

At a public hearings meeting of the Board of Supervisors of Warren County held in the Warren County Government Center on April 25, 2023 at 6:00 PM.

Present: Victoria L. Cook, Chair (Fork District); Cheryl L. Cullers, Vice Chair (South River District); Jerome K. Butler (Happy Creek District); Walter J. Mabe (Shenandoah District); and Delores R. Oates (North River District); also present Edwin C. Daley, County Administrator; Caitlin Shelton, Senior Assistant County Attorney; Chase Lenz, Zoning Administrator; Matt Wendling, Planning Director; and Zach Henderson, Deputy Clerk of the Board

Call to Order:

Ms. Cook called the meeting to order at 6:00 PM

Adoption of Agenda – Additions or Deletions

On a motion by Mr. Cullers, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors adopted the agenda as presented:

Mabe, Aye; Oates, Aye; Cook, Aye; Cullers, Aye; Butler, Aye

Public Hearing – Secondary Six-Year Plan through the Virginia Department of Transportation - Mike Berry, Public Works Director

Mr. Berry introduced Mr. Ed Carter who presented 3 documents to the Board: 1) A Handout of a PowerPoint that was also on screen. 2) the Document that was previously discussed in a work session. 3) The Document and Resolution that will need to be signed by the Board.

Mr. Carter then turned it over to “Matt” who went over the PowerPoint presentation on Screen which included:

- Warren County Secondary System Improvement Plan for FY 2023/24 – 2028/29
- Major projects (including a Happy Creek Road project that was not included in the work session).
- New Hard surface Projects – SEC Funds

Mrs. Cullers asked about the Happy Creek road project and what else needed to be done before its completion. Mr. Carter explained that is was all in the bureaucracy and accounting functions.

Mrs. Oates asked if the Board could summarize in which districts these current projects are located:

- Kendrick Ford Project – Fork District
- Panhandle Project – Fork District

- William Vincent Project – South River
- Richardson Road Project – Fork District
- Point Road Project – South River

Mr. Carter emphasized that these projects were based on data to prioritize the biggest return on investment.

There was nobody who signed up to speak, nor did anyone in the audience wish to speak on this topic, and there was no additional discussion by the Board.

On a motion by Mrs. Cullers, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors approved the proposed Secondary Six Year Plan for FY 2025-2029 and the 2024 Construction Budget as proposed and to authorize the County Administrator to send a Resolution of Support.

Butler, Aye; Cullers, Aye; Cook, Aye; Oates, Aye; Mabe, Aye

Conditional Use Permit 2023-02-02, Eric Wayne Adams for a Short-Term Tourist Rental Located at 1850 Gooney Manor Loop and Identified on Tax Map 43 as Parcel 49A5.

Mr. Lenz reported that the applicant is requesting a conditional use permit for a short-term tourist rental for the property he recently purchased and now closed on. The applicant will manage the property personally with assistance from local professionals for trash disposal, cleaning, landscape, and maintenance. This dwelling has been approved by the Health Department for the onsite sewage disposal system for a maximum of 8 occupants. The property is not located in a Subdivision and is governed by an HOA/POA. The dwelling does meet the set-back requirement of 100 feet to adjacent single-family dwellings with the closest dwelling being 150 feet to the North. The Planning Commission also forwarded this to the Board with a unanimous recommendation of approval.

Mr. Lenz then read through the conditions as follows:

1. The applicant shall comply with all Warren County Health Department, Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed eight as determined according to the Health Department operation permit for a four-bedroom dwelling.
3. The applicant shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicant shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system

shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.

5. The discharge of firearms and hunting on the property by guests shall be prohibited.

6. The use of All-Terrain Vehicles (ATVs) by guests on the property and on state and county roads shall be prohibited.

7. Outdoor burning and use of fireworks by guests shall be prohibited.

Mrs. Cook opened the public hearing, and the applicant stated that he is here and available for any additional questions. However, there being no comments from the public, Mrs. Cook closed the public hearing.

On a motion made by Mrs. Cullers, seconded by Mr. Mabe, and the following vote, the Board of Supervisors approved the conditional use permit request for Eric Wayne Adams for a short-term tourist rental with the conditions as recommended by the Planning Commission and staff.

Mabe, Aye; Oates, Aye; Cook, Aye; Cullers, Aye; Butler, Aye

Conditional Use Permit 2023-02-03, Elena V. Gallo for a Short-Term Tourist Rental Located at 242 Parnassus Road and Identified on Tax Map 23A, Section 1, Block 3, as Parcel 36

Mr. Lenz reported that the applicant is requesting a conditional use permit for a short-term tourist rental for the property she purchased in December 2021. The applicant will manage the property personally with assistance from local professionals for trash disposal, cleaning, landscape, and maintenance. This dwelling has been approved by the Health Department for the onsite sewage disposal system for a maximum of 2 occupants. This property is located in the Skyland Estates Subdivision and the Planning Department has also received comments from the Skyland Community Board of Directors who declined endorsement of the application as it did not meet their conditions. This dwelling does not meet the 100 feet set back requirement for neighboring dwellings. The dwelling on the property across the road to the North is 80 feet from the applicant's dwelling. The applicant did submit a list of reasons she believes her property qualifies for a set-back waiver and is included in her statement of justification.

The Planning Commission also forwarded this to the Board with a unanimous recommendation of approval.

Mrs. Cook opened the public hearing, and the applicant stated that he and his wife purchased the property a year and a half ago and that they are an active member of their community. Furthermore, they have spoken to their neighbors about their intentions with their property, and all voiced their support. The applicant also stated that they have planted 15 ever green trees that are 6-feet tall to help with privacy.

There were no additional questions for the applicant, and nobody from the public wished to speak on this item, and Ms. Cook closed the public hearing.

On a motion by Mr. Butler, seconded by Mrs. Cullers, and by the following vote, the Board of Supervisors approved the conditional use permit request of Ella V. Gallo for a short-term tourist rental with the conditions as recommended by the Planning Commission and staff and listed below:

Butler, Aye; Cullers, Aye; Cook, Aye; Oates, Aye; Mabe, Aye

1. The applicant shall comply with all Warren County Health Department, Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed two as determined according to the Health Department comments.
3. The applicant shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicant shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.
7. Outdoor burning and use of fireworks by guests shall be prohibited.
8. A waiver to the required setback of 100' to neighboring dwellings shall be granted for the existing 80' setback to the dwelling north of the subject property.

Conditional Use Permit 2023-02-04, John Randolph & Deborah Lynn Clark for a Short-Term Tourist Rental Located at 1207 Buck Mountain Road and Identified on Tax Map 36B, Section 1, as Parcel 3

Mr. Lenz reported the applicants are requesting a conditional use permit for a short-term tourist rental for the property he purchased in 1990. Now that their children are grown and moved out, the owners would like to make a portion of their dwelling available for short-term lodging for visitors of the Warren County area to supplement their income as they transition to retirement. Residing in the main portion of the dwelling, the applicants will maintain the property personally, however, will not be serving breakfast as it is not a B&B. There is a Health Department operation

permit on file that approves a maximum of 6 occupants for this 3-bedroom dwelling. It is also not located in a subdivision governed by an HOA/POA. The dwelling does meet the setback requirements with the nearest dwelling being 120 feet to the East.

The Planning Commission also forwarded this to the Board with a unanimous recommendation of approval. It is also the standard conditions that are recommended with condition #2 “the maximum number of occupants shall not exceed 6.

Mrs. Cook opened the public hearing, and the applicant expressed her enthusiasm for Air B&B and has used it often in their travels and sharing Warren County with others who want to visit.

There were no additional questions for the applicant, and nobody from the public wished to speak on this item, and Ms. Cook closed the public hearing.

On a motion by Mrs. Cullers, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors approved the conditional use permit request of John Randolph & Deborah Lynn Clark for a short-term tourist rental with the conditions as recommended by the Planning Commission and staff and listed below:

Mabe, Aye; Oates, Aye; Cook, Aye; Cullers, Aye; Butler, Aye

1. The applicants shall comply with all Warren County Health Department, Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed six as determined according to the Health Department operation permit for a three-bedroom dwelling.
3. The applicants shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and on state and county roads shall be prohibited.
7. Outdoor burning and use of fireworks by guests shall be prohibited.

Conditional Use Permit 2023-02-05, Society of Saint Pius X for a Church Located at 2203 Reliance Road and Identified on Tax Map 11 as Parcel 1

Mr. Lenz reported the applicant, Saint Pius X, currently holds worship services for their small local congregation every Sunday in the Immaculate Heart of Mary Chapel located on John Marshall Highway in Linden. The applicant seeks to relocate their congregation and worship services to a more permanent location. The applicant plans on converting an existing barn structure located at 2203 Reliance Road into a church to be used by the congregation for worship services until they are able to raise the funds required to build a permanent church building on the adjacent 10-acre vacant parcel. The congregation will hold worship services every Sunday morning with occasional use during the weekdays. The applicant plans to develop the property to allow 150 people with the potential of having 300 at maximum. The Planning Department did receive comments from Building Inspections, the Health Department Office of Drinking Water, and V-Dot. Furthermore, they have also received several letters, both in support of and against with the prevalent concern being the impact on traffic.

The Planning Commission also forwarded this to the Board with a unanimous recommendation of approval with the modification of condition #1 to set the maximum occupancy to 300 people.

Mr. Lenz read through the conditions as follows:

1. The chapel occupancy shall not exceed 300 people, or the number of occupants determined by the Virginia Uniform Statewide Building Code and Virginia Department of Health approval for an on-site sewage disposal system, whichever is fewest.
2. The applicant shall comply with all Virginia Department of Transportation, Virginia Department of Environmental Quality, Warren County Health Department, Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.
3. The applicant shall submit a site plan showing parcel boundary, proposed building footprints, dimensions of proposed buildings, setbacks from buildings to nearest property boundaries, ingress/egress, internal access roads, outdoor lighting, parking, including handicapped parking, and well, septic, and drainfield locations to the County prior to issuance of building and zoning permits.
4. The applicant shall meet the requirements of Warren County Code §180-15 for off-street parking for a church and Code §180-49.2 for outdoor lighting.
5. The applicant shall meet all permitting requirements and complete the necessary entrance improvements as identified and recommended by the Virginia Department of Transportation prior to issuance of a Certificate of Occupancy for the structure by the Building Official

Mrs. Cook opened the public hearing, and there were no comments or questions from the Board for Mr. Lenz.

Andrew Nepper of 1050 Rocky Glen Drive, White Post, expressed his gratitude for the comments and concerns that have been raised by neighbors and community members regarding this application. He emphasized the concern of being neighborly and ensuring that they fit in with the local neighborhood and to offer a positive wholesome atmosphere. The Society of Saint Pius X is requesting this permit to enable them to satisfy, "one of the most fundamental and treasured traditions of the Commonwealth and County, and that is to worship God." The applicant further stated that he understands the many concerns and questions on how land use will impact the subject property, and they are making efforts to contribute positively to the neighborhood, and address the issues of traffic, privacy etc. For example, they have begun the process of installing a naturally vegetative screening and are looking at options to alleviate what they believe is a minimal traffic impact.

Darden Brock spoke briefly in support of the church and urged the Board to accept the CUP and expressed her gratitude should the motion be passed.

Tim Davis spoke out against the CUP due to traffic concerns and believes that Reliance Road is inadequate for the projected traffic from the Church and expressed concerns regarding the water supply and septic system. Furthermore, the line of site from 340 and the egress should be reviewed by the Board before a decision is made and stated that it is an "accident waiting to happen."

Richard Jameson of 16 Happy Court, Middletown, spoke out against the CUP due to concerns about safety and the impact on the community, emphasizing the amount of people the congregation is expecting in contrast to the community's desires. Furthermore, he commented on the petition he provided that has 40 signatures against this CUP. He expressed a hope that they do grow but this location is not the proper location to do so.

John Thorpe of 25 Summit Ridge Road, Front Royal, spoke out in favor of the CUP and did research that compared the daily traffic flow on Shenandoah Shores Road where Christendom College is located, to Reliance Road where the Saint Pius Church is seeking to go. He explained that on the VDOT website, in 2021 the average daily traffic on Shenandoah Shores road is 3,100 cars a day. Reliance road however has 2,900. Therefore, when the Saint Pius congregation traffic flow is added to the equation, it will still be less than the Shores.

Joe Whittaker of 2203 Reliance Road, Front Royal, spoke out in favor of the CUP and is the property owner of the Church. He explained that he has no issues with any impact and is in full support of the Church's intended use.

Janna Thorpe of 25 Summit Ridge Road, spoke out in favor of the CUP and urged the Board to accept and stated, "who doesn't want to worship God, today. The World needs it."

Joe Whittaker of 948 Rocky Glen Drive, White Post, spoke out in favor of the CUP, and stated that he farms the area and has a lease on Carley's Way. He explained that he has experience pulling

in and out of Carley's way and Reliance road where the Church is planning to go and stated that they plan to modify the entrance and has had no issues with how it is now.

Lupe Whittaker of 948 Rocky Glen Drive, White Post, spoke out in favor of the CUP, and voiced her support for the Church as well as the comments from Mr. John Whittaker.

There were no additional comments and the public hearing was closed by Ms. Cook.

Mrs. Oates commented on the VDOT issue, specifically that the entrance does not meet the minimum site distance required. The entrance has 294 feet of site distance to the East and the minimum requirement is 500. Furthermore, a site distance plan and profile from an Engineer are needed for review in order to determine if the Church can obtain minimum site distance, and how that would be achieved. Currently, it does not appear that minimum site distance can be achieved without additional right of way or easements off the frontage adjacent tax map. She then asked Mr. Lenz how the Board can make a decision with these issues still in question. Mr. Lenz stated that with the VDOT comments in mind, the Planning Department would ensure that these concerns are all satisfied before a certificate of Zoning is issued, and they would not be able to proceed until then.

Mrs. Oates asked about potential alternatives such as postponing the vote until these issues are addressed. Mr. Lenz stated that if the Board would like the applicants to have this study done to determine the feasibility, then it can be tabled.

Mr. Wendling stated that VDOT would require a land use permit for any kind of entrance improvements, and VDOT will ensure its safety before a land use permit can be issued. Furthermore, it will require all engineering studies and requirements for the actual entrance.

Ms. Cook asked if the applicant has approved of these conditions by VDOT. Mr. Lenz stated that the applicant does intend to proceed and meet all of the VDOT requirements but is unsure if any preliminary studies have been done.

With approval from Mrs. Jordan and Mrs. Cook, the property owner (Joe Whittaker) was allowed to re-approach the Board for further comment and acknowledged the need to get VDOT approval. However, he did emphasize the high cost and time it would take to get the approvals from VDOT and the right of way and suggested two options. The first is to approve the CUP with the condition that all VDOT's safety requirements are satisfied. The second option is not to decide, however, due to the costs, he would like approval first, on the condition that the study and right of way be completed.

Mr. Butler commented on the emails and correspondence the Board as received from locals that have spoken out against the CUP due to safety concerns, and asked Mr. Whittaker if anything has been done to mediate that with the neighbors. Mr. Whittaker stated that there are two factors at play with a lot of the neighbors in which most of them do not want to have more activity near them but commented that it will be inevitable that at least some of the nearby property owners

will not be happy, regardless of where they are. However, the safety factor can be mitigated which can be achieved via site distances, and a good commercial entrance with easements.

Ms. Cullers stated that she does understand Mr. Whittaker's point of view of not wanting to postpone the motion to spend a large amount of time and money with still no tangible guarantee of approval.

Mr. Wendling stated that currently there is a rezoning going through Shenandoah Properties for the Agricultural to Suburban residential into Rockland. That applicant has retained a traffic engineer to do a low volume traffic study that was required by VDOT. Furthermore, there was a cluster subdivision application last year on Reliance Road for about 47 homes, and traffic was a main concern and was denied by the Board of Supervisors.

Mr. Mabe stated that when an application is received for review and approval, there are boxes to check and this application does not, "check all the boxes" and further expressed the safety concern shared with the other Board members.

Mrs. Oates asked if the low volume traffic study that was used for Rockland would be appropriate in this case. Mr. Wendling stated that it would be appropriate given the nature of the roads.

Mrs. Cook asked if the VDOT study was required for this CUP, and Mr. Wendling stated that it wasn't, however the Planning Department did receive their letter with their recommendations.

Mr. Butler commented again on the correspondence and stated that a large majority have spoken out against the CUP, not counting the petition.

On a motion made by Mrs. Cullers and seconded by Mr. Butler, and the following vote, the motion was to deny the conditional use permit request of the Society of Saint Pius X.

Butler, Aye; Cullers, Aye; Cook, Nay, Oates, Nay, Mabe, Nay

After the Board members voted it was discovered that Mr. Mabe's vote was intended to be "Aye" to support the denial. This led to a brief recess at 7:14PM to allow Mrs. Jordan to properly confirm the procedure to fix this issue.

Ms. Cook reconvened the meeting at 7:33PM.

Mr. Mabe moved to reconsider the prior vote on the Conditional Use Permit for the Society of Saint Pius X for the church located at 2203 Reliance Road and identified on Tax Map 11, Parcel 1. This motion was seconded by Mrs. Oates and approved with the following vote:

Butler, Aye; Cullers, Aye; Cook, Aye; Oates, Aye; Mabe, Aye

On a motion by Mr. Butler and seconded by Mrs. Oates and the following vote, the Board vacated the prior vote on the Conditional Use Permit for the Society of Saint Pius X and move that the matter instead be referred back to the Planning Commission for further consideration and make a recommendation after receipt of the VDOT Study.

Mabe, Aye; Oates, Aye; Cook, Aye; Cullers, Aye; Butler, Aye

Z2023-03-01, Harry Heard, Ordinance to Amend Warren County Code Sections 180-21 and 180-59 Regarding Mobile Food Establishments Operating in Conjunction with Commercial Nursery/Garden Centers or Wayside Stands and Ice Cream Stands Operating in Conjunction with Commercial Nursery/Garden Centers

Mr. Lenz reported the applicant, Harry Heard contacted Planning Staff to discuss the possibility of hosting a food truck and/or ice cream stand in conjunction with his Farm Stand – Garden Center Business that was approved by CUP in 2018. Staff determined is not a listed permitted use and Mobile Food establishments are only permitted on County owned Parks and Recreation facilities in the Agricultural zoning district. Mr. Heard was informed that a text amendment would be needed. The Board received a draft ordinance to amend Warren County Code Section 180-21 for the addition of Mobile Food Establishment operating in conjunction with a commercial nursery/ Garden Center or way-side stand. And Ice Cream Center operating in conjunction with a commercial nursery/ Garden Center or wayside stand as accessory uses permitted by rite in the Agricultural zoning district. This proposed text amendment will allow for the operation of a Mobile Food Establishment and or Ice Cream Stand on Agriculturally owned properties approved by Conditional Use Permit for a commercial nursery/ Garden Center. This amendment will also allow for the operation of a Mobile Food Establishment on Agriculturally zoned properties approved by Zoning Permit for a by-rite wayside farm stand. Each individual Mobile Food Establishment is subject to approval by the Building Inspections, Fire and Rescue, VDOT, and the Health Department though a Zoning permit process as required by the supplementary regulations for a Mobile Food Establishment.

There are currently 4 approved Mobile Food Establishments and 2 approved Ice cream stands in Warren County, only 4 Conditional Use Permits for a Commercial Nursery or Garden Center have been issued in the County, 2 of which have expired.

The Planning Commission also forwarded this to the Board with a unanimous recommendation of approval.

Harry Heard of 929 Stonewall Jackson Highway, Bentonville, spoke on behalf of his business on Stonewall Jackson Highway and the products he sells, and believes that the addition of the food truck and ice cream stand would be a good fit, and urged the Board to approve.

On a motion by Mrs. Cullers and seconded by Mr. Butler, and the following vote, the Board of Supervisors found that the proposed amendment is appropriate for the public necessity and

convenience, general welfare, and is good zoning practice, and approved the proposed amendment.

Butler, Aye; Cullers, Aye; Cook, Aye; Oates, Aye; Mabe, Aye

Adjournment:

Ms. Cook Adjourned the meeting at 7:44PM

