TOWN OF MIDDLEBURG
PLANNING COMMISSION
WORK SESSION & REGULAR MEETING MINUTES

MONDAY, JULY 29, 2024
PENDING APPROVAL

PRESENT: H. H. "Dev" Roszel, Chair
Donald Woodruff, Vice Chair (arrived late)
Edward R. Fleischman, Member
Rachel Minchew, Member
Mimi Dale Stein, Member

STAFF: William M. Moore, Deputy Town Manager
Rhonda S. North, MMC, Town Clerk

ABSENT: Morris "Bud" Jacobs, Councilmember

The Middleburg Planning Commission held their work session and regular monthly meeting on Monday, July 29, 2024 in the Town Hall Council Chambers. Chair Roszel called the work session to order at 6:30 p.m. Town Clerk North called the roll.

Closed Session

Commissioner Minchew moved, seconded by Commissioner Fleischman, that the Planning Commission go into closed session as allowed under the Virginia Freedom of Information Act Section 2.2-3711(A)(1) for discussion, consideration, or interviews of prospective candidates for appointment to the Planning Commission. Commissioner Minchew further moved, seconded by Commissioner Fleischman, that the Commission thereafter reconvene in open session for action as appropriate.

Vote: Yes – Commissioners Fleischman, Minchew, and Stein
No – N/A
Abstain – N/A
Absent – Vice Chair Woodruff and Councilmember Jacobs
(Chair Roszel only votes in the case of a tie.)

(Vice Chair Woodruff arrived at 6:37 p.m. during the closed session.)

Chair Roszel asked that the Commission certify that to the best of each member's knowledge (1) only public business matters lawfully exempt from open meeting requirements under the Virginia Freedom of Information Act and (2) only such public business matters as we identified in the motion by which the closed session was convened were heard, discussed or considered in the closed session, which each member so did. He reminded those present for the closed session that any discussion that occurred within it should be treated as confidential.

Discussion Items

Initial Briefings – Special Use Permit Applications

Deputy Town Manager Moore reported that the Commission had three applications for special use permits before them. He noted that a full analysis had not yet been done by the staff and explained that he wanted to preview each one with the Commission. Mr. Moore advised that the applications would be scheduled for a public hearing during the Commission's meeting next month, at which time, they could forward a recommendation to the Council or, if more time was needed, could take an additional month to consider them.

Deputy Town Manager Moore advised that the first application was for a special use permit for short-term rental use at 609 Martingale Ridge Drive. He noted that it was located in the R-3 District in the Residences at Salamander. Mr. Moore reviewed the history of the four short-term rental applications that had been before the Commission recently and noted that the Council ultimately denied two and approved two. He advised that these applications were being considered on their own individual merits, which was what was supposed to occur with special use permit applications. Mr. Moore reminded the Commission that one of the key aspects of the short-term rental regulations was that the home must be used primarily for residential use and noted that this was a question with regard to some of the previous applications. He reported that in this case, this was Dr. Fourtney's, the property owner, primary residence. Mr. Moore reviewed a map showing the property in relation to the adjoining ones. He advised that Dr. Fourtney intended to use Loudoun Stay as her third-party management company. Mr. Moore noted that this application was similar to the Gillespie's application in that it backed up to a developed area on Stonewall Avenue; however, Dr. Fourtney had additional landscaping in the rear to provide an additional buffer beyond the landscaped open space that was located behind her property. He advised that unlike the other homes in the area, Dr. Fourtney did not have a swimming pool; therefore, it was less likely there would be activities in the rear of the property that would disturb the neighbors to the south. In response to an inquiry from the Commission, he confirmed the open space was owned by the homeowners association and was not buildable. Mr. Moore advised the Commission that under the regulations, Dr. Fourtney could have up to ten guests at any time. He reminded the members that there was an absolute cap of one hundred eighty nights for the short-term rental use; however, in the most recent approvals, the Council imposed a lower number of nights. Mr. Moore reported that Dr. Fourtney had not voluntarily offered any limitations; however, this was something for the Commission to consider. He advised that he would provide a staff analysis to the Commission during their next meeting. Mr. Moore noted that subsequent to the Commission's consideration of the previous round of applications, the staff provided an evaluation using objective data on the impact on the neighborhood of each request, which the Council found useful. He advised that this provided a somewhat objective way to compare one application to another and noted that he would go over that next month as well. Mr. Moore reported that Dr. Fourtney had voluntarily offered to terminate the special use permit if the property were to convey to another owner in the future.

Dr. Fourtney advised that it was very important for her to be a good neighbor. She further advised that she was not looking to turn her home into rental property, as she would be there the majority of the time. Dr. Fourtney explained that she was only looking to rent it out when she traveled for work or to visit her parents. She advised that it was not her desire to rent it for the maximum number of days and explained that she was only looking for some flexibility. Dr. Fourtney noted that she also did not want ten guests in her home at one time. She advised that she was looking for the most marketable approach to supplement her income and make her life easier. Dr. Fourtney opined that Loudoun Stay would do a good job of finding the appropriate people to rent it. She reiterated that her main goal was to become a member of the community and she did not want to do anything that would jeopardize that.

In response to an inquiry from the Commission as to what was being constructed at the end of the road, Deputy Town Manager Moore advised that it was a drive-thru mail kiosk. He reminded the Commission that there was a community mailbox for the Residences at Salamander and explained that this would allow them to drive up to their boxes during bad weather.

Deputy Town Manager Moore reported that the next application was for a special use permit from Aleco Bravo-Greenberg and Paul MacMahon, who own the former Snyder Plumbing property on South Pendleton Street. He advised that they sought some type of trade tenant for the spaces; however, they were unable to locate one. Mr. Moore advised that they were seeking to use the garage bays in each of the two buildings for storage use, which required a

special use permit. He advised that there were also office spaces in both buildings and noted that Messrs. Bravo-Greenberg and MacMahon were looking to have the flexibility to rent those spaces out separately as either office spaces or garage spaces. In response to an inquiry from the Commission, he confirmed it could be self-storage or warehouse storage; however, both were special uses in this district.

Deputy Town Manager Moore reported that the last special use permit application was a request from the Salamander Resort to modify its existing permit to expand and enclose the existing open terrace that was located on the north side of the property, adjacent to the Harriman's Restaurant. He noted that the existing terrace was 1,200 square feet and that Salamander was proposing to expand it to 1,700 square feet. Mr. Moore explained that enclosing the space would require the modification of their existing special use permit. In response to an inquiry from the Commission, he confirmed the intent was that the structure would have some dimension to it and that it would not be straight across.

Commissioner Fleischman opined that the short-term rental uses were a big issue in Middleburg and noted that they required a lot of thought. He opined that the Planning Commission spent a lot of time looking at them when they reviewed the applications that came before them in the past. Mr. Fleischman noted that the Commission recommended three applications be approved for ninety nights. He expressed surprise that the Council "disregarded" the recommendations of the Commission. Mr. Fleischman suggested the Town should look at a uniform decision process, especially for those applications in the Salamander subdivision, as opposed to looking at each location separately. He opined that the Commission's recommendation of ninety days was a compromise, which he felt was reasonable. Mr. Fleischman recommended that in the future, the Commission move ahead with a ninety-day recommendation and opined that it was not right to look at each individual property and make separate decisions for different properties.

Chair Roszel adjourned the work session and called the regular meeting to order at 7:32 p.m.

Disclosure of Meetings with Applicants

No meetings with applicants were reported.

Public Comment

John Ross, 1 Orange Drive, opined that the Commission's deliberations of the R-2 zoning regulations provided an opportunity to also ensure that Middleburg was resilient in the face of its evolving climate. He suggested the Commission include tax rebates in the proposed zoning text amendments for using permeable pavements, installing rain gardens, maintaining mature trees and the installation of solar and/or geothermal utilities. Mr. Ross urged the Commission to prepare a comprehensive resilience plan for the town and opined that federal funding was available for such initiatives.

Approval of Meeting Minutes

Vice Chair Woodruff moved, seconded by Councilmember Fleischman, that the Planning Commission accept the June 24, 2024 Work Session & Regular Meeting Minutes as presented.

Vote: Yes – Commissioners Woodruff, Fleischman, Minchew, and Stein
No – N/A
Abstain – N/A
Absent – Councilmember Jacobs
(Chair Roszel only votes in the case of a tie.)

NEW BUSINESS

Zoning Text Amendment 24-01: An Ordinance to Amend Articles II, VII, X and XII Pertaining to Definitions; Permitted and Special Exception Uses; Lot Requirements and Building Heights in R-2 Single-Family Residential District; Nonconforming Lots of Record; and Permitted Extensions into Required Yards

Deputy Town Manager Moore reviewed the process associated with zoning text amendments, as well as the history of the amendments that had occurred recently to the R-2 District regulations. He advised that in this case, the zoning text amendments before the Commission were initiated by the Council. Mr. Moore stressed that the Council would like to hear the Commission's thoughts regarding each item contained in the amendment; however, he explained that they would have to vote to recommend approval or denial of the ordinance as written, which meant they did not have the flexibility of removing, adding or modifying it. He advised that they could append their recommendation to include their thoughts regarding the individual components if desired. In response to an inquiry from the Commission as to whether their only options were to recommend approval or denial of the amendments, Mr. Moore reiterated that they could make recommendations for changes, which could be actionable by the Council, as long as they did not make the amendments more restrictive. He explained that if they were more restrictive, the public hearing would have to be re-advertised. Mr. Moore noted that the Commission could always recommend changes that would be less restrictive that could also be actionable by the Council. He reminded the members that the amendments would be advertised for a public hearing next month; however, they were not expected to take action until their September meeting. Mr. Moore advised that by code, they had to return a recommendation to the Council by the end of October in the event they felt they needed more time to study the amendments.

Chair Roszel noted that the Planning Commission had this conversation multiple times. He further noted the new residences that were being built and opined that the sooner the Commission made a decision, the better, as the longer they waited, more houses would be torn down and replaced. Mr. Roszel encouraged the members to read through the information and walk around the neighborhoods. He reiterated the importance of reaching a decision sooner.

Deputy Town Manager Moore reviewed the individual recommendations contained in the ordinance, which included:

-Increasing the minimum side yard requirement from 7.5 feet to 10 feet;
-Eliminating the language that allows the maximum building height to increase from 25 feet to 30 feet if the side yards are increased;
-Reducing the building lot coverage from 30% to 25%;
-Eliminating the language that allows encroachments within five feet of the side yards for very small nonconforming lots of record;
-Prohibiting attached front-facing garages in the front yard and requiring a special use permit for attached side or rear loading garages;
-Requiring detached garages to be placed in the rear yard;
-Addressing minor revisions to the zoning ordinance, including definitions and the encroachment of certain things into side yards, such as mechanical units and areaways;
-Establishing a floor-to-area (FAR) ratio of 0.3.

Deputy Town Manager Moore noted that the Commission had an attachment that analyzed every single detached house in the R-2 District, including the FAR and what it meant for them if a FAR ratio of 0.25, 0.3, 0.35 and 0.4 were approved. He further noted that he also provided information on the seventeen most recently constructed/permitted homes as a comparison to the older homes in the R-2 District. Mr. Moore reported that the median size of the newer homes was 4,730 square feet, whereas the median size of the other existing homes was 2,284 square feet. He further reported that the FAR for the newer homes was 0.56, whereas it was 0.19 for all other homes. Mr. Moore reminded the Commission that the R-2 District was defined in the ordinance as being the older, established neighborhoods in Middleburg. He opined that it was no surprise that the numbers for the older homes was lower or that there had been a change in the taste of the public for larger homes. Mr. Moore suggested that it was appropriate that the FAR should not be 0.25. He advised that 0.3 would equate to 150% of the median that existed. Mr. Moore recommended that in advance of the public hearing, the members take a field trip on their own to look at the homes in comparison to the information he provided, so they could see what the different FAR options would mean for the existing homes.

Chair Roszel agreed the members should take a field trip to look at the homes. He noted that the R-2 District encompassed not only the Ridgeview area, but other areas in town. Mr. Roszel further noted the need to understand how those areas would be affected.

Commissioner Fleischman commended Deputy Town Manager Moore on preparing a good analysis. He opined that he did a good job of preparing the recommendations the Council wanted. Mr. Fleischman noted that zoning was complicated and advised that sometimes there were unanticipated consequences. He noted the amendments to prohibit front loading garages and to allow side or rear loading garages by special exceptions. Mr. Fleischman advised that parking was a problem in the Ridgeview area, as the streets were narrow. He opined that if people did not have easy access to a garage, more cars would be parked in the roadway, which would create safety hazards. Mr. Fleischman noted that people now had three or four cars and suggested there was not enough parking for them. He reminded the Commission of one of the goals in the Comprehensive Plan to reduce impermeable areas and noted that requiring garages in the back yard would require long driveways that would result in a large amount of impermeable area. Mr. Fleischman suggested it would be helpful to the Commission if Mr. Moore followed up on the garage aspect. He opined that follow-up was also needed on the height limitation and noted some split-level houses that were constructed in Ridgeview appeared to be depressed buildings. Mr. Fleischman opined that there were ways for developers to get around the height limitation, such as constructing flat roofed houses, which were not typical for Ridgeview. He suggested the need for information as to what developers could do to get around that regulation. Mr. Fleischman advised that the Mayor kept addressing what people thought during the community engagement meeting; however, he opined that it was important to find out what the people in the R-2 District thought. He suggested a survey be sent to all the addresses in the R-2 District. Mr. Fleischman opined that a lot of people provided their opinions; however, he suggested they lived outside of town and hardly ever drove into Ridgeview. He recommended follow-up on those three items.

Quorum for August Meeting

Commissioner Fleischman noted that he would be out of town; however, he may be able to participate in the meeting remotely. The remaining members confirmed they were available to attend the meeting on August 26th.

There being no further business, Chair Roszel adjourned the meeting at 8:09 p.m.

RESPECTFULLY SUBMITTED:

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Rhonda S. North, MMC, Town Clerk

(Note: This is a transcript prepared by a Town contractor based on the video of the meeting. It may not be entirely accurate. For greater accuracy, we encourage you to review the video that is on the Town's website – www.middleburgva.gov)

Rhonda North: You are live.

Dev Roszel: Good evening. We are going into session for July 29th. We need to get a motion to go into closed session. Do I have a motion to move into closed session?

Will Moore: Mr. Chairman, if you could have the clerk call the roll first, please? Thank you.

Dev Roszel: Of course. Rhonda, could you please call the roll?

Rhonda North: Chair Roszel.

Dev Roszel: Here.

Rhonda North: Vice Chair Woodruff is absent. Commissioner Fleischman.

Ed Fleischman: Here.

Rhonda North: Commissioner Minchew.

Rachel Minchew: Here.

Rhonda North: Commissioner Stein.

Mimi Stein: I am here.

Rhonda North: Council Member Jacobs is absent.

Dev Roszel: Thank you, Rhonda. All right. Item number two is the closed session. And so, I would need a motion to go into the closed session.

Rachel Minchew: I move that the Commission go into a closed session, as allowed under the Virginia Freedom of Information Act, section 2.2-3711A1 for discussion, consideration, or interviews of prospective candidates for appointment to the Planning Commission. I further move that the Commission thereafter reconvene in open session for action as appropriate.

Ed Fleischman: I second the motion.

Dev Roszel: All in favor?

All of Commission: Aye.

Dev Roszel: Thank you. Okay. We are back from the closed session. We need to have a certification of the closed session. I ask that the Commission certify that to the best of each member's knowledge, one only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act. And two, only such public business matters as were identified in the motion by which the closed session was convened were

heard, discussed, or considered in the closed session. I would like to remind those present for the closed session that any discussion that occurred within it should be treated as confidential. Rhonda, can you call the roll, please?

Rhonda North: Chair Roszel.

Dev Roszel: Here.

Rhonda North: Is that a, yes?

Dev Roszel: Yes.

Rhonda North: Vice Chair Woodruff.

Don Woodruff: Yes.

Rhonda North: Commissioner Fleischman?

Ed Fleischman: Yes, I'm here.

Rhonda North: Commissioner Minchew.

Rachel Minchew: Yes.

Rhonda North: Commissioner Stein.

Mimi Stein: Yes, still here?

Rhonda North: But just for clarification, when you say still here, you're certifying the motion, correct? [laughter]

Mimi Stein: Yes.

Rhonda North: Okay.

Dev Roszel: Thank you, Rhonda. All right. Discussion items. Initial briefings Special Use Permit applications for review. We have a memo. Special Use 24-05. So, we have two Special Use Permit applications were filed with the town in mid-July. Will do you want to go ahead and run through this, or do you want me to?

Will Moore: I'll be happy to run through these and to be clear, we did add one additional Special Use Permit since the original memo went out. If it's okay with you, I'll touch base on the third one SU24-07 first because Doctor Fourtney is here. And the applicants for the other two just for the initial briefing, are not so.

Dev Roszel: Okay.

Will Moore: This particular request. And let me just publicly apologize to Doctor Fourtney. We had some sort of miscommunication in the office where her materials were evidently submitted and misplaced or we would have been at this stage last month. So, thank you for your patience as we work through this. And thanks to the Town Manager for working through this last week while I was away on vacation. But we wanted to with all three of these Special Use Permits none of them have had the full analysis yet by staff. Just because of the timing of us receiving them. But we wanted to give you a preview of each. Each would be scheduled for public hearing next month. At which time you could make a motion to recommend to forward a recommendation to Council. But if any one of these three are more complex and you needed an additional month, you could do that as well. But starting with Doctor Fourtney's application, this is for a short-term rental at 609 Martingale Ridge Drive. So, this is within the Residences at Salamander. As noted in the memo, it is in the R-3 zone portion. Which is the smaller lot portion of the development. You did see previously several months ago, you had three short term rental applications before you correction four,

three of which were within this development, one of which was on West Washington Street. Ultimately, Council denied two of those applications and approved two of those applications. So, they are being looked at on their individual merits, which is what we want with Special Use Permit applications. Just a couple of highlights of Doctor Fourtney's application that I want to mention. And these are included in the packet. But one of the key aspects to short term rental regulations is that the home must be used primarily for residential use. And that was a question of some previous applications that you considered. It is not a question. In this case. This is Dr. Fourtney's primary residence. So no, no need to be concerned with that one particular aspect. And that is the wrong picture. Yeah. Just I'll bring up the overall map here first. So, kind of along the bottom third of the screen here you see Stonewall Avenue. And then this is the Residences of Salamander up here. And her lot is highlighted. She's on the south side of Martingale Ridge Drive and she's the westernmost lot. So, she does have a neighboring home to the east and some homes across the street, but she was bordered by open space, HOA open space both to the rear, to the south, as well as a large open space parcel just to the west of her home. Similar to one of the applications that you previously heard, Doctor Fourtney is going to use a third-party management company, that's Loudoun Stay. And you heard a little bit about them with one previous application. That application for the Gillespie's was ultimately approved by Council. So, it is a known entity the management company that she would propose to use. She does have similar to the Gillespie application where she's on the south side, which backs up to a developed area along Stonewall Avenue there, but similar to the Gillespie's, she has done some additional landscaping at the rear of her property to provide an additional buffer above and beyond the 75 foot open space strip that is landscaped already. So, she's done some additional landscaping in there. She, unlike some of the other homes in the area, does not have a swimming pool. So, there's and she touches on it in her application materials. There's probably a little less likelihood that there would be kind of activities in the rear of the property that might be disruptive to neighbors to the south.

Dev Roszel: Yes, sir. Can I just ask one quick question? When looking at your photo up there to the left, or if you're facing the house to the right, is that part of your parcel or is that a vacant is that buildable?

Will Moore: It is not buildable. That's part of the HOA owned open space. So, she will be the last home in that row.

Dev Roszel: Thank you, perfect. Thank you.

Will Moore: So just a couple of things that I noted in the materials. There are a couple aspects of our regulations, in particular with the maximum number of allowable guests as well as the maximum number of nights per calendar year that can be considered for the short-term rental use. In this case, being a four-bedroom home she could have a maximum number of ten guests at any one time. And again, there's the absolute cap of 180 nights per year for the use. But what we have seen in the most recent approvals by Council is that they have imposed a lower number. So, for the Gillespie's application right down the road at 601, which was approved, the Council approved a maximum of 90 nights per year, which was consistent with your recommendation to Council on that particular one. Doctor Fourtney has not voluntarily offered up any of those limitations, but it's something for you to consider as you give further consideration to this application next month. We'll have additional staff analysis for you. One of the things that we provided subsequent to the Commission consideration of the previous round of applications, but the Council found useful in that I will give to you next month with this application is kind of an evaluation of that gives a little more objective data for you to consider in terms of what the impact could be and what we're terming as guest nights. So basically, it's the maximum number of guests times the maximum number of nights per year. And what that could mean for the neighborhood. So, there's a way to kind of at least somewhat objectively compare one application to another. So, we'll go over a little bit of that next month. And the one last thing I would highlight with Doctor Fourtney's application is, like some of the others before her she is voluntarily offering to terminate the SUP if the property were to transfer in the future. So, it would not the SUP would not convey to a subsequent owner, and that is included in her materials. So that's my preview. If you wanted to hear anything from Doctor Fourtney this month, she. She is here. I'm sure she'll be glad to address you. Or if you have questions for either her or for me on this application.

Dev Roszel: I am more than happy to have you step up if you have something you'd like to say.

Dr. Fourtney: This is where I go?

Dev Roszel: Yep.

Dr. Fourtney: Okay. I don't know if it's on or if you can hear me, but yeah, I guess I just want to expound on that a little bit and say that it's very important to me primarily to be a good neighbor. I moved locally, but my kids go to school at Hill. I'm not looking to kind of turn and burn or make this a rental property because it is my home. I will be there a majority of the time. The things in my lifestyle that enable me to rent it out are that I am divorced, and I have my kids 50% of the time, and I have parents that are starting to need my help in Indiana. So right now, I have the ability to travel back and forth and for work. And initially, you know, whether it's good or bad, you know, part of the appeal of the home was that it could be for rent. Whether that was false or not, I didn't know at the time. So, I kind of factored that into cost of living and all of that. So, it's not my desire to rent it for the maximum number of days. I'm looking just for flexibility, and nor do I really want to have ten guests in my home at one time. Again, I'm just looking for the most marketable approach to get there to supplement and make my life easier. But primarily, you know, I'm using Loudoun Stay because I think that they do a good job of finding the appropriate people to come there and that are respectful. And but really, my main goal is to become a member of this community that feels as cohesive with the town as well. So, I don't really want to do anything to jeopardize, although I realize this whole endeavor is a little bit polarizing. So yeah. So that's it, I guess. If you have any questions, I'm happy to answer.

Dev Roszel: Great. Thank you.

Dr. Fourtney: Yeah.

Will Moore: Yeah. No action required this month. But if anybody has any additional questions. Any questions from Commissioner Fleischman.

Ed Fleischman: Just a softball question. At the end of the street, there's a shed under construction. What's going on there?

Will Moore: I could probably help with that a little better. That's a drive through mail kiosk. So, they have a community mailbox instead of individual mailboxes at each home, and it's a drive through facility. So, when it's bad weather or something residents can drive through without having to get wet. [multiple speakers]

Dev Roszel: So, they're going to move that kiosk with all the mailboxes into the shed?

Will Moore: Correct, correct. And that was part of the original subdivision plan. It was to have that kiosk. [off mic]

Will Moore: Yeah, good.

Ed Fleischman: All right. Thank you very much.

Dev Roszel: Anyone else have a question? Don. Thank you, thank you.

Will Moore: Great. Thank you.

Dev Roszel: Will so.

Will Moore: Yes. So, I'll just give you a quick rundown on the other two that are before you. 24-05. So Aleco Bravo-Greenberg, who's a local property owner, has a number of different properties here. He and a partner, Paul MacMahon, local real estate agent, purchased the former Snider Plumbing properties down on South Pendleton Street. They've had them since, I believe, the fall of last year. And they've been seeking tenants for the spaces. Ideally, they were hoping to get another trade of some sort, but they've been unable to locate a single applicant or two different ones for the two buildings that wanted the entire space. So, what they're doing is asking for a Special Use Permit that would potentially allow them to split up the uses in the space. So right now, each of the two buildings has a number of garage bays that are completely segregated from one another. When those garage bays were being used by Snider Plumbing, they were accessory to his business use. So, they didn't weren't technically called a storage use. But if those were to be used for storage, not in an accessory manner to a business operating otherwise in the properties, then that use for storage

requires a Special Use Permit. So again, there are office spaces in both of those buildings. So again, having been unsuccessful at renting out to 1 or 2 tenants they're looking to have the flexibility to rent the office space separately, which they could do right now, but also to be able to individually rent the garage spaces.

Dev Roszel: So, the Special Use Permit is really for the garage space with the bays to turn it into a self-storage.

Will Moore: It may be self-storage. It may be something that we would separately call warehouse. So, both of those are identified as special uses in the district. So, this would give them the flexibility, if approved, to do either one of those types of models. Understood. Thank you. Any questions on that? Again, we'll have additional analysis for you next month in advance of the hearing. Anyone have questions Ed, Mimi? Rachel?

Ed Fleischman: After all this is over, I hope we have a chance to discuss it and give some comments because I do have comments.

Will Moore: Yeah. Okay. And then finally the last one. Special use 24-06. This is a request of the resort to modify its existing Special Use Permit. There is a terrace on the north side of the property adjacent to Harriman's restaurant that terrace is a little less than 1200ft² in area currently. It does have a cover, but it is unenclosed, and what they would like to do is add some additional area to the terrace, an additional 525ft², and then to enclose it, which would give 1700 square feet of additional enclosed space to the resort. Enclosing additional space does require modification of their existing Special Use Permit. If that were to be ultimately approved, they could then enclose that. This was the one I brought up earlier. So, this kind of gives you an idea. This is the north side of the resort. So, town would be further to the top of the screen. So, the area in blue here kind of highlights where the existing covered terrace is. You see the columns coming down. So, they would bump that out slightly, but again adding about 500ft² to the terrace and then would enclose the full 1700 square feet.

Dev Roszel: And the intentions is to make it match the octagonal part there.

Will Moore: Yes. It will have some dimension to it. It's not a straight across. And then again, we will have it full analysis for you next month.

Dev Roszel: Sure.

Will Moore: Again just because of the timing of when these applications came in, we wanted to give you a preview so you could start thinking about them, but we'll have full analysis on each of these three Special Use Permits in advance of your hearing next month.

Dev Roszel: Great. Thank you. Any other items we need to discuss during the [inaudible]? So, I guess we're moving directly into the regular meeting. Mr. Fleischman, was it regarding the Special Use Permits where you wanted to add comments or before we move on to the regular meeting?

Ed Fleischman: Thank you. Yes. I would like to give some comments. I think the short-term use is a very big issue here in the Town of Middleburg, and I think it requires a lot of thought as it moves ahead. I think that the Planning Commission spent a lot of time on looking at the short-term rentals, and we did review a number of the applications. I think there were four applications that came before us. And the three, there were three applications that we sort of uniformly said that we prefer to 90-day 90-night requirement. And I believe that was submitted to the Council. Now, I know the Council is a political body. They're elected and they can make their own decisions, that's the purpose of having an elected Council. But I was just surprised how they completely disregarded the recommendations of the Planning Commission. I think that in cases of short-term rentals, especially the Salamander property, we ought to be looking at sort of a uniform decision process and not look at each particular location separately. And I think that when we as a body, recommended sort of a compromise of 90 nights, I thought that was a reasonable compromise. And I think that as we move forward next meetings, that I'd recommend that we move ahead on the 90 days also. I don't think it's right to look at each individual property and make decisions, separate decisions and have different number of nights for different properties. Thank you.

Dev Roszel: Thank you, Commissioner Fleischman. All right. Anyone else? Comments? I guess we are ready for the regular meeting to call the regular meeting to order. Do we need to take another roll call? All right. Disclosure of meetings with applicants. Rhonda, will you call that, please?

Rhonda North: Chair Roszel.

Dev Roszel: I have not had any meetings with any other applicants.

Rhonda North: Vice Chair Woodruff.

Don Woodruff: I have had no meetings.

Rhonda North: Commissioner Fleischman.

Ed Fleischman: No meetings with applicants.

Rhonda North: Commissioner Minchew.

Rachel Minchew: No meetings with applicants.

Rhonda North: Commissioner Stein.

Mimi Stein: I've had no meetings with applicants.

Dev Roszel: Okay. Thank you, Rhonda. Moving on public comment. Do we have anyone here that would like to have public comment? Please come up and state your name and your address for the Council. Excuse me. Planning Commission.

John Ross: My name is John Ross, and I live at One Orange Drive Middleburg. And thank you, Mr. Chairman, very much for allowing me to speak. The Planning Commission's deliberations on defining the conditions relative to R-2 zoning provides an unparalleled opportunity to begin to ensure that Middleburg is resilient in the face of our evolving climate. We are in the midst of a severe drought. We know we can expect storms of increasing intense rain and wind. Now is the time to begin to armor our community against the destructive effects of climate change. In setting new standards for R-2 zoning, we can provide incentives for enhancing climate resilience. First, we can offer a modest tax rebate for using permeable pavements for driveways, patios, and walkways. We can offer a modest tax rebate for installing rain gardens to capture stormwater runoff before it floods our streets. We can provide a modest tax incentive for maintaining mature trees, and we can provide a modest tax credit for installing solar, electric, geothermal utilities. Further, I urge the Planning Commission to prepare a comprehensive resilience plan for the town. A comprehensive resilience plan would contain these elements. First, the best analysis of how evolving climate will affect the town over the next 5 to 7 years. Development of strategies to protect our mature trees, manage stormwater runoff, and establish a durable ground cover and decorative shrubbery, preferably using native species, providing economic incentives for implementing climate resilient features for home and business owners, transitioning all town owned properties, vehicles, and equipment to carbon neutral power. And finally, by developing a system for monitoring by implementation of resilience features tracking their benefits and addressing outcomes both in terms of benefits and in terms of shortfalls. Federal funding.

Dev Roszel: Excuse me sir, I neglected to tell you that there is a red, yellow, and green light on your desk and.

John Ross: I am three paragraphs, two paragraphs away from the end.

Dev Roszel: Thank you.

John Ross: Okay. Federal funding is available. This is the most important part. There's money in these there hills. Federal funding is available for initiatives such as those under FEMA's BRIC Grant program. BRIC Grants are

Building Resilient Infrastructure and Communities programs. Given our small geographic size, we have the opportunity to create a model for other similar sized communities that could well benefit from Middleburg experience. Thank you very much.

Dev Roszel: Thank you. Do we have another member of the audience that would like to speak? No? Thank you very much. All right. Next item on the agenda is the approval of the minutes for the June 24th, 2024 work session and regular meeting. Do I have a motion to accept those minutes?

Don Woodruff: I move that these minutes be accepted as presented.

Dev Roszel: Do I have a second?

Ed Fleischman: I second it.

Dev Roszel: All in favor?

All of Commission: Aye.

Dev Roszel: Motion is passed. We have the next item is new business. Will, do you want to run us up on that or do you want me to read through it or how do you want to?

Will Moore: I'll be happy to start it off at least. If it pleases the Chair, let me talk a little bit about process first, because I think that's going to be very important as you consider the amendment that has been presented to you. So, as you, I think, are aware the text of our zoning ordinance can be amended at the initiation of that amendment, that is the beginning of the process can start with the Planning Commission, or it can start with the Council. So, the most recent text amendments that were passed, and there were two of them to address some of the ongoing concerns with the character of development and redevelopment in the community, in particular in the R-2 zoning district, those were initiated by this body, by the Commission. So, if you might think back to the first one, which was in 2021. Staff developed kind of a number of options for you to consider. Ultimately, the Commission chose to initiate an amendment that addressed height and side yards and kind of had the relationship between the two. There were some other elements that were included in the initial draft that I presented to you that you weren't comfortable moving forward with at that time, and that was extremely reasonable. You wanted to study those elements first, so you removed those from that draft. And that was again, that was perfectly fine. And I think the correct thing to do. But it was your amendment. You had initiated that amendment. So, you chose what to include and what not to include. In this case, this amendment has been initiated by the Council. So, we will be running through all the different elements that are included in the amendment. Ultimately, what you are going to be asked to do is to forward a recommendation back to the Council on whether to approve the amendment or to deny the amendment as is. So, you don't have the flexibility to remove things or to add things or to modify things. However, having said that, I don't want you to feel like your hands are completely tied and neither did the Council want you to feel like your hands are completely tied. You can append that recommendation with any sort of comments that you want forwarded to them for their consideration. So, for example, and this is hypothetical only I don't I'm not anticipating this to be the course. It's purely hypothetical. But one thing that this amendment would do is it would introduce a Floor to Area Ratio, an FAR, and in particular an FAR of 0.3. When the Council chose the zero point three FAR to include, they were not set on that being the ultimate answer, as I don't think they're set on any of the things that are included in this draft as being the ultimate answer. They really do want you to study and opine and recommend. However, they chose the 0.3 because that was the most restrictive that they were willing to go. So, they had four options that they studied 0.25, 0.3, 0.35, and 0.4. They said, let's put the 0.3 in there, knowing that we're not going to do 0.25, but that we could go up. So again, a hypothetical, you could study all of the different elements in this amendment. And you could say we recommend denial of draft three. However, we would be supportive if you revise the FAR to 0.4 or we would be supportive if you removed FAR but kept all the other elements. So, the Council really does want you to study this. They don't want you to feel like your hands are tied, but ultimately you will need to make a recommendation to approve or deny this draft. But then you can send them all the recommendations to go along with that.

Dev Roszel: So, we really need to they want us to approve or deny this, but we can add I don't want to say caveats, but we can add on or subtract as an addendum to this.

Will Moore: You can make recommendations to do so. Those recommendations could be actionable by the Council, as long as they do not make the amendment more restrictive than it currently is. If it were to become more restrictive, we might have to retrace our steps to re-advertise and things like that. But you could make recommendations to make it less restrictive than those could potentially be actionable by Council without having to go back and forth too much. So.

Dev Roszel: Okay. So, the zoning text amendment as it is, is either up for approval or not. It's the how we may view some of the minutia, so to speak, that is part of that.

Will Moore: Yes. So again, in terms of process this would be scheduled for public hearing for you for next month, but you are not expected to take action next month. Ideally, Council's timeline would be to have you forward your recommendation at your September meeting, so in late September. However, by code, you could have an additional month. So, you know, they would like to have it returned to them at the end of September, but you have the flexibility to return it to them if you want more time to study. No later than your late August or late October meeting. So. Right. So that's just a little bit about the process. And again, I try my best to make it clear that although you will have to do an up or down vote, all of your recommendations are welcome and hoped for so that they can have some more information to ultimately make whatever decision they ultimately make.

Dev Roszel: Right. Okay, thank you, Will. You know to the Planning Commission, I would just say that since we have had this conversation multiple times and we see the new residences that are going in, the sooner we read through this, educate ourselves and get a decision made based on this would be probably a good idea, only because the longer we wait, the more houses will be torn down, the more things that go up. So, I would encourage everybody to read through it if we need to meet separately or what have you or walk around and look at what we need to do. I think it's important that we come up with a decision and we have to probably do it sooner than later. We need to really make a move and not drag it out. Thank you.

Will Moore: So that being said I would like to as quickly or as expanded upon as would be helpful for you at least run through all of the different elements that are included in here. I don't want to read to you. Hopefully, you've read your packet.

Dev Roszel: Right. I would just like to say I'm hoping that everybody's read through this and has gotten a pretty good idea since it's not the first iteration of doing this.

Will Moore: Right. So again, I'll do this quickly, but if there's anything that you want me to take a little more time on, or if you have any questions, please speak up. The first element if you're looking at your memo, I have it as bullet A would be to increase the minimum side yard from seven and a half to ten feet. So currently, seven and a half is the bare minimum. Some recent construction have voluntarily increased that from seven and a half because it gives them additional height in the building. But letters A and B together kind of address that. So, this would require a minimum of ten feet, no matter what on both sides. And then letter B would remove the stipulation that building height can exceed 25ft with the provision of the additional side yard. So, 25 would become the hard cap at that point. We have seen and if you look into some of your attachments that are included. In particular the attachment that addresses the 17 most recently constructed or permitted homes, that there are a couple of examples of 25-foot-high homes in there. Two of them are under construction right now, so you can't go and look at them. But there are a couple of additional ones. One on Locust Street, one on Walnut Street that can give you an idea. I won't opine as to whether I think they're successful designs or not. That's all in the eye of the beholder. But you can see that two story homes have been constructed within that 25-foot height limitation. Bullet C is further reducing the building lot coverage from the current maximum of 30% to 25%. So, the building lot coverage is the area under roof. This draft does not propose revising the impervious lot coverage, which is inclusive of the area under roof and all other impervious areas on the lot. So that would remain at 45% maximum. We've not really seen that being pushed. The total impervious area of with one exception, for which the BZA actually granted relief because of specific circumstances. But it would reduce the area under roof. If you I mentioned it in the memo, if you think back to when the Berkeley group did their study before you

passed a recommendation for the second zoning text amendment that was ultimately adopted. That's the one that included impervious lot coverage. When they looked at the building lot coverage, the average in R2 at that time was about 17%. So, the reduction, again, from 30 to 25% for area under roof is included in this draft. Letter D is not specifically aimed at R2, although this is where we have seen this applied. So, this would remove a provision in our non-conforming lots section of the ordinance that allows lots of record that are less than 80% of the required lot area or lot width. So if you have a home on or if you have a sorry, a lot, an exceptionally small lot, one that is less than 80% of whatever district you're in the required lot width or lot area a current provision allows you to go even lower on your side yard to a minimum of five feet. This would remove that allowance. So regardless of the size of your lot, you would still have to meet all of the zoning requirements. You could still build upon it, but you could not further encroach closer to neighboring properties in order to do so. Letter E was a, I think, a really big takeaway for those who attended the community meeting last October. And it was discussed, I think some in the joint meeting between this body and the Council in May. And that is the kind of visceral reaction to front load garages that have been a most common feature with the most recent construction. So, the original draft that Council considered would have prohibited attached garages in all cases. They didn't want to go that far. But they did with the draft that they've ultimately sent to you, this would prevent front-load garages and a front load garage is defined, which is part of our draft ordinance that's under consideration as one that has it's an attached garage. So it is by definition, it's an attached garage, and it has the overhead doors facing the public street. So, it's for interior lots that is not a corner lot that's on the front. But if you're on a corner lot they couldn't face either street side. So those would be prohibited outright. Other attached garages which would be side or rear load could be considered, but it would require a Special Use Permit. So that's what is being included to address that concern. Letter F is a requirement that detached garages be placed in a rear yard. So currently accessory structures which are inclusive of detached garages, they can be in a side or a rear yard. There was a concern that if they're allowed to be in a side yard, that means they could be pushed up so that it essentially becomes a front load garage, because it can sit directly beside the front plane of the house and have the same appearance. So, this would require a detached garage to be completely in the rear yard that is behind the rear plane of the building. Other accessory structures, such as a garden shed or something of that sort, could still be in a side or rear yard, but detached garages would be treated a little bit differently that way. What I call other minor revisions. Some of these have to do with adding definitions, so it adds definitions for front load, side load, rear load, attached garages. It also addresses the encroachment of certain things into side yards. So, the couple things that are mentioned here are mechanical units and areaways. Areaways are basically outside access points to an underground basement. So, it's exterior stairs that go down to an exterior door to your basement. Currently, there's no limitation on how far those types of things, mechanical units or areaways can encroach into a side yard. They can go all the way to a property line. So we saw that on the BZA considered an application along Lincoln Road, where it was a combination of things, where it was one of those exceptionally small lots that built with a five foot side yard and then had an areaway which encroached it, you know, occupied the entire side yard. And the gentleman who built the home came to the BZA seeking relief. And one of the things was that he argued was he can't push his lawn mower from rear yard to the front yard without going on to his neighboring property, because his areaway takes up the entire side yard. So, this would allow those elements mechanical units and areaways that they're necessary features for homes, if you have a basement, an areaway is a great thing to have. All homes need mechanical units nowadays. They could still be located in a side yard, but they would have to be at least five foot from the property line. And again, with any new homes, if this draft in its current form went through, it would require a ten-foot side yard. So, you still have five feet of width to work in, and an additional five foot until you would get to the property line. So those are kind of what we describe as the minor revisions. And the biggest, I think, element for consideration saved for last here is the introduction of the floor to area ratio. So, I won't read to you again, but this puts a relationship between the allowable square footage of your home. It establishes a relationship between that and the size of your lot. In this case the Council again has forwarded the draft with a 0.3. However, you do have as an attachment to this item, you have the full analysis that was given to Council, which analyzes for every single family detached home in R2 it analyzes the FAR and what that would mean at 0.25, which is out of consideration now, but also 0.3, 0.35 and 0.4. So, you can look through that analysis and get an idea of at those different levels of FAR. If an FAR was approved, what that would mean for not only potential future homes, but what it would mean for existing homeowners, would it put them into a state of non-conformity with their home right away, or would it at the different levels? Would it give them some flexibility to still possibly do an addition, for example, in the future? So, you have that full analysis. I did include this kind of one, just brief takeaway. I don't want you to think that it is meant to imply a course of action, but just giving you the both the average and the median square feet and the average in the median FAR of the 17 most recently constructed and permitted homes in comparison to all of the other homes in R2 and where they fall. So, for example, the median square

foot of the newer homes is 4730ft², whereas the median of all other homes in R2 is 2,284. And what that equates to in FAR is a median of 0.56 for those most recent homes, and a 0.19 for all other homes. So, it's just it's one data point for you to consider. I think it's clear that R2 is overall, it's in fact, defined in our ordinance as older established neighborhoods. So, it's no surprise that those numbers are lower. It's no surprise that there has been a change in the taste of the public for at least slightly larger homes. So, I think it's appropriate that even if you do consider the recommendation for an FAR that it shouldn't be what, that average or median is as low as a 0.2, but a 0.3. If you think about what the draft is sent to you, that's 150% of the median that exists today. So, it even if you were to recommend the most restrictive FAR that Council has said that they would consider it is a good bit above the median that exists today. But my recommendation would be when it comes to the FAR is take a field trip on your own. Take print that out. I'm happy to print it out for you or we can use the town's paper. I know Miss Gallagher, who's trying to sit quietly in the background, I did the very same thing for her, because she wanted to actually go out on the street and take that list of all the homes in R2 and go out and look at it on the street. What does this mean? Some of it you won't fully appreciate because some of it because FAR includes floor area and basements. So sometimes it's not going to be as obvious to you. You might be looking at a home. You can say, is this really a 0.4? It doesn't look that large, but it's something that most likely a home that has a full basement in it, those kinds of things. But my recommendation in advance of the hearing next month would be particularly with FAR to try to do that kind of field trip and just, you know, whether you go on a few select streets or whether you tour the entire district you know, try to familiarize yourself with what those different numbers mean. It looks very dense and data heavy. If you're just looking at a large spreadsheet like that. I don't want to only focus on FAR, though. All these elements that are included in here, I think are worthy of your study and attention. So, anything that staff can provide for you that we're able to help you better understand or better analyze the proposals, please let me know right now, the spreadsheets I've given you the best stab I could give at this point for you.

Dev Roszel: Great. Thank you Will appreciate that. And I would just reiterate what Will says, that we should go out and look. But I would also, as I've said in the past, understand that this is a town, you know, not only go to Ridgeview, but go elsewhere in the town and look at how this would affect other neighborhoods, because it will encompass the whole town. It's just not Ridgeview. And I think that that's important to understand. Yeah, that's a problem. But across the town, if you look at these you know, the allowable square footage, you know, when you look at that and look at where the houses are in relation to their lots, I mean, it could have a huge impact across the town, in any neighborhood. So, I would just encourage everybody to think about that as we go out. Thank you. Bud's not here, so we don't have. Was there anything else, Will?

Will Moore: I don't have anything else unless any commissioners have any initial comments or questions, requests, etc.

Dev Roszel: Any other comments. [multiple speakers] Please.

Ed Fleischman: Thank you, Mr. Chairman. Will, I think you did a yeoman's job here. It's a very good analysis. I think that you know the Council wanted some of these recommendations put in print, and you did a good job in putting everything else together that the council wants. Zoning is very complicated. You know, I've spent my life in planning and engineering, and I know there are some twists and turns, and there are conclusions or results that are unanticipated all the time. A couple of things I'd like you to take a look at. You asked, can you do additional work here on this garage situation about prohibiting front loading garages, allowing side and rear garages by special exception. I think there's a little bit of a problem in Ridgeview on parking, and the streets are narrow. And I noticed that on certain streets people park in the street right of way. And if we don't allow easy access to garages or possibilities, I think that we might have more street parking of cars parked in the roadway, which is a safety hazard. And also, as far as siting, it's not the best thing to do if people say Ridgeview is an old-line development. Well, people now have three, four cars. And I think that was even mentioned when we were dealing with some of the townhouse areas that there aren't enough parking there. So, I think that I'd like you to look at that as a problem and associated with that one of the other goals in our plan, the comprehensive plan is to reduce, you know, permeable sidewalks and areas. So, if we require backyard garages, you're going to have a long driveway there. And that's an unintended consequence, is the amount of impermeable area that would be generated from that. So, I think it would be useful for the Planning Commission if you could sort of follow up on the garage aspect. The other area that I think we need some follow up is on the height limitation, because, I mean, we had these discussions before, but I think it's a significant item is that when you look at

the houses on some of the houses on Stonewall, that in order to get, I guess, within the height they depress. So, it's a split foyer, you go down and you go up. And so, the height is not that great, but it looks like a depressed building. It's fallen down. So, I think that there are a lot of ways that developers can get around the height limitation. Flat roof, Flat roofs are not really typical of Ridgeview, so a flat roof is going to be a problem also. So, there are ways developers can get around the 25 limit. And I think we ought to get some facts and figures on that. And I think you ought to give the Planning Commission some information on what developers could do to get around that. The other thing that I mentioned to the Mayor at a meeting was that the Berkeley group did a very good job of looking overall at various alternatives, and the Mayor kept addressing what the people at the meeting thought, but I think it's also important to find out what the people in the R-2 zoning area think. And I think that it would be simple to have a little survey sent out by the town to the addresses in R-2 to get some handle on what they think. I think there's a lot of people who give opinions and we want opinions from everybody, but there are a lot of opinions. They hardly ever drive into Ridgeview. They live outside of the town. And we value all opinions that I said. But I think that we ought to check on what the Ridgeview homeowners think. So, I think I'd recommend that as a follow up. And those are my three big items, and I'll pass it back to the Chairman.

Dev Roszel: Thank you, Commissioner Fleischman. Does anyone else have comments? Mimi.

Mimi Stein: No. I'm anxious for us to do a field trip again, and maybe we should start with our each of our own houses. Because when I looked at this FAR in my house, I was like, whoa!

Dev Roszel: Yeah, well, that's why I'm saying.

Mimi Stein: You know and then we can speak to it, you know, practically.

Dev Roszel: It's not one spot.

Mimi Stein: Yeah.

Dev Roszel: Mine is the same way I think Rachel's is. So, I mean, it's not just one spot. It's everywhere. Yes.

Ed Fleischman: Just a clarification. People talking about their own lots. My lot is a third to a half an acre, and I don't think that the requirements in this particular write up is going to affect my lot. So, I'm not doing this because I want to protect my particular lot. It's just my general planning background.

Dev Roszel: One would hope that that's the case. [laughter]

Ed Fleischman: It is the case.

Dev Roszel: That's why you're on the Planning Commission. It's not for yourself. It's for the town. Anything else Will? Are we? So, we don't have Council Representative. We've had discussion items. Do we have a quorum for August 26th? [off mic].

Don Woodruff: I'm okay.

Dev Roszel: You're in?

Don Woodruff: Unless I get invited back to Maine.

Dev Roszel: Take me with you. Yeah. Okay, everybody. Good for the 26th?

Rachel Minchew: Yeah.

Ed Fleischman: It's the last week in August. I'm going to be up in upstate New York. But if it moves ahead, I may be able to get remote coverage.

Dev Roszel: Okay. That's good. That being said, I believe we can adjourn.