form is:

- 1) Adding the landowner information.
- 2) Signing the application *If an LLC owns the land, then a member
or registered agent should sign*

The "agent" information at the top of the form probably does not need to be filled out if you plan to be the lead representative. The "agent" information is generally for a third party like an engineering firm or architect when it is acting on behalf of the owner.

Did you also have a question on other information to provide? Such as proposing details estimated hours/days of operation, location on the site and direction of the speaker system, possible proposed sound mitigating factors (fence, landscaping, etc.), and/or the proposed decibel level limits on the property or adjacent properties. Just let me know.

Thanks,
Andrew

From: Marie March [<mailto:mariemarch78@hotmail.com>]

Sent: Tuesday, May 1, 2018 1:36 PM

To: Andrew Warren

Subject: Re: Conditional Use Permit

I honestly have no idea how to fill this out. Am not sure what to put? Can someone help me to fill it out

Sent from my iPhone

On May 1, 2018, at 1:16 PM, Andrew Warren <aawarren@christiansburg.org> wrote:

Marie,

I wanted to check in to see if you all were still planning to submit the conditional use permit application to be on the next agenda cycle. I typically send the items to the Town Clerk by the end of today to place on the consent agenda, but I can wait a bit if needed to send it to her.

If it won't be available by Thursday morning, it can still be scheduled at the next meeting by Randy if more time is needed. In this case, we would need the application by Tuesday, May 8 by noon for the meeting that evening. Just let me know.

Thanks,
Andrew

From: Andrew Warren
Sent: Friday, April 27, 2018 12:35 PM
To: 'Marie March'; Randy Wingfield
Subject: RE: Fatback mural

Marie,

I noticed that the CUP schedule formatting might not have been on separate lines for each meeting as intended. Please find the table below with the same information in an easier to read format. All meetings start at 7PM.

Thanks,

Andrew

Tuesday, May 8, 2018	Schedule public hearing with Town Council (on Consent Agenda)
Tuesday, May 29, 2018	Planning Commission Public Hearing *due to Memorial Day*
Monday, June 18, 2018	Planning Commission Action
Tuesday, June 26, 2018	Town Council Public Hearing
Tuesday, July 10, 2018	Town Council Action

----Original Message----

From: Andrew Warren
Sent: Wednesday, April 25, 2018 4:08 PM
To: 'Marie March'; Randy Wingfield
Subject: RE: Fatback mural

Hi Marie,

A mural with the drawings you provided (they are attached also) would not be considered a sign and be subject to the sign ordinance. The best guidance I can provide moving forward for other drawings is that it would not be considered a sign if it is not advertising for specific events and featured artists, it does not depict food/drink items that are sold at the restaurant, or have the name of any business, hours of operation, or other information about the business. If there are any questions once you have a more specific layout for what will be painted on the fence, please contact me.

As I understand it, the fence that is being proposed is 6 feet in height. Is this correct? I just wanted to confirm.

Fence permits are not required, but there are a number of items to consider when placing a fence on your property: (1) Locate

your property corners to ensure the fence is being placed within your property. If you are unsure about the location of property corners, many plats showing the boundaries of property can be located in the Clerk of Circuit Court's office, specifically the Records Room, in the Montgomery County Courthouse at 55 East Main St., Suite 1, Christiansburg, VA - (540) 382-5760. I believe you have contacted VDOT, but you will want to continue to work with them to ensure that it is in compliance with state requirements when bordering a limited access interstate; (2) there are no setback requirements for fences but barbed wire and electric fences are not allowed within five feet of and parallel to any street right-of-way; (3) a fence may be placed in a public utility or drainage easement on your property; however, it is your responsibility to move the fence if the easement needs to be accessed or to make sure that drainage is not impeded by the placement of the fence. The plat of your property should show any easements on the property if they exist; and (4) if you are placing a fence on a corner lot, a 20-foot site triangle needs to be met to ensure the safety of road users. The site triangle is an area formed by a straight line connecting two points, one in each street, on the adjacent street right-of-way line 20 feet distant from the intersection of the two street right-of-way lines which border the property. [Town Code Sec. 30-14(a)].

Attached also is the Conditional Use Permit application. The use will be "a loudspeaker/sound amplification/outdoor sound system to be used in excess of the Chapter 24". On an attached sheet to the application, please describe the activities anticipated to exceed the noise ordinance. Details could include items such as estimated hours/days of operation, location on the site and direction of the speaker system, possible proposed sound mitigating factors (fence, landscaping, etc.), and/or the proposed decibel level limits on the property or adjacent properties. Please contact me to discuss any specifics further. The next public hearing schedule is as follows if the application is received by Tuesday, May 1st:

Tuesday, May 8, 2018 - schedule public hearing with Town Council (on Consent Agenda)
Tuesday, May 29, 2018 - Planning Commission Public Hearing *held on Tuesday due to Memorial Day*
Monday, June 18, 2018 - Planning Commission Action
Tuesday, June 26, 2018 - Town Council Public Hearing
Tuesday, July 10, 2018 - Town Council Action

Again, please email or call (540)382-6120 (ext.1130) for any questions or clarifications. I am available to meet if it is more convenient.

Thanks,
Andrew

-----Original Message-----

From: Marie March [mailto:mariemarch78@hotmail.com]
Sent: Wednesday, April 25, 2018 8:40 AM
To: Andrew Warren; Randy Wingfield
Subject: Fatback mural

Andrew,

I need a reply email in regards to last night conversation that we are approved for fence and mural.

Also, how do I apply for free CUP

Marie

Sent from my iPhone

<CUP_sample fatback.pdf>



Legend

529 - 8 - 27

Parcels

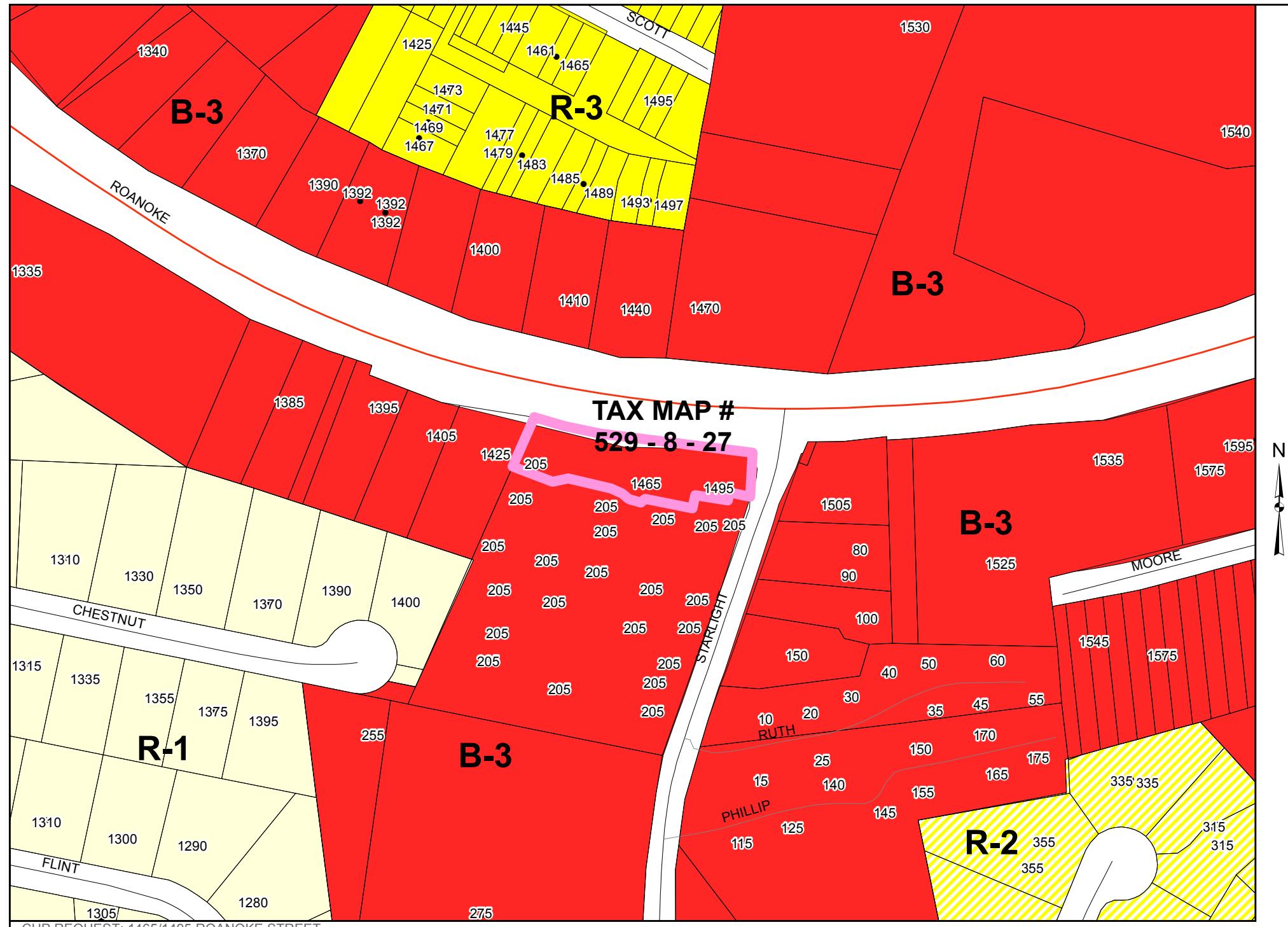
1305

CUP REQUEST: 1465/1495 ROANOKE STREET

PLANNING COMMISSION PUBLIC HEARING: MAY 29, 2018

TOWN COUNCIL PUBLIC HEARING: JUNE 26, 2018

A horizontal scale bar representing 600 feet. The bar is divided into three segments of 200 feet each, with labels at 0, 200, 400, and 600. The word "Feet" is centered below the bar.



CUP:1465/1495 ROANOKE STREET

Adjoining Property Owners

<u>Tax Map #</u>	<u>Owner(s)</u>	<u>Mailing Address</u>	<u>City, State, Zip</u>
529- A 13	BEASLEY PEGGY A	365 STARLIGHT DR	CHRISTIANSBURG VA 24073
529- 8 27	BIG BEAR PROPERTIES LLC	2198 SOWERS RD	FLOYD VA 24091
529- A 11	CRAFT REAL ESTATE	P O BOX 330	CHRISTIANSBURG VA 24068
529- 8 25,26	L & J LLC	525 SOUTHVIEW TER	CHRISTIANSBURG VA 24073
529- 8 1	LAWSON LYNN E	1410 ROANOKE ST	CHRISTIANSBURG VA 24073
529- A 8	SLABACH TIMOTHY A	1440 ROANOKE ST	CHRISTIANSBURG VA 24073
529- A 46	SPRINGHILL INVESTMENTS INC	1505 ROANOKE ST	CHRISTIANSBURG VA 24073
529- A 7	TUCKER IRIS B	1961 MUD PIKE	CHRISTIANSBURG VA 24073
	HOLDINGS LLC		
	C/O JEANETTE H WADE		
	SLABACH AUDRA H		
	POE EDWARD D SR		



Town of Christiansburg, Virginia 24073

100 East Main Street ~ Telephone 540-382-6128 ~ Fax 540-382-7338

ESTABLISHED
NOVEMBER 10, 1792

INCORPORATED
JANUARY 7, 1833

MAYOR
D. MICHAEL BARBER

COUNCIL MEMBERS
SAMUEL M. BISHOP
HARRY COLLINS
STEVE HUPPERT
MERISSA SACHS
HENRY SHOWALTER
BRADFORD J. "BRAD" STIPES

TOWN MANAGER
RANDY WINGFIELD

ASSISTANT TO THE TOWN
MANAGER
ADAM CARPENETTI

DIRECTOR OF
FINANCE/TOWN TREASURER
VALERIE L. TWEEDIE,
CPA, CFE, CGFM

CHIEF OF POLICE
MARK SISSON

CLERK OF COUNCIL
MICHELE M. STIPES

TOWN ATTORNEY
GUYNN & WADDELL, P.C.

Planning Department Staff Report

Application Type: Conditional Use Permit

Applicant: Peggy Beasley

Location: 255, 275, and 365 Starlight Drive, S.E.

Proposal: Loudspeaker/sound amplification/outdoor sound system to be used in excess of the Town of Christiansburg's Noise Ordinance.

Update

Based on the discussion with the Applicant at the Planning Commission Meeting on May 14, 2018, the following standards are marked up for the Commission's consideration:

1. Allow amounts of time, not to exceed 60 seconds each time, for short bursts of noise during a given night in which the maximum decibel level would not exceed 65 dB(A) at the receiving property. This would be allowed Monday through Sunday Thursday, Friday, Saturday, and Sunday through the first run of a movie for the months of April through October. It would provide for movie sounds to cover things such as explosions, gunfire, or screams, or other similar peak sounds.
2. Allow for sounds to not exceed daytime levels for the full run of the first movie on Thursday, Friday, Saturday, and Sunday nights during the months of April through October. The noise limitations would be 57 dB(A) in residential zoning districts and 65 dB(A) in business zoning districts – for the first movie showing, as the first showing may not end before the daytime sound limits end; 10:00 pm on Thursdays and Sundays, 11:00 pm on Fridays and Saturdays.
3. Allow for up to five concerts per year not to exceed the noise standards detailed in conditions #1 and #2 and ending by 11:00 pm.