

**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 Knies
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:

- Reinstatement 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.

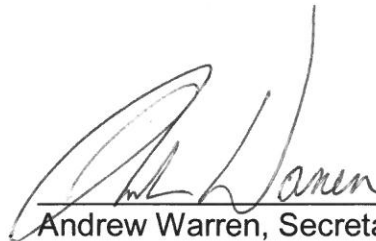
Commissioner Sandbrook announced a "Talk of the Town" event would be held by Downtown Christiansburg, Inc. on May 17 at 6:30 p.m. at the Oaks Bed and Breakfast.

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