

**Town of Amherst  
Planning Commission Minutes  
September 7, 2011**

A meeting of the Town of Amherst Planning Commission was called to order by Chairperson June Driskill in the Council Chambers of the Town Hall at 7:30 PM on September 7, 2011. It was noted that a quorum was present as indicated below:

P June Driskill	P William Jones
A Ted Finney	P Steve LaBar
P William Hathaway	P Richard Wydner
P Clifford Hart	

Town Manager Jack Hobbs was present in his capacity as Secretary to the Commission.

The minutes of the July 6, 2011 Commission meeting were approved on a motion by Mr. LaBar, seconded by Mr. Hart, and carried 6-0 according to the following:

June Driskill	Aye	William Jones	Aye
Ted Finney	Absent	Steve LaBar	Aye
William Hathaway	Aye	Richard Wydner	Aye
Clifford Hart	Aye		

Amherst Baptist Church Special Use Permit Application

A summary of written material reviewed by the Commission is as follows:

Amherst Baptist Church, through its Pastor Dr. David Clay, has applied for an amendment to the February 11, 2004 special use permit that would, if approved, permit a preschool/day care operation at 226 Lexington Turnpike. This property (TM# 96A1-A-3A) is zoned High Density Residential District R-3. Churches are allowed by right in this district but "church accessory uses involving 2,000 SF or more of building area, including day care centers, indoor recreation or fellowship halls, and schools" are allowed only after approval of a Special Use Permit. The language in the early approval was:

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL** of the Town of Amherst that, pursuant to §18.1-1003 of the Town Code of the Town of Amherst, Virginia, a special use permit for the property located in the Town of Amherst and described as Tax Map #96A1-A-3A, zoned R-3 High Density Residential District, is hereby approved for the 22,176 SF building proposed and church accessory uses enumerated as follows:

1. 30 classrooms;
2. 3 office rooms;
3. 2 shower rooms;
4. a kitchen facility; and
5. a sanctuary/fellowship hall with no fixed seating.

This special exception shall be subject to the conditions and understandings as set out hereinbelow:

1. Execution and recordation of a Town of Amherst sanitary sewer easement and, since municipal water is not currently available, billing agreement for such sewer use prior to issuance of a zoning certificate.
2. Installation of a double row of 5' high Leyland cypress trees on staggered 10' centers along the Sarver property line.
3. It shall be understood that approval for outdoor events involving more than 100 individuals is not granted under this ordinance and approval for such must be obtained from the Council of the Town of Amherst per Chapter 10.1 of the Town Code.
4. It shall be understood that neither a school nor day care center, as defined by the Town Code, may be operated from the proposed building unless and until this special use permit is amended.
5. It shall be understood that the future installation of a sanctuary building on the property is subject to then-current regulations and will not require an amendment to this special use permit unless additional accessory uses are involved.

Factors favoring the approval of the proposed special use permit amendment include the use of existing building space that is largely unoccupied six days per week and the ongoing general community need for day care for working parents.

A document containing a "statement" of concerns by adjoining property owner James and Patricia Bryant was received during the Planning Commission's July 6, 2011 public hearing on the application.

On July 6, 2011 the Commission asked for VDOT and State Police safety studies prior to acting on the application; petitions presented to the Town Council in December 2006 also express concern about the safety aspect of the highway and the Church's entrance. The Commission also discussed the condition in the February 11, 2004 special use permit that required Leyland cypress trees to be installed along the Sarver property line and the fact that these trees have not been installed.

A letter from the Church indicating its intent to install plantings "as early as in the fall" was received. A copy of the email from VDOT regarding the adequacy of existing church entrance is attached and made a part of these minutes.

The Zoning and Subdivision Ordinance indicates that the Town Council is to make a series of findings and has the authority to remove, change or impose additional conditions and stipulations "as are necessary in the public interest", before it approves an amended Special Use Permit (§18.1-1003.03.4).

Dr. Clay asked whether it would be possible to substitute 4' arborvitae trees for the 5' Leyland cypress trees.

On a motion by Mr. Hart, seconded by Mr. Hathaway, and carried 6-0 according to the following, the Commission recommended that the Town Council approve the request with conditions articulated in a draft amended Special Use Permit ordinance. A copy of the draft ordinance is attached and made a part of these minutes.

June Driskill	Aye	William Jones	Aye
Ted Finney	Absent	Steve LaBar	Aye
William Hathaway	Aye	Richard Wydner	Aye
Clifford Hart	Aye		

Mr. Wydner lead a discussion about the location of the landscaping required in the Church's recommended special use permit amendment ordinance.

Mr. Wydner lead a discussion on the county's train station project which included the status of VDOT approval of the entrance from Rt. 60, how the property from Rt. 60 to Depot Street is zoned, the Commission's approval of the train station site plan, and the approved routing of water and sewer lines proposed to serve the relocated train station.

There being no further business, the meeting adjourned at 8:05 PM on a motion by Mr. Hathaway that was seconded by Mr. Hart and carried 6-0 according to the following:

June Driskill	Aye	William Jones	Aye
Ted Finney	Absent	Steve LaBar	Aye
William Hathaway	Aye	Richard Wydner	Aye
Clifford Hart	Aye		

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June Driskill, Chairperson

Attest: \_\_\_\_\_

**From:** Kessler, Jeffery B., P.E.  
**Sent:** Wednesday, August 10, 2011 6:43 PM  
**To:** David Clay  
**Cc:** Clark, Matthew D.  
**Subject:** Pastor David Clay, Amherst Baptist Church Route 60 West Town of Amherst (Change in Use)

Pastor Clay,

This communication is to confirm our conversation today regarding the proposed expanded use of Amherst Baptist Church to include a day care service for up to 50 children. This church is located on Route 60 West within the Town of Amherst and is severed by an existing commercial entrance that is also shared with three resident dwellings.

VDOT staff has reviewed this location and have determined that:

1. While the volume of vehicle traffic using this entrance will increase during the week, it is not significant enough to warrant the addition of either entrance tapers or turn lanes;
2. In reviewing our latest three years of crash data, there is no indication of safety concerns at this location. The intersection sight distance exceeds current standards; however, we encourage that vegetation on the bank to the east of your entrance continue to be maintained in a manner to maximize line of sight.
3. The existing commercial entrance is in good condition and meets current geometric standards.

Base on our review, the existing entrance is adequate to serve the stated proposed use.

Please notify me if you have any questions.

Best, Jeff

Jeffery B. Kessler, P.E.  
Area Land Use Engineer  
VDOT - Lynchburg  
434.856.8293  
JefferyB.Kessler@VDOT.Virginia.gov

**Recommended by Planning Commission on September 7, 2011**

AN ORDINANCE ~~TO AMEND THE FEBRUARY 11, 2004 SPECIAL USE PERMIT FOR AMHERST BAPTIST CHURCH GRANTING A SPECIAL USE PERMIT TO ALLOW AMHERST BAPTIST CHURCH TO CONSTRUCT A 22,176 SF BUILDING CONTAINING CERTAIN ACCESSORY USES ON TAX MAP#96A1-A-3A, SUBJECT TO CERTAIN CONDITIONS.~~

**Whereas**, Amherst Baptist Church has made a proper application for an amendment to the special use permit approved by the Town Council of the Town of Amherst on February 11, 2004 ~~special use permit by submitting a special use permit request form, a site plan and building plans that show a 22,176 SF building housing various church accessory uses;~~ and

**Whereas**, the property on which the project is proposed is shown as Tax Map# 96A1-A-3A and is zoned R-3 High Density Residential District; and

~~**Whereas**, Amherst Baptist Church is fully aware that the area along U.S. Route 60 West was declared a revitalization area on February 13, 2002 due to the relatively small size of the existing water main in that area. Under this status, the Town will allow no new connections there unless and until (1) the water main in that area is replaced by a 12" diameter Town of Amherst water main installed according to Town standards and dedicated to the Town of Amherst or (2) the connection is specifically allowed by the Council of the Town of Amherst. Amherst Baptist Church proposes to install a well to serve its new building unless and until a new Town water main has been installed; and~~

~~**Whereas**, Amherst Baptist Church has been advised and understands that the installation of a new water main along U.S. Route 60 West has not been included in the Town of Amherst Capital Improvement Plan and that the Council of the Town of Amherst has not committed to funding such a project; and~~

**Whereas**, the Town of Amherst Planning Commission held a duly advertised public hearing on this request at 7:30 P.M. on ~~January 7, 2004~~ July 6, 2011 and recommended approval of the request subject to certain conditions; and

**Whereas**, the Council of the Town of Amherst held a duly advertised public hearing on this request at 7:00 P.M. on ~~February 11, 2004~~ October 12, 2011; and

**Whereas**, the Council of the Town of Amherst has reviewed the particular facts and circumstances of each proposed accessory use in terms of the following standards and hereby finds adequate evidence showing that such uses at the proposed location:

- a. Will be harmonious with and in accordance with the general objectives of the Town's comprehensive plan and the Town of Amherst Zoning and Subdivision Ordinance, including the intent of the R-3 High Density Residential District;
- b. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
- c. Will not be hazardous or disturbing to existing or future neighboring uses;
- d. ~~Since the applicant has decided that the project and property should be served by wells instead of the Town of Amherst municipal water system, t~~The project will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies

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responsible for the establishment of the proposed use shall be able to provide adequately any such services;

- e. ~~Since Amherst Baptist Church has agreed to extend municipal sewer service toward its building,~~ Will not create excessive additional requirements at public costs for public facilities and services and will not be detrimental to the economic welfare of the community;
- f. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or water pollution;
- g. ~~The entrance onto U.S. Route 60 having been approved by VDOT,~~ Will have vehicular approaches to the property which shall be so designed as not to create any interference with traffic on surrounding public streets or roads; and
- h. Will not result in the destruction, loss or damage of a natural scenic or historic feature of major importance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL of the Town of Amherst that, pursuant to §18.1-1003 of the Town Code of the Town of Amherst, Virginia, ~~the~~ special use permit for the property located in the Town of Amherst and described as Tax Map #96A1-A-3A, zoned R-3 High Density Residential District, is hereby amended approved for the existing 22,176 SF building ~~proposed~~ and church accessory uses enumerated as follows:

- 1. 30 classrooms;
- 2. 3 office rooms;
- 3. 2 shower rooms;
- 4. a kitchen facility; and
- 5. a sanctuary/fellowship hall with no fixed seating.
- 6. Use of the existing building as a preschool and/or day care facility for children up to kindergarten age.

This special exception shall be subject to the conditions and understandings as set out hereinbelow:

~~1. Execution and recordation of a Town of Amherst sanitary sewer easement and, since municipal water is not currently available, billing agreement for such sewer use prior to issuance of a zoning certificate.~~

- 1. Installation of a double row of ~~5' high Leyland cypress~~ 4' high arborvitae trees on staggered 10' centers along the Sarver property line.
- ~~3-2.~~ It shall be understood that approval for outdoor events involving more than 100 individuals is not granted under this ordinance and approval for such must be obtained from the Council of the Town of Amherst per Chapter 10.1 of the Town Code.

**Recommended by Planning Commission on September 7, 2011**

~~4. It shall be understood that neither a school nor day care center, as defined by the Town Code, may be operated from the proposed building unless and until this special use permit is amended.~~

3. It shall be understood that no school operation for students above kindergarten age shall be operated from the building unless and until this special use permit is amended.

~~5.4.~~ It shall be understood that the future installation of a sanctuary building on the property is subject to then-current regulations and will not require an amendment to this special use permit unless additional accessory uses are involved.

This Ordinance was adopted on October 12, 2011~~February 11, 2004~~ and shall become effective on the date of passage.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk of Council