Christiansburg Planning Commission
Minutes of May 07, 2012

Present: Barry Akers
Harry Collins
M. H. Dorsett, AICP
Steve Huppert
Craig Moore, Chairperson
Joe Powers, Vice-Chairperson
Jennifer D. Sowers
Randy S. Wingfield, Secretary Non-Voting

Absent: Ann H. Carter
Ashley Parsons

Staff/Visitors: Nichole Hair, staff
Kali Casper, staff
David Botos, 625 Walters Drive
Susan Hood, 570 Walters Drive
Dale Schutt, 380 Walters Drive
Sharon Schutt, 380 Walters Drive
Tim Walker, 25 Jessie Circle
James King, Jr., 90 Alexander Court
Kelly King, 90 Alexander Court
Rodrigo Hernandez, 70 Alexander Court
Robert E. Lee, Michaels Entertainment
Charles Barnett
Carol Lindstrom, 630 Depot Street, N.E.
others

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

Public Comment

Chairperson Moore opened the floor for public comment. Tim Walker, 25 Jessie Circle, addressed the Planning Commission on behalf of Staffords Farm Homeowner's Association, as President, in regards to the powder coating request. Mr. Walker indicated he is familiar with powder coating at from his job at GE. Mr. Walker stated there are concerns that should be considered such as Department of Environmental Quality (DEQ) regulations and looking at the processes.

Robert E. Lee addressed the Planning Commission indicating he is here to answer questions regarding the carnival.

Susan Hood, 570 Walters Drive, addressed the Planning Commission regarding concerns about the proposal for the powder coating. Ms. Hood stated she bought a house in 1976 and she feels she has the expectation that it will be a residential neighborhood and not an industrial park.

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Public Comments – (continued)

Dale Schutt, 380 Walters Drive, addressed the Planning Commission stating he lives in a residential area and wants it maintained as a residential area. Mr. Schutt stated the Planning Commission should considerer that the business may expand and added that he thought there may be a chemical threat and the air compressor may be noisy.

Kelly King, 90 Alexander Court, addressed the Planning Commission with concerns that this is a residential neighborhood. Mrs. King stated she felt the lot size will not handle this type of business.

James King, Jr, 90 Alexander Court, addressed the Planning Commission stating he is unfamiliar with the powder coating process but does feel the lot is not large enough to meet requirements for exhaust, fire prevention, etc. Mr. King added he thought the area is residential and should remain that way.

Approval of meeting minutes for April 23, 2012.

Chairperson Moore introduced the discussion. Commissioner Dorsett made a motion to approve the April 23, 2012 meeting minutes. Commissioner Sowers seconded the motion which passed 7-0.

A Conditional Use Permit request by PR Financing Limited Partnership for a carnival at 100 New River Road (tax parcel 435 – ((A)) – 41) in the B-3 General Business District. The Town Council public hearing is set for May 15, 2012.

Chairperson Moore introduced the discussion. Commissioner Powers inquired if it is the intent for the Planning Commission is to make a recommendation tonight. Mr. Wingfield stated that is correct because the Town Council wanted the process expedited to accommodate the planned opening date. Mr. Wingfield added copies of the insurance liability for the carnival have been provided and he has spoken with Police Chief Mark Sisson who suggested requiring 2 police officers for the carnival. Chairperson read the 12 drafted conditions:

1. A bond in the amount of $5,000.00 shall be posted prior to final issuance of this CUP to insure adequate cleanup.
2. The carnival shall contact the Montgomery County Health Department for all necessary permits.
3. The carnival shall contact the Town Superintendent of Public Works in regards to water connections for any recreational vehicles, campers, vending areas, etc. A water meter deposit shall be required of the carnival and shall be applied toward usage.
4. The carnival shall provide portable toilets for its patrons and shall provide holding tanks for septic on all recreational vehicles, campers, vending areas, etc. All portable toilets are to be maintained in accordance with the Virginia Department of Health standards and holding tank materials shall be properly disposed of.
5. All sanitary and water connections shall be inspected by the Town prior to use and be maintained in a healthy and sanitary manner.

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A Conditional Use Permit request by PR Financing Limited Partnership for a carnival at 100 New River Road (tax parcel 435 – ((A)) – 41) in the B-3 General Business District. – (continued)

6. The carnival shall provide the Town with a list of all amusement devices including name of ride, manufacturer, and year manufactured.
7. A certificate of inspection for all amusement devices is to be issued by a person certified by the Commonwealth of Virginia to perform inspections of amusement devices prior to opening of the carnival.
8. Efforts shall be made to have all inspection conducted during regular Town office hours (Monday – Friday, 8:00 a.m. – 5:00 p.m.). The carnival shall reimburse the Town of Christiansburg for overtime pay for all inspections made after Town office hours.
9. A permit shall be obtained for each tent and a certificate of fire resistance for each tent shall be provided to the Christiansburg Fire Marshall prior to opening.
10. Proof of financial responsibility in the minimum amount of $1,000,000.00 per occurrence along with a statement indemnifying the Town of Christiansburg from any liability shall be provided to the Town prior to opening.
11. The carnival operators shall be responsible for disposal of all animal droppings and these shall not be disposed of in dumpsters, sanitary sewers, or storm water systems.
12. The carnival shall not operate beyond 11:00 p.m.
13. The carnival shall be required to staff the event with at least two uniformed Christiansburg Police Officers and the carnival shall be responsible for paying the overtime rate for each Officer.

Mr. Wingfield stated the wording on number 4 needs to be edited for portable toilets to be cleaned daily. Mr. Schutt inquired where the carnival will be located. Mr. Wingfield replied at the New River Valley Mall. Commissioner Powers suggested adding a condition regarding the location of the carnival on the Mall property. Planning Commission agreed to add a condition referencing the location of the carnival. Mr. Schutt inquired about when the carnival will be held. Mr. Wingfield replied the carnival will be held June 14-24 with setup being June 11-13.

Commissioner Huppert expressed concerns about vandalism of the carnival overnight. Mr. Lee stated someone will be on watch every night and said that there is around $40,000 to $50,000 worth of copper on site for the rides. Mr. Lee added the rides are inspected every day before operation. Mr. Lee stated the carnival operates in North Carolina and North Carolina has one of strictest standards for amusement rides. Mr. Lee stated that the carnival owner, Michael Reisinger, keeps tight control on the operation making sure equipment is safe and not damaged. Mr. Lee stated the liability insurance costs close to $6,000 a week. Mr. Lee added if there is an issue with a ride, the operator is immediately drug tested for liability insurance purposes. Commissioner Collins inquired how many years the carnival has been operating and Mr. Lee indicated 18 years. Commissioner Collins inquired about how many accidents have occurred during those years. Mr. Lee stated very few accidents have occurred, though he was aware of one or two and he knows of one man that jumped off a ride. Mr. Lee stated that a lot of people do not realize what goes into operating a carnival and said that there fuel bill is around $50,000.

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A Conditional Use Permit request by PR Financing Limited Partnership for a carnival at 100 New River Road (tax parcel 435 – ((A)) – 41) in the B-3 General Business District. – (continued)

Commissioner Powers asked Mr. Lee to tell him about the company. Mr. Lee stated Michaels Amusements is out of Ohio and Michaels Entertainment is out of Fayetteville, North Carolina. Commissioner Powers inquired if the carnival will be collecting sales tax and Mr. Lee stated he does not know if sales tax will be collected. Mr. Lee added in North Carolina there is not an amusement tax and he is unsure about Virginia. Commissioner Powers stated if someone goes into the Mall to purchase food, there is a sales tax collected and he would like to know if that will done by the vendors. Mr. Lee indicated he assumed it would be collected. Ms. Lindstrom stated that is an interesting point because Virginia does have a meal tax and there should be some way of monitoring. Ms. Lindstrom stated the Town needs to be sure who is responsible for paying the taxes as the Mall is applying for the CUP while contracting with the amusement company. Ms. Lindstrom indicated she requested Mr. Wingfield contact other localities to see how they do things in regards to carnivals. Mr. Wingfield stated he did not contact Roanoke. Mr. Wingfield stated he would ask the Treasurer's Department about the meals tax for the carnival. Commissioner Powers stated if the Mall is the applicant, then they should be required to be sure the appropriate taxes are being collected. Mr. Wingfield stated the Planning Commission can add a condition for clarity. Commissioner Powers agreed a condition should be added to insure all appropriate state and local taxes will be collected and reported by the Mall. Chairperson Moore stated this will be item 14 and item 15 will reference the location of the carnival with the map submitted. Chairperson Moore stated item 16 will be added to limit the CUP for the month of June. Commissioner Collins asked Mr. Lee if there is an issue with requiring $5,000 for cleanup. Mr. Lee stated he assumes the Mall has something in the contract for the amusement company to clean up the property. Chairperson Moore stated the bond would be required for the cleanup. Chairperson Moore suggested editing item 1 to give a time limit of 48 hours for cleanup.

Commissioner Dorsett made a motion to recommend approval with the drafted conditions. Commissioner Akers seconded the motion, which passed 7-0.

Ms. Lindstrom stated there has not been representation from the Mall at meeting and inquired if they have a copy of the conditions. Mr. Wingfield stated the Mall does have copies of the drafted conditions and that he will forward them the final recommended conditions.

Mr. Lee inquired if the financial commitments would be for the Mall or the amusement company. Mr. Wingfield stated the Town would accept a bond from either the Mall or the amusement company. Mr. Wingfield added the Town accepts two types of bonds, either a cash bond (which is essentially a check written to the Town) or a letter of credit (which is a letter from a bank stating the funds and available and reserved if the Town were to pull the bond). Mr. Lee inquired if the Mall has been made aware of the requirement for a bond. Mr. Wingfield stated the Mall is aware of the condition and in the past the Mall has provided a check.

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A Conditional Use Permit request by David Botos for a major home occupation (powder coating) at 625 Walters Drive (tax parcel 404 – ((3)) – 51) in the R-1 Single-Family Residential District. The Town Council public hearing is set for June 5, 2012.

Chairperson Moore introduced the request. Mr. Botos stated he would like address the concerns expressed. Mr. Botos first addressed the concerns of fumes being exhausted. Mr. Botos stated the process is contained with a booth and a filter which handles to a submicron size and there is no smoke or exhaust to speak of. Mr. Botos added the curing process is similar to baking a cake in an oven; there is nothing exhausted to the outside air though there may be a slight smell limited to the structure. Mr. Botos addressed cleanup that is done by sandblasting and uses a dust extractor. Mr. Botos addressed the concern of noise with the air compressor, stating the compressor is a small household size unit and he has not had any complaints about using it yet. Mr. Botos added as the concern for a larger business, the setup is for small parts. Mr. Botos stated all the equipment and parts would be stored inside. Mr. Botos explained liquid paint has 3 parts to it – a solvent, a base, and the pigments. Mr. Botos stated powder coating is the paint without the solvent carrier which is applied electrostatically then heat cured at around 400 degrees for 10 to 20 minutes. Mr. Botos stated because there are no solvents and that he considers the process as healthier than aerosol painting. Mr. Botos stated excess materials can be baked in the oven and placed in a sealed bag for disposal in the garbage and powder coating is not considered hazardous in this form.

Commissioner Huppert read from an e-mail from Vicki Overholt which stated she "wondered why all of a sudden Mr. Botos property had started to look a little more tidy. Since in the past it was always a surprise when you came around the corner to see what strange inventions or unidentified items he would have built or stored in his yard." Commissioner Huppert added this person thinks Mr. Botos' yard is unsightly and that there have been car frames on the property. Commissioner Huppert inquired how Mr. Botos will be addressing the sightliness. Mr. Botos stated he has covered the project car which he was working on and added a fence.

Commissioner Powers stated the Planning Commission has received an e-mail from Dennis Davis and Mr. Davis has asked about the rinse or chemical wash and where it is being done. Mr. Botos stated in larger operations parts are pretreated before powder coating. Mr. Botos added given that his operation is hobby size, the items will be sandblasted before powder coating. Commissioner Powers stated at a previous meeting Mr. Botos indicated he sometimes uses an isopropyl alcohol rinse. Mr. Botos stated he uses alcohol when something is stubborn and will not come off but that it evaporates. Commissioner Powers inquired how much alcohol is stored. Mr. Botos stated it is a small bottle purchased at the pharmacy. Commissioner Powers inquired about fire suppression. Mr. Botos stated he has three manual fire extinguishers in the garage.

Commissioner Huppert asked if the requested can be reviewed in four months instead of a year. Mr. Wingfield stated the review can be done in whatever time frame the Planning Commission sees fit. Mr. Botos stated at the last meeting he did discuss his intent to move out of the property as the business grows.

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A Conditional Use Permit request by David Botos for a major home occupation (powder coating) at 625 Walters Drive (tax parcel 404 – ((3)) – 51) in the R-1 Single-Family Residential District. – (continued)

Commissioner Dorsett stated she is a big proponent for home studios but she wonders where the Town must draw the line with home businesses. Commissioner Dorsett stated that if this were approved it would be difficult to deny a second similar request and she had concerns with when the residence stops being residential in nature. Commissioner Dorsett stated she has an issue with traffic coming to the residence.

Commissioner Collins inquired if Mr. Botos knows what TGIC is. Mr. Botos stated TGIC is Triglycidylisocyanurate, which is a cross linking agent that is including in small amounts in the powder. Commissioner Collins stated according to Mr. Dennis Davis' e-mail TIGC can cause genetic damage and he inquired if it is worth the risk. Mr. Botos stated he has not seen anything regarding long-term effects on humans. Mr. Botos added powder coating has been around for some time and is not a new process. Commissioner Collins inquired if the request is not approved, would Mr. Botos relocate to an industrial property. Mr. Botos stated that would depend on funds. Mr. Botos added he would like to address Commissioner Dorsett's concerns. Mr. Botos stated drop offs and pickups of materials would be by appointment only. Mr. Botos added he has been doing powder coating for personal use at this location since 2009.

Rodrigo Hernandez, 70 Alexander Court, addressed the Planning Commission and stated it makes more sense to locate to an industrial location than to grow the business at this location and relocate later.

Mr. Schutt stated he has concerns of sparks and causing an explosion. Mr. Botos indicated there is slight risk for this and added that the electrostatic equipment is 25,000 volts. Mr. Schutt stated that a spark could still cause an explosion.

Commissioner Dorsett inquired if Mr. Botos could not do this in his home, where could he relocate. Mr. Wingfield stated in the I-1 Limited Industrial and I-2 General Industrial Districts, he has discretion to allow the use by right, require an engineering report, or send it to Town Council for a public hearing. Mr. Wingfield added the use would be allowed in the B-3 General Business District with a Conditional Use Permit. Commissioner Dorsett commented there are other options for Mr. Botos.

Mr. King inquired why Mr. Botos has applied for this request now if he has been doing this since 2009. Chairperson Moore stated as long as Mr. Botos is doing this as a hobby and not making as a business, he can do so by right; but since he would like to turn it into a business, it requires this process. Mr. Wingfield added Mr. Botos applied for a minor home occupation and Mr. Wingfield would not approve it.

Mr. Walker stated as part of the Homeowners Association, if this CUP is approved, he must provide disclosure to future home buyers in Staffords Farm. Commissioner Dorsett inquired about any restrictions on Belmont Estates. Ms. Hood stated there are covenants. Commissioner Powers stated he has looked at the covenants and they do address commercial uses however the covenants expired after thirty years.

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Mrs. King stated her property backs up to Mr. Botos property and would like to inquire about other locations zoned for the use. Mr. Wingfield stated the use is allowed in the Industrial Districts and in the B-3 District a CUP would be required. Mrs. King inquired if it is allowed only in certain business zones how can it be allowed in Residential Districts. Mr. Wingfield stated that there are three home occupation definition, one which is a general home occupation definition which all home occupations must meet and definitions for minor home occupation, which is allowed by right and approvable administratively, and major home occupation, which could include anything that falls outside the major home occupation definition.

Mr. Schutt inquired if the covenants be reactivated or renewed. Commissioner Powers stated some subdivisions have that provision in place. Commissioner Sowers stated newer subdivisions do with the development of a homeowners association but older subdivisions typically do not.

Ms. Lindstrom stated with tonight's public hearing citizens have come out to speak and with the public hearing with Town Council coming up giving citizens the opportunity to speak again, if the request is passed, can the citizens receive a copy of the conditions that are binding by the Town and make complaints when they feel there is a violation. Mr. Wingfield stated citizens can get copies of any approvals and can make complaints and when a complaint is made, staff investigates and it is documented. Mr. Wingfield added Town Council, the Town Manager and the Zoning Administrator can review Conditional Use Permits in order to determine if they should be revoked.

Ms. Hood stated the Town needs to guard against turning residential neighborhoods into business areas.

Mrs. King asked Commissioner Sowers if she felt it would difficult to sell a property in the neighborhood. Commissioner Sowers stated that appearance is certainly an important consideration. Commissioner Dorsett pointed out that condition 4 required all parts to be stored in a fully enclosed building and that the "for the powdercoating operation" to be removed. Chairperson Moore read the drafted conditions:

1. All operations are to within the scope of the presented "Scope of Powder coating Operations" prepared by David Botos dated 4-6-12.
2. The property is to be maintained in a clean, sanitary, and sightly manner.
3. This permit is for a powder coating operation, not a mechanical garage and not a body shop or for conducting bodywork.
4. All equipment, parts, and materials for the powder coating operation are to be kept inside the garage or a fully enclosed building (including a roof).
5. All waste products and chemicals are to be disposed of properly and are not to accumulate upon the premises.
6. There are to be no loud offensive noises so as to constitute a nuisance to the residential properties in the vicinity.

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7. There are to be no discernible noises to residential properties in the nearby vicinity before 7:00 a.m. and after 7:00 p.m.
8. This permit is subject to inspections and approval of the facilities by the Fire Marshall and Building Official.
9. Customer visitation shall be limited to between 9:00 a.m. and 7:00 p.m. only.
10. This permit shall be subject to annual review by the Planning Commission.

Commissioner Dorsett requested the review be changed to a 6 month review. Ms. Lindstrom inquired if the CUP is tied to the property or the applicant. Chairperson Moore requested clarification be made the CUP is for David Botos only and it is nontransferable. Chairperson Moore raised the question as to whether it could be transferred to another location and Mr. Wingfield stated that it could not be transferred to a different location, but that CUPs are normally transferrable to different property owners unless specified.

Mr. Hernandez inquired if Mr. Botos has a bad reputation at this property or a violation on this property, will it affect the relocation of the operation to another property and Mr. Wingfield stated that it would be considered.

Mrs. King inquired who decides how large the business can grow before he moves. Chairperson Moore stated all operations will be restricted to the scope of services Mr. Botos submitted. Mrs. King inquired how the citizens would know if there is a violation of this. Mr. Wingfield stated it would be done by staff visits based on the documents Mr. Botos has provided. Mr. Wingfield added if Mr. Botos is upgrading to larger equipment or adding equipment that would be a change in the scope, but that if he were to replace equipment with like equipment that would not be. Mr. Wingfield stated Fire Chief Hanks has visited the property. Mr. Botos added Building Official Jerry Heinline has visited the property.

Commissioner Huppert stated he feels this country was built on entrepreneurship and he hopes Mr. Botos continues even if it is not at this location.

Commissioner Dorsett inquired when does the Town draw the line. Commissioner Dorsett added the Town has a reputation of allowing any use, anywhere at any time.

Commissioner Powers made a motion to act on the request tonight. Commissioner Dorsett seconded the motion to take action, which passed 7-0.

Commissioner Powers made a motion to deny the request. Commissioner Powers added he makes the motion based on hearing from 5 families and correspondence from others that have a certain expectation of the residential concept. Commissioner Powers stated it would be a disservice to Mr. Botos to encourage him to have his operation at this location. Commissioner Collins seconded the motion which passed 6-1, with Commissioner Akers voting against the motion.

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Planning Commission public hearing for Council's intention to adopt an ordinance amending Chapter 30 "Zoning" of the Christiansburg Town Code in regards to definitions, provisions for Conditional Use Permits, parking, setbacks, permitted uses, height regulations, townhouse regulations, site plan review, and variances. The Town Council public hearing is set for June 5, 2012.

Chairperson Moore introduced the discussion. There were no comments so Chairperson Moore closed the public hearing.

Commissioner Dorsett made a motion to adopt the ordinance changes. Commissioner Sowers seconded the motion which passed 7-0.

Commissioner Powers stated when Town Council has their public hearing if there are comments, Town Council could send it back for Planning Commission review.

Other Business

Mr. Wingfield stated he is providing information for a public hearing for a planned housing development at the corner of Depot Street and Harless Street in the B-3 District at the next meeting. The next Planning Commission meeting will be May 21, 2012.

Commissioner Huppert stated the Town Council reviewed this property recently. Mr. Wingfield stated a subdivision plat was recently reviewed and approved by the Town Council.

Commissioner Dorsett inquired how 3 lots constitute a planned housing development. Mr. Wingfield stated the Town Code does not specify a minimum number of lots for a planned housing development. Commissioner Powers commented on the owner subdividing the property for residential use before receiving a CUP. Mr. Wingfield stated that there are no minimum lot sizes or street frontage in the B-3 District. Mr. Wingfield stated the applicant would need a CUP for residential use and then could request a variance for the setbacks rather than asking for a CUP for a planned housing development. Commissioner Powers requested the changes be listed out for clarification. Commissioner Powers requested a narrative be provided by the applicant. Commissioner Huppert requested Mr. Wingfield show the location and Mr. Wingfield detailed the location of the property on the Zoning Map.

Chairperson Moore stated he has made a request to Town Council to get funding for subcommittee meetings. Chairperson Moore stated the funding would be somewhat limited as would the number of commissioners be limited per committee. Mr. Wingfield stated the Town Council has tentatively agreed to add the request to the upcoming budget. Commissioner Huppert stated it is not intended for there to be any increases for anyone that works for the Town. Commissioner Huppert added he feels in the coming years the Planning Commission members should get a raise, just not at this time.

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Other Business (continued)

Ms. Hair indicated for the Planning Commissioners training at the New River Valley PDC a van has been reserved at the Recreation Center. Ms. Hair requested the Planning Commissioners meet at the Recreation Center at 5:30 p.m. in order to carpool.

There being no more business Chairperson Moore adjourned the meeting at 8:54 p.m.

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Craig Moore, Chairperson Randy S. Wingfield, Secretary Non-Voting

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