TOWN OF MIDDLEBURG
PLANNING COMMISSION
WORK SESSION & REGULAR MEETING MINUTES

MONDAY, AUGUST 26, 2024
PENDING APPROVAL

PRESENT: H. H. "Dev" Roszel, Chair
Donald Woodruff, Vice Chair (arrived late)
Edward R. Fleischman, Member (arrived late – attended meeting remotely)
Rachel Minchew, Member
Morris "Bud" Jacobs, Councilmember

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

The Middleburg Planning Commission held their work session and regular monthly meeting on Monday, August 26, 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 Councilmember Jacobs, 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 Minchew and Stein and Councilmember Jacobs
No – N/A
Abstain – N/A
Absent – Vice Chair Woodruff and Commissioner Fleischman
(Chair Roszel only votes in the case of a tie.)

(Vice Chair Woodruff and Commissioner Fleischman joined the meeting during the closed session. Commissioner Fleischman attended the meeting remotely, as he was traveling.)

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 were 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, with the exception of Commissioner Fleischman who could not be heard because the sound system was not working at the time of the certification. Chair Roszel reminded those present for the closed session that any discussion that occurred within it should be treated as confidential.

Chair Roszel adjourned the work session at 6:55 p.m. He called the regular meeting to order at 7:00 p.m.

Disclosure of Meetings with Applicants

No meetings with applicants were reported.

Public Comment

John Ross, 1 Orange Drive, opined that bed & breakfasts (B&Bs) seldom had more than three bedrooms. He further opined that five bedrooms B&Bs functioned more like a country inn. Mr. Ross encouraged the Commission to investigate the norms for B&Bs in communities similar to Middleburg. He expressed concern about the proposed change in language related to meals and opined that such operations could have a greater impact on the neighborhoods. Mr. Ross suggested that establishing definitions of short-term rentals, B&Bs and similar lodging should be a high priority.

Megan Gallagher, 214 E. Marshall Street, noted that the Commission would discuss proposed changes to the zoning ordinance related to bed & breakfasts. She opined that most of those changes deserved passage, with the exception of the proposed change to increase the number of bedrooms from three to five. Ms. Gallagher noted the proposal to change the use of 204 East Washington Street into a three-bedroom bed & breakfast. She opined that this was a great future for the property, seemed compatible with the neighborhood and was in accordance with the Comp Plan. Ms. Gallagher advised that having five-bedroom bed & breakfasts was too much and asked that this proposed change be paused.

Approval of Meeting Minutes

Councilmember Jacobs moved, seconded by Vice Chair Woodruff, that the Planning Commission approve the July 29, 2024 Work Session & Regular Meeting Minutes as presented.

Vote: Yes – Commissioners Woodruff and Minchew and Councilmember Jacobs
No – N/A
Abstain – N/A
Absent – N/A
(Due to issues with the sound system, Commissioner Fleischman could not hear the meeting proceedings and the Commission could not hear him. Chair Roszel only votes in the case of a tie.)

(Following a reset of the system, the sound was restored, which allowed Commissioner Fleischman to hear the meeting proceedings and for those in the Council Chambers to hear him.)

PUBLIC HEARINGS

SUP 24-05: Self-Storage – 104-106 South Pendleton Street – Aleco Bravo-Greenberg

Deputy Town Manager Moore reported that the C-3 District was defined in the ordinance as one that was designed to accommodate more intensive commercial activities, light industrial activities, wholesale, and other businesses that did not lend themselves to being in the central business district. He reminded the Commission of the language in the Comprehensive Plan that was centered around the C-3 District regarding potential redevelopment. Mr. Moore suggested that when considering special use requests, the Commission may want to give some weight to how the approval of a use may or may not contribute or detract from the future vision for the corridor. He reported that this application was related to two properties that already contained existing garage bays and buildings, which were segregated from one another. Mr. Moore explained that the applicant was looking for the flexibility to rent those units individually, as opposed to being used as an accessory to a business on the site. He further explained that because storage would be the primary use, a special exception was required.

Aleco Bravo-Greenberg, the applicant, advised that he and Paul McMahon purchased the property, cleaned it up and tried to lease it out as one business; however, they had not been successful. He advised that they would like to use the individual garage bays that had been used for storage as individual storage units that could be rented on a monthly basis. Mr. Bravo-Greenberg noted that no changes would occur to them and opined that putting them to use would be good for the town's economy and theirs. In response to inquiries from the Commission, he advised that there would be

no alterations to the buildings. He explained that the building at 106 South Pendleton Street had been used as an office, with the four garage bays having been used as storage (by the previous owner). Mr. Bravo-Greenberg explained that instead of renting the property out to one individual, they were looking for the flexibility to put in more than one tenant. He reiterated that nothing would be changed. Mr. Bravo-Greenberg advised that they already renovated the buildings and remedied some issues. He reiterated that they now had individual bays and that both buildings were sitting empty. Mr. Bravo-Greenberg advised that they anticipated someone leasing a bay for the storage of a vehicle, furniture, or pots.

There being no further public comment, the public hearing was closed.

Deputy Town Manager Moore noted that often, special uses may be accompanied by recommended conditions. He advised that in this case, there were specific use standards in the ordinance for this use that would apply if the application was approved.

Vice Chair Woodruff moved, seconded by Councilmember Jacobs, that the Planning Commission forward SU 24-05 to Council recommending approval as contained in the application materials for a commercial use in a commercial district in Middleburg.

Commissioner Fleischman opined that storage units would not serve the town's residents; therefore, he was opposed to the special use permit application.

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

SUP 24-06: Modify Existing Special Use Permit 06-03 for Rural Resort – 500 N. Pendleton Street – Salamander Resort

Deputy Town Manager Moore reported that the Salamander Resort & Spa was issued a special use permit in August of 2006 and opened for business in August of 2013. He further reported that the special use permit contained different conditions that limited things like number of rooms and square footage and advised that the resort was constructed to that square footage. Mr. Moore explained that the request before the Commission involved the existing open terrace located on the north side of the resort. He further explained that Salamander would like to add an additional 525 square feet to it and completely enclose it, which would add an additional 1,700 square feet of interior space above what was approved in the original special use permit. Mr. Moore advised that in order to consider it, it would require the approval of a revision to their special use permit.

Scott Little, Managing Director of the Salamander Resort & Spa, advised that this application was due to the popularity of the Gold Cup Lounge and noted that it simply did not contain enough bar stools. He explained that the expansion and enclosure of the terrace would allow Salamander to accommodate the surge in capacity and offer local residents an alternative experience. Mr. Little advised the Commission that the terrace was the small one off of Harriman's hallway that did not get a lot of use. He noted that, if approved, the architecture would emulate the octagon barn that the Harriman's building featured. Mr. Little opined that the increase in the FAR (floor-to-area ratio) was negligible.

There being no further public comment, the public hearing was closed.

Commissioner Fleischman questioned whether Salamander had an Alcohol & Beverage Control permit for the bar.

Mr. Little confirmed their permit already included this area, as well as the lawn area.

Councilmember Jacobs moved, seconded by Commissioner Minchew, that the Commission forward SU 24-06 to the Council recommending approval as contained in the application materials.

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

SUP 24-07: Short-term Rental – 609 Martingale Ridge Drive – Margaret Fortier

Deputy Town Manager Moore reported that this property was located in the R-3 District and was the westernmost home on the south side of Martingale Ridge Drive. He further reported that it was bordered by a home to the east and HOA open space to the west and south. Mr. Moore noted that his staff report addressed how the application complied with the individual performance requirements for short-term rentals. He reminded the Commission that one of the critical elements was that the dwelling must be used primarily for residential use, meaning it must be residentially occupied for more than half the year, and advised that Dr. Fortier confirmed this was her full-time residence. Mr. Moore noted that she travelled occasionally for work and pleasure and would like to offer it as a short-term rental during those times. He reminded the Commission of the four short-term rental applications that were received earlier in the year and advised that the Council sought additional analysis on them as to what the use meant. Mr. Moore further advised that one of the metrics that was developed was related to the maximum number of guest nights that could be introduced at a certain location through this use and noted that a simple equation was developed based on the maximum number of guests that could be present at any one time and the maximum number of nights that the application may be approved for. He reminded the Commission that there were three approved short-term rentals in town and noted that the first involved a maximum of two guests for one hundred eighty nights, or a maximum of three hundred sixty guests nights that would be introduced into that neighborhood. Mr. Moore advised that of the other two applications, which were approved earlier this year, the first was for seven hundred twenty guest nights per year, and the second was for a maximum of three hundred sixty guest nights per year. He reminded the Commission that there was also Comprehensive Plan language related to short-term rentals, which cautioned against the saturation of such uses in the new neighborhoods and the desire that new development be compatible with Middleburg's small town and historic character. Mr. Moore reminded them that the fear was that the saturation of the neighborhoods with short-term rentals could be detrimental to the Comprehensive Plan's goals. He noted that this neighborhood contained eleven homes to date, not all of which were occupied. Mr. Moore advised that if this application was approved, it would be the second short-term rental in this neighborhood.

Margaret Fortier, 609 Martingale Ridge Drive, advised that using her home as a short-term rental was what she envisioned when she moved into the neighborhood. She noted that she traveled to care for her parents, as well as for work, and advised that the additional income would be helpful. Dr. Fortier noted that she was not trying to "make any waves" and would use a respectable company to manage the rentals. She advised that she was pretty responsible and fastidious about her property and suggested this would extend into anything she did with other people.

Megan Gallagher, 214 E. Marshall Street, thanked Dr. Fortier for voluntarily restricting the special use permit to her ownership of the property and noted that the three successful short-term rental applications did the same thing. She advised, however, that those applicants asked for less than the maximum number of guests, as well as the maximum number of nights. Ms. Gallagher noted that this application was for the maximum number of guests and nights, which equated to one thousand eight hundred guest nights. She advised that when added to the already approved seven hundred twenty guest nights for the property on the same street, this equated to two thousand five hundred twenty guest nights in one neighborhood on the same street. Ms. Gallagher questioned when the saturation point would be reached. She reminded the Commission that of the eleven homes that have been constructed in this district, four have sought special use permits for short-term rentals. Ms. Gallagher inquired as to what point the neighborhood would become overwhelmed with short-term rentals. She questioned at what point did Middleburg begin to feel more transient than permanent in nature.

Ms. Fortier advised that she asked for the maximum number of guests and nights because that was what was available; however, she would be happy to comply with the recommended quantity.

There being no further comments, the public hearing was closed.

In response to an inquiry from the Commission as to whether a maximum limit of ninety nights would be a hardship to her, Ms. Fortier confirmed it would not. She advised that she would find ninety nights to be fair.

Councilmember Jacobs reminded the Commission that the special use permit for the other short-term rental in the Salamander neighborhood was limited to eight guests; the one on Jay Street was limited to two guests; and, the one on West Washington Street was limited to six guests. He inquired as to the proper number.

The Commission held some discussion as to what would be the proper number of maximum guests and nights. It was suggested the recommendation be to limit them to eight and ninety respectively.

Councilmember Jacobs moved, seconded Vice Chair Woodruff, that the Planning Commission forward SU 24-07 to Council recommending approval as contained in the application materials and with the following conditions: (1) the special use is limited to a maximum of eight (8) guests; and (2) the special use is limited to a maximum of ninety (90) cumulative nights in any calendar year.

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

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 reminded the Commission that much of the redevelopment that had occurred within the last decade had been concentrated in the R-2 District. He further reminded them that a lot of concerns had been raised by the public, as well as the elected officials, about the character of the nature of the redevelopment. Mr. Moore noted that the Commission had on two previous occasions initiated zoning text amendments, which made incremental changes to the development requirements; however, the redevelopment continued, with the same concerns continuing to be echoed. He reminded them that in October of 2023, a community meeting was held to gather specific input on the nature of the concerns. Mr. Moore noted that the Council then discussed the input during their strategic planning retreat held in April, and the Council and Planning Commission met in a joint meeting in May to discuss the findings. He summarized that by a two-to-one margin, it was believed that more needed to be done to address the character of the redevelopment that was occurring. Mr. Moore noted that based on those inputs, the Council initiated a zoning text amendment, which it sent to the Commission for a public hearing and their recommendation. He reviewed the details of the proposed zoning text amendments, which include: (1) increasing the minimum side yard requirements to ten feet; (2) setting the maximum building height at twenty-five feet; (3) reducing the maximum building lot coverage to 25%; (4) eliminating the provision related to non-conforming lots of record that allows for reduced side yards for extremely small lots of record; (5) prohibiting front-loading garages; (6) allowing side and rear loading garages as a special exception; (7) requiring detached garages to be placed in the rear yard; (8) minor revisions related to encroachments in side yards and definitions; and (9) establishing a floor-to-area (FAR) ratio in the R-2 District. Mr. Moore noted that the latter item would establish a relationship between the total gross floor area and the area of the property as a whole and would address the concerns around the character of the redevelopment. He reviewed the data related to the establishment of a FAR ratio and advised that the Council proposed a maximum FAR of 0.3. Mr. Moore reminded the Commission that the Council initiated the zoning text amendment as a package; therefore, the Commission would have to recommend approval or denial of it as drafted. Mr. Moore noted that the Council would welcome any recommendations the Commission may have.

John Benedict, 23349 Parsons Road, advised that while he lived just outside of Middleburg, he cared about the community and the character of the area. He opined that the community consensus was that developers should be sensitive to the neighbors and the community's historic aesthetics. Mr. Benedict advised that people did not appreciate buildings that gradually and inadvertently undermined the town's character. He noted that an essential part of Middleburg's character was the relative harmony in size and scale of its homes and businesses. Mr. Benedict advised that the scale of the structures was fairly traditional and comparatively uniform, which was part of Middleburg's charm. He suggested this not be taken for granted. Mr. Benedict opined that many towns and homeowners associations had standards to help harmonize the height and size of new homes within neighborhoods and suggested it was appropriate for Middleburg to do the same. He advised that this would not preclude someone from enlarging or building a larger home, it would just ensure it was done within a reasonable balance and in harmony with the established neighborhoods. Mr. Benedict encouraged the Planning Commission to recommend adoption of the proposed zoning changes.

David Blanchard, 22805 Carter's Farm Lane, Chair of the Preservation Committee of the Virginia Piedmont Heritage Area Association, expressed gratitude for the amount of consideration and study that had gone into this issue. He opined that the community itself was a historic element and a historic resource that needed to be protected dearly. Mr. Blanchard noted that the proposed FAR restriction was a 50% increase in the allowable building structure when compared to the FAR of the existing homes. He opined that this was more than generous and would allow people to have economic development and growth, while supporting a measure of understanding of what the town has been and wanted to be in the future.

Mike Morency, 2329 Landmark School Road, advised that his family has owned property on Reed Street for over thirty years. He thanked Deputy Town Manager Moore for the work he had done to clarify the issues and provide data. Mr. Morency opined that everyone's reaction to the houses that had been built lately was visceral. He noted that they were quite large and suggested the need to put a limit on the size of the houses that could be built in place of ones that were torn down. Mr. Morency advised the Commission that he supported the amendments as written and expressed hope that they would recommend their approval to the Council. He opined that the changes were reasonable, prudent, and necessary to preserve the character of the town.

Virginia Jenkins, 101 Walnut Street, noted that she lived in the area the Commission was discussing. She agreed with Mr. Morency and advised that she was worried about the changing of the character of the town. Ms. Jenkins noted that she had lived in Middleburg most of her life; therefore, she saw many of the changes. She advised that most of them were good; however, the size of the houses that were now being constructed had gotten out of hand. Ms. Jenkins advised that she would like to see them remain "normal."

Megan Gallagher, 214 E. Marshall Street, thanked Deputy Town Manager Moore for meeting with her to help her understand what was being proposed. She advised that she wholeheartedly supported the whole package. Ms. Gallagher shared some memories of her childhood in the Ridgeview area. She expressed concern that the neighborhood was at a tipping point. Ms. Gallagher reiterated her support of the proposed zoning text amendments and opined that they balanced the rights of property owners and the needs of the community with the tools that would allow the character of the town to be retained. She asked that the Commission send their recommendation to the Council immediately so they could address this issue next month.

John Ross, 10 Orange Drive, agreed with Ms. Gallagher. He thanked Deputy Town Manager Moore for his work in drafting the ordinance. Mr. Ross advised that he was writing an article on droughts and looked at how the Town's water table was recharged. He suggested the changes to the zoning ordinance provided an opportunity to include a non-binding condition that permeable surfaces be considered when building driveways, sidewalks, patios, or similar surfaces.

Laura Francis, 503 Stonewall Avenue, agreed with the previous speakers' comments and expressed hope that the Commission would approve the proposed changes.

There being no further comment, the public hearing was closed.

Commissioner Fleischman opined that the proposals had a lot of good aspects to them; however, he suggested the need for further analysis on a couple of specific items. He noted that he had lived in Ridgeview for the last twelve years. Mr. Fleischman advised that parking was a problem and suggested the need to discuss the consequences of restricting the location of garages. He opined that it would lead to more parking on the narrow streets, which would have an unintended consequence of creating problems for cars who were negotiating the streets. Mr. Fleischman expressed concern about the proposed building height limit and opined that it would create unintended consequences as builders attempted to get around it in different ways. He asked for more information. Mr. Fleischman recommended the Commission not approve the amendments until it received further information.

Deputy Town Manager Moore noted that Commissioner Fleischman raised these concerns during the last meeting and advised that he did his best to address them in his memorandum.

Chair Roszel noted that a lot of information had been provided. He further noted that the Commission had made recommendations in the past, which were approved by the Council; however, the Council asked the Commission to revisit them. Mr. Roszel opined that the Commission needed to move forward with the proposed amendments and noted that if not, more houses would be torn down and replaced with large ones that would increase the impervious surface coverage. He noted that the Town would also lose what everyone was concerned about retaining, which was the look of Middleburg. Mr. Roszel opined that establishing a FAR limit was needed in order to keep development in line with what the Town was trying to accomplish. He noted that there was no desire to limit people from building, only to limit the effects. Mr. Roszel opined that there were unintended consequences to things that were done on a daily basis and opined that the Commission needed to make the best decision it could. He opined that the recommendations contained in the proposed zoning text amendment were good.

Councilmember Jacobs agreed. He reminded the Commission that they could recommend approval of the ordinance or recommend denial and suggest changes. Mr. Jacobs noted that over the past year, the Commission and Council have taken a deep dive into most of the issues associated with the proposed changes. He acknowledged the overwhelming negative response to front-loading garages. Mr. Jacobs suggested the Commission recommend approval of the changes to the Council as drafted.

Councilmember Jacobs moved, seconded by Vice Chair Woodruff, that the Commission forward ZTA 24-01 to the Council recommending approval as contained in Draft 3 dated 7/16/2024.

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

New Business

Motion to Initiate ZTA 24-02 Pertaining to Definitions for Bed & Breakfast, Domestic Employee, and Family; Use Regulations for Bed & Breakfast and Rooming & Board House in Residential and Commercial Districts; and, Use Regulations for Dwellings in Commercial Districts

Deputy Town Manager Moore advised the Commission that this was not one coherent ordinance, but rather was intended to address the same items. He reminded the members that the definition and use provisions for a "bed & breakfast" (B&B) allowed for an owner-occupied use that could have up to three guest rooms. Mr. Moore advised that the only proposed changes to the definition would be to add language to allow for a manager-occupied B&B and to possibly increase the number of guest rooms. He noted the public comments and advised that the language regarding meals was already included in the existing ordinance. Mr. Moore opined that this was not problematic; however, he suggested it may need to be better defined. He advised that it was clear to him as the Zoning Administrator, who made the zoning interpretations, that a restaurant was not allowed; however, he suggested this be clarified so a future zoning

administrator would have the same interpretation. Mr. Moore reiterated that the proposal was to add "manager-occupied" to the definition of a B&B and explained that this was in response to a proposal from a property owner. He reminded the Commission of a zoning text amendment that was proposed by a potential purchaser last year for 204 East Washington Street, which was denied, and explained that the new owners would like to establish a bed & breakfast there that would be manager-occupied. Mr. Moore noted that he presented this proposed zoning text amendment to the Council to get their initial thoughts on it, as the progress on it may affect the property owner's decision to invest in the property. He advised that the other proposal was to possibly increase the number of allowable guest rooms from three to five and explained that this was proposed by the staff, not the property owner, in response to discussions the Council held last year when it deliberated over the question of whether to allow the property to be used as an inn. Mr. Moore explained that at that time, the Council expressed an openness to possibly allowing lodging uses in the C-1 District beyond the current three-bedroom B&B option. He advised that if approved, a B&B would still be a by-right use; however, it could be for up to five bedrooms. Mr. Moore noted that all other ordinance requirements, such as those for off-street parking, would still have to be met. He advised that this was a proposal for the Commission's consideration and reiterated that it was an attempt to address some items the staff heard during the Council's discussions last year. Mr. Moore advised that amendments were also being proposed to remove the B&B use in the residential districts as a by-right use and noted that this conflicted with the short-term rental regulations. He advised that a B&B use was interpreted as a short-term rental and noted that if someone wanted to have a B&B use in a residential district, they could still do so; however, they would have to apply for a special use permit for the short-term rental use. Mr. Moore advised that changes were being proposed to delete the term "Bed & Breakfast" from the residential districts and to remove the use from the core C-2 District. He reminded the Commission that the core downtown area had been prioritized for retail, restaurant and personal service uses.

Chair Roszel noted that the property owner wished to develop the property at 204 East Washington Street into a three-bedroom bed & breakfast. He suggested that if the proposed zoning text amendments were approved, they could expand it to five bedrooms.

Deputy Town Manager Moore confirmed this was correct. He noted that the owner would, however, have to go through the proper processes, as it would involve an expansion of the footprint of the building. Mr. Moore advised that he discussed his proposed amendment with the property owners, who made it clear that they only wanted to do a three bedroom B&B. In response to inquiries from the Commission, he advised that if the amendments were approved and if someone applied for a five-bedroom B&B, it would be handled through an administrative review unless something like the need for additional parking required a site plan review by the Commission. Mr. Moore advised that if the amendments were not approved and someone applied for a five-bedroom B&B in the future, it could not be considered unless the ordinance was amended. He confirmed that if the ordinance was adopted and someone applied for a five-bedroom B&B, it would be a by-right use in the C-1 District only. Mr. Moore advised that it was difficult to say how many parking spaces were available for the property at 204 East Washington Street, as the former owners did not clearly delineate them. He opined that there were ten parking spaces and possibly as many as fifteen. Mr. Moore advised that the property owner would do a better job of defining the parking through the use of wheel stops and edging.

In response to an inquiry from the Commission, Deputy Town Manager Moore advised that if the Commission chose to initiate the amendment, they could initiate it as drafted, or they could remove the proposed amendment related to five bedrooms. He further advised that once initiated, a public hearing would be scheduled for next month's meeting. Mr. Moore noted that the Commission could change the contents of the amendment after it heard comments during the public hearing and explained that unlike the zoning text amendment that was just discussed, this one would be the Commission's, so they would be free to change it until they made their recommendation to the Council.

Deputy Town Manager Moore advised that the second part of the proposed zoning text amendment was a "catch all" that clarified the residential use provisions in the commercial districts. He opined that while it had a good intent regarding the types of residential uses that could occur in the commercial districts, the language was not worded very well. Mr. Moore advised that the language assumed the commercial district would always be located adjacent to a residential one, which was not always the case. He explained that he was proposing to remove that language and to instead rely on the Comprehensive Plan language, which sought to expand the mixed-use provisions. Mr. Moore advised that the changes would retain a single-family dwelling as a permitted by-right use in the C-1 District and

would retain dwellings in combination with permitted uses in the C-2 District, which would allow for commercial uses on the first floor and residential uses above. He suggested the Commission would not want someone to convert a building in the core commercial district into a single-family detached dwelling by-right and advised that he was proposing to change that to a special exception use. Mr. Moore suggested it was important to support the Comprehensive Plan recommendations for the C-3 District, which was on the south side of Federal Street and had been identified as being most prime for redevelopment. He noted the Comprehensive Plan language that encouraged the expansion of the mixed-use provisions and advised that he was proposing to make dwellings in combination as a by-right use in that district, subject to meeting all other ordinance requirements.

Commissioner Fleischman advised that he had no problems with the proposed amendments. He noted that he needed to leave the meeting. Mr. Fleischman advised that he was available to attend the September meeting.

Deputy Town Manager Moore noted the current ordinance provisions related to rooming and boarding houses and advised that there were none in the town. He suggested this use be removed from the ordinance. Mr. Moore advised that the final proposed amendment was to update the definition of "family" as it applied to the zoning ordinance to allow for people who live together who may not be related by blood, marriage, or adoption. He noted that he worked with the Town Attorney on the proposed language to ensure it was in compliance with some rulings of the Supreme Court. Mr. Moore advised that there were provisions in the State Code that required the Town to treat certain other uses as though they were single-family homes and noted that this was included under the proposed definition of "family" as well.

The Commissioners advised that they did not have any comments on the proposed ordinance.

Councilmember Jacobs moved, seconded by Vice Chair Woodruff, that the Planning Commission initiate Zoning Text Amendment 24-02 and advertise the amendment for public hearing.

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

Council Representative Report

Councilmember Jacobs announced that Oktoberfest would be held on Madison and Federal Streets. He further announced that the Millie Miglia Warm-Up was about sixty days out. Mr. Jacobs encouraged the members to put these events on their calendars.

Discussion Items

Proposed Bill Pertaining to Short-Term Rentals

Councilmember Jacobs reminded the Commission of the legislation that was adopted by the General Assembly last year that constrained what localities could do with respect to short-term rentals. He noted that part of it did not apply to Middleburg because its ordinance was already in existence. Mr. Jacobs reported that the Coalition of Loudoun Towns (COLT) was supporting some amendments to that legislation. He advised that Delegate Higgins was in support of it and may sponsor the amendment, as would Senator Perry, and noted that both voted against last year's bill. Mr. Jacobs reported that the Virginia Municipal League was shopping the proposed amendment around and believed there was support for it.

Deputy Town Manager Moore advised that there were provisions in the bill that would not affect Middleburg. He noted that the language, which went into effect on January 1, 2024, was being interpreted by local government attorneys as being unclear as to whether existing ordinances could be amended without removing the protections they

currently enjoyed. Mr. Moore noted that this ambiguity was not good and advised that the proposed bill would make it clear that any ordinance that was in place on December 31, 2023 could be amended. He cited the example of Middleburg's ordinance, which allowed short-term rental use of up to one hundred eighty nights per year and suggested that if the Council was never going to allow that many nights again, it should consider lowering the number to avoid confusion. Mr. Moore noted that currently, local government attorneys were not recommending amending the ordinance because it could remove the protection it currently enjoyed. He advised that if the proposed bill passed, localities could amend their existing ordinances as long as they did not introduce a new special exception requirement. Mr. Moore advised that Town Attorney Crim was the drafter of the proposed bill and explained that it was based on the concerns that were raised during the recent short-term rental public hearings.

Quorum for September Meeting

Those members who were present indicated they would be present during the September 23rd meeting.

Upcoming Community Meetings

Town Clerk North reminded the Commission that the County would hold a follow-up meeting on their plans to make improvements to the Mickie Gordon Memorial Park on Thursday, September 5th at 6:00 p.m. at the Middleburg Community Center. She further reminded them that the Town would hold a Community Engagement Meeting regarding the Asbury Church on Wednesday, September 11th at 6:00 p.m. in the Town Hall Council Chambers. Ms. North noted that the Asbury Church survey was currently underway and would close on September 15th.

There being no further business, Chair Roszel adjourned the meeting at 8:51 p.m.

RESPECTFULLY SUBMITTED:

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Rhonda S. North, MMC, Town Clerk

Middleburg Planning Commission Transcript
August 26, 2024

(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)

Dev Roszel: All right. I'd like to call the session to order this morning. This evening? Excuse me. It's been a long day. Rhonda, can you call the roll, please?

Rhonda North: Chair Roszel. Here. Vice Chair Woodruff is absent. Commissioner Fleischman is absent. Commissioner Minchew.

Rachel Minchew: Present.

Rhonda North: Commissioner Ricconi is absent. Council Member Jacobs.

Bud Jacobs: Present.

Dev Roszel: Thank you, Rhonda. We currently are going to go into a closed session. I need to get a motion to move into closed session. So, if either of you would please make a motion.

Rachel Minchew: I move that the Commission go into a closed session as followed under the Virginia Freedom of Information Act, Section 2.2-3711 A1 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.

Bud Jacobs: Second.

Dev Roszel: All in favor.

All of Commission: Aye. [off mic] [No Audio]

Will Moore: District is defined in your ordinance as one that is designed to accommodate more intense commercial and light industrial activities, and wholesale and other businesses which do not lend themselves to being concentrated within the central business district. We also have a good bit of language in the comprehensive plan centered around the C3 district, specifically the Federal Street corridor, which the south side of Federal Street is all zoned C3. It's some aspirational language and graphics within the district looking for potential redevelopment of the corridor as a whole. So, when considering special uses, in that light, you might give some weight to how an approval of a special use may or may not contribute or detract from that future vision for the corridor. In this case, we are dealing with two physical properties that already exist. So, we're not talking about introducing say your typical storage, self-storage drive in completely surrounded by a chain link fence with razor wire at the top that you see in other areas. We're talking about just the potential to use existing garage bays and existing buildings. Mr. Bravo-Greenburg can discuss more with you during the hearing about why he's seeking this use. But again, these are existing garage bays already segregated from one another. And he's looking for the flexibility to rent those out individually, as opposed to them being used as accessory to a business on site. So, because they would that would be a primary use as storage, that's what invokes the special exception requirement.

Dev Roszel: Thank you. Any comment?

Will Moore: So, if you would now open the public hearing Mr. Roszel? Thank you.

Dev Roszel: Yes. We're open for public comment. Hearing is open. Anyone have any comments?

Aleco Bravo-Greenburg: I am Aleco.

Dev Roszel: Hello.

Aleco Bravo-Greenburg: Good evening, everybody. Is that better? Okay. So, Paul McMahon and I purchased this property from Joey Snyder about a year ago and cleaned it up and been trying to lease it out. And we're not doing so well with trying to lease it out as one business. So, we thought, all right, let's adjust what we're doing. We have those individual garage bays which Joey Snyder was using for storage. And we've had some people ask us if they can use those potentially as individual storage spaces on a month-to-month basis. Basically, we think that's a good idea. It's tucked in a corner of the town where it's out of sight. We don't have to do anything to change what's going on down there, and it puts them to use, which is good, and it's good for the town economy, and it's good for our economy, because at least we have some sort of income generating there while we are looking to put them to a better use for maybe 1 or 2 tenants for the entire property. That's pretty much it. Questions?

Dev Roszel: Okay. Thank you. I appreciate it. Any discussion?

Don Woodruff: Yes. How much alteration do you see to the current buildings?

Aleco Bravo-Greenburg: I don't think there's going to be any alteration. Not none. I don't think any alteration is needed. Right. So basically, what it is, instead of leasing. Well, one building where Joey Snyder's office was at 106, which is the furthest building down towards the creek. Joey had his office on one end, and then there are four garage bays. So instead of leasing that out to one person who has that office and then all those garage bays, we would lease each garage bay to an individual or maybe two garage bays to an individual. So, we're just looking a little flexibility to put more than one tenant in there, perhaps. And that means no, not changing anything, [off mic] Yeah that's right. Yes. Yes, we did inherit some cats down there. I haven't seen them around there in a while, though. [off mic] The cats got moved. Oh, okay.

Dev Roszel: So, will there be? I'm sure that those bays will probably be redirected if there's going to be storage units. So, there will be some sort of construction, I'm assuming.

Aleco Bravo-Greenburg: I don't think so. What kind of construction would you anticipate?

Dev Roszel: Well, no, I'm just wondering, you know, I would not think that typically storage units have are somewhat more than a garage bay. So, I didn't know whether or not there would be any work done to it.

Aleco Bravo-Greenburg: Not really.

Dev Roszel: Okay.

Aleco Bravo-Greenburg: And so far, we've renovated the buildings, spent some time doing that. Remedied a couple of issues. So right now, we have the individual bays and both buildings which are sitting there empty, which isn't good for anybody. And what we foresee is somebody coming, perhaps storing a vehicle there, perhaps storing some furniture there, locking the door, opening it up, shutting it, locking it again, that's it.

Dev Roszel: Okay.

Aleco Bravo-Greenburg: Something real simple.

Dev Roszel: Any other discussion? Bud.

Bud Jacobs: Would it be possible if there were, I don't know, an artisan, a ceramicist or somebody looking for space to throw pots? Would you guys consider renting it for that purpose? Not just for storage?

Aleco Bravo-Greenburg: One of the garage bays?

Bud Jacobs: Yeah.

Aleco Bravo-Greenburg: Well, that'd be storing pots, basically, right?

Bud Jacobs: Yeah.

Aleco Bravo-Greenburg: Yeah. Okay. But you want to rent a space for some pots.

Bud Jacobs: I was actually, I was a little disappointed that you didn't get that when you first put it out on the market. I thought for sure there would be people wanting to do it, but, you know, I feel you.

Aleco Bravo-Greenburg: Yeah. Interestingly we've had a number of people spend a bunch of time talking with us and not following through with what they say they're going to do. Any other questions?

Will Moore: Well, so the hearing is still open. You should continue the hearing too if anyone else wanted to speak toward this application.

Dev Roszel: That is fine. Anyone else have any comments? Concerns? Questions? No. Okay. Hearing none. Thank you.

Will Moore: We close the public hearing. All right.

Dev Roszel: We will close the public hearing on this item Special Use 24-05. [multiple speakers]

Aleco Bravo-Greenburg: Are you done with me?

Dev Roszel: We're done with you.

Aleco Bravo-Greenburg: Thank you very much, everybody. Thank you.

Dev Roszel: You're done. You may sit down. All right. So.

Will Moore: So just one other thing that I did not mention in my verbal report. It is in your written report, but oftentimes special uses may be accompanied by recommended conditions for imposition. I note in my report that there already are specific use standards for this use in the ordinance. So, if this was approved, those standards would automatically apply. So, no storage of things outside the bays. No storage of hazardous materials, etc. So, if you were to give favorable consideration staff does not have any recommended conditions to add on to those.

Dev Roszel: Thank you, Will. Does anyone have a recommendation for this?

Don Woodruff: First part. Go ahead and read. Okay.

Bud Jacobs: Why can't I find it?

Don Woodruff: Oh, I've got it.

Rhonda North: Mr.

Don Woodruff: I recommend that we approve special Use permit 24-05 for a commercial use in the commercial district of Middleburg.

Bud Jacobs: Second.

Dev Roszel: All in favor.

All of Commission: Aye.

Ed Fleischman: Can I get?

Rhonda North: I was going to say, Mr. Chair, I reset all the sounds, so we may have Ed on the line now. All right.

Ed Fleischman: Thank you, Rhonda. Could I give my $0.02 here?

Dev Roszel: Absolutely.

Ed Fleischman: The Town of Middleburg really has a small area, land area. And I think that the previous plumber that was served, the residents of Middleburg, [Technical Difficulty] and I thought that maybe storage units are not really serving the town resident. So, I guess I'm against giving a special to this particular property.

Dev Roszel: Okay. [off mic] and address this comment?

Ed Fleischman: Thank you.

Will Moore: The hearing is closed, and you've already taken your motion. And we'll just note that Mr. Fleischman was in opposition. But for the record.

Dev Roszel: Yeah. Thank you. I apologize for that. All right. So, we voted. So, moved. Are you going to note that Ed was voted against it? Correct.

Rhonda North: I am assuming Mr. Fleischman is voting in an opposition to the motion unless he tells me otherwise.

Dev Roszel: Correct.

Ed Fleischman: Yes. I'm [Technical Difficulty] The motion. Thank you.

Aleco Bravo-Greenburg: I'd love to address his comment again.

Dev Roszel: We're not really allowed to because the session. I closed the session, so it's all it's done. So, we are now moving on to the next public hearing, which is special use 24-06 Request of Salamander Resort, LLC to modify the existing Special Use Permit 06-03 for a rural resort at 500 North Pendleton Street, zoned A C Agricultural Conservancy District. Will.

Will Moore: Yes. Thank you, Mr. Chairman. I'll bring up some graphics once the hearing starts. But just a quick rehash. The Salamander Resort and Spa was approved for a special use permit many years ago, August of 2006. They eventually opened under that approved special use permit in August of 2013. So, they've been operating now 11 years. That SUP that was approved contains many different conditions limitations related to the resort a limitation on the number of rooms that they're built to, which is 168. The square footage of spa area the square footage of conference and meeting space, and then also the gross square footage of all of the non-residential use on the property combined. And that was set at a number of 237,000, etc., which is what the resort was built to. So, the request is involving an existing terrace that's on the north side of the resort adjacent to Harriman's restaurant, which is roughly 1175ft² in size. It is an open terrace, but it is covered currently. What they would like to do is add approximately 525ft² to that terrace, so totaling 1700 square foot in area and then to completely enclose it. So that would then, because its interior space that increases the gross floor area by 1700 square foot above what was approved in the special use permit. So, in order to consider this, it would require approval of a revision to their special use permit to allow for that 1700 additional square foot on the north side to be enclosed. And that's all I have to offer right now. But again, I'll bring up some graphics for the benefit of the viewers when you go to the hearing.

Dev Roszel: Great. Thank you, Will. With the public hearing, I see that we do have an entity from Salamander. Would you like to come up and speak?

Scott Little: Good evening, Mr. Chairman and Commissioners. Thank you, Will, for the report and your always diligent work on the applications. Appreciate it. In just three days, the resort was celebrated its 11th birthday open. We're very excited about it. And this application is really due to local popularity of Gold Cup Lounge more than anything. There are simply not enough bar stools. And we end up having little jam ups in Gold Cup and people having to wait for a table and this accommodates that surge capacity that we have from time to time. And also gives the locals another alternate experience. Oh, perfect. Thank you for bringing that up. So that's not the main terrace that's off the living room, but sort of the little-known terraces off of Harriman's hallway that doesn't get a lot of use otherwise candidly except for breakfast. But this will the architecture would emulate the octagon, the octagon barn that the Harriman's building features and yeah and I think other than that, it is a pretty negligible change in the FAR, the permitted FAR, I think it's .0016% change to that. In closing, what is existing 1,500 or so square feet up to 1,700. That's all I have, Mr. Chairman.

Dev Roszel: Thank you.

Scott Little: You're welcome.

Dev Roszel: Any other comment? Response? Hearing none. Public hearing is closed on this item. Any discussion from the Commission? Any comment?

Ed Fleischman: This is it? [inaudible] [Technical Difficulty]

Dev Roszel: Yes. Ed.

Ed Fleischman: I have a question.

Dev Roszel: Yeah. You have to try it again, Ed.

Ed Fleischman: I'd like to know if the. [inaudible]. You have to get a permit for authority. And you have you.

Dev Roszel: We are not able to understand what you're saying Ed. You're breaking up.

Ed Fleischman: Can I try this again? Has Salamander okay liquor control board. [inaudible] For this works associated with the bar.

Dev Roszel: Did you understand that?

Scott Little: I think I get it. The demise premises for the ABC control includes this area and that lawn area already.

Dev Roszel: Thank you.

Scott Little: You're welcome.

Ed Fleischman: Thank you very much.

Dev Roszel: Okay. That being said, do we have a motion on this item?

Bud Jacobs: Mr. Chairman, I move that the Commission forward SU24-06 to Council recommending approval as contained in the application materials.

Dev Roszel: All in favor or do we have a second? Do we have a second?

Rachel Minchew: Second.

Ed Fleischman: All right.

Dev Roszel: Thank you. All in favor. Ed?

Ed Fleischman: Aye.

All of Commission Aye.

Dev Roszel: Approved. Thank you. Let's keep moving on to the third item. Special Use 24-07. This is a request of Margaret Fortier for a special use permit for a short-term rental at 609 Martingale Ridge Drive, zoned R-3 residential district. This is something that we have discussed in the past. Will, do you want to?

Will Moore: Certainly. Thank you. So again, this is a request for short term rental use, 609 Martingale Ridge Drive. Again, I will bring up some graphics during the hearing, but this is the within the R-3 zoned portion of the development. So, it's where the majority of the homes that have been constructed so far are along Martingale Ridge Drive between North Pendleton Street and Chestnut Street. Doctor Fortier's property is the westernmost home on the southern side of Martingale Ridge Drive, so she does have a developed home directly to her east. Some homes across the street, but she is bordered by HOA open space, both to the west between her and Chestnut Street, and then to the south there is a buffer strip of open space. Approximately it varies in width between 60 and 75ft wide, between the rear of her property and the rear of the homes that sit on the north side of Stonewall Avenue. So, we've gone through the individual performance requirements that are established for short term rentals within the staff report and have addressed how the application complies with those in other cases, the applicant's response as to those various performance standards. We want to reinforce that one of the critical elements of a short-term rental is that it's only established in a single-family detached dwelling that is used primarily for residential use, that is used for residential occupancy more than half of the year. And Doctor Fortier does confirm in her application that this is her full-time residence. But she does travel occasionally for work and pleasure and would like the freedom to offer it as a short-term rental during those times. We outlined the other compliances with the different requirements within here. The one thing to note and is discussed somewhat in the application materials is two particular elements that garnered some initial additional analysis when subsequent to the Commission earlier this year, reviewing four requests for short term rentals that were filed simultaneously by different entities. And your recommendation being forwarded to the Council on those. The Council at that time had sought some additional analysis as to, you know, what does this use as proposed mean in this particular occasion? And one metric that was developed and again, this is just one lens through which you can evaluate it is, is the maximum number of guest nights that could be possibly introduced with the use at a certain location. And you derive that it's a simple equation by the maximum number of guests that could be present at any one time, and the maximum number of nights that the application may be approved for. We note in the application materials that, to date, we have three approved short-term rentals in town. The first was approved for the maximum number of nights available of 180, but it involved a maximum of two guests, so that's a maximum of 360 guest nights that could be introduced in that particular neighborhood based on that use. Two applications were approved earlier this year; one in the same neighborhood as Doctor Fortier, was for eight maximum guests at 90 nights per year which was maximum guest nights of 720 and then another along West Washington that resulted in a maximum number of guest nights of 360. So again, this is one lens to look through. It's not necessarily the only, you do have some comprehensive plan language around short-term rentals. And with regard to the particular neighborhood with which we were discussing, there's language in the comp plan that cautions against a saturation of such uses in new neighborhoods where such a saturation could well, the desires for new development to be compatible with Middleburg small town and historic character. And the fear is that a saturation of those uses in any one neighborhood could be to the detriment of that comprehensive plan goal. In this case just factually, we're dealing with this one part of the neighborhood, the R-3 zone portion, which has 11 homes built to date not all of which are occupied, but it has 11 homes. This if were ultimately approved, it would be the second short term rental in the neighborhood. So, with that that's all-staff comments for now. I will be happy to answer any questions after the hearing if there's additional discussion.

Dev Roszel: Great. Thank you very much, Will. I'd like to open the public hearing to anyone who has comments, questions, concerns about this specific Special Use Permit.

Megan Gallagher: Is the applicant going to go first?

Dev Roszel: Is the applicant here?

Unknown Audience Member: Yeah. You go first.

Dev Roszel: If you can, please just state your name and your address even though we do know who you are and where you live.

Margaret Fortier: My name is Margaret Fortier. I live at 609 Martingale. I am applying for a short-term rental. It's kind of part of what I envisioned when I moved to the neighborhood whether that was right or wrong. I do travel. I am a single mother, and I really want to be a part of the community. But I also lead a life where I take care of my parents and I travel for work, and using the extra income would be helpful to me, so I'm not trying to make any waves. I use a respectable company that's been used, and from my observations, the couple of times it's rented down the street, it's been seamless. So, I think I would be equally so. I'm pretty responsible and fastidious with my own property, so I think that that would extend into anything I did with other people. So, thank you.

Dev Roszel: Thank you. Any other comment?

Rhonda North: Hey, you have a packed agenda.

Megan Gallagher: Lots to comment on. I'm Megan Gallagher, from 204 East Marshall Street, and my thanks to Doctor Fortier for voluntarily waiving her right to have the special use permit if granted carry with the deed, it would be restricted just to her ownership. The three successful applications for short term rentals in town did the same, but the successful applicants also chose to ask for less than the maximum number of guests and maximum number of nights. And as well pointed out, this permit request is for both ten guest 180 days. So, you add those 1800 guest nights to the already permitted 720 guest nights down the street, and you're looking at 2520 in 1 neighborhood on one street. Wow, that seems a lot. Just a hint that the successful applicants scaled back and got their permits. Looking ahead, Will's point about where does saturation occur? We've now seen applications from four out of 11 constructed houses, which was 36% of all the homes there, two could be approved now one so far this 1st May be as well, but that's 18%. So, at what point would the neighborhood this Salamander Residences become overwhelmed with short term rentals? Or the east the western part of town? Where does it end and at what point does Middleburg begin to feel more transient than permanent? Thank you.

Dev Roszel: Thank you.

Will Moore: Yes. Oh, sorry. Just procedurally the applicant gets to speak first, then anybody else who wants to speak. If no other speakers are present, then the applicant can come and speak again.

Dev Roszel: Thank you, Will. I am learning the ropes. Any other speakers? Anyone else have a comment that they would like to make? No? Please.

Margaret Fortier: I just want to comment that I'm willing to negotiate. I wasn't really sure of the process, but in terms of number of nights and number of people, to me that was just I put that on the application because that was what was available to me. So, I don't know, I would be happy to comply with the recommended quantity as well.

Dev Roszel: Thank you. No one else has any comment. All right. We will close the public hearing. Open up for discussion. Since we are here. Ed Fleischman, do you, Commissioner Fleischman, do you have any comment?

Ed Fleischman: Yeah. Thank you. Thank you, Mr. Chairman. Just a question to the applicant. Previously, the Planning Commission approved a number of special use permits at 90 days. And if the [inaudible] moved ahead and approved your application at 90 days, would it be a hardship for you? Dev did my question?

Dev Roszel: Yeah. The applicant is going to respond.

Margaret Fortier: I believe the question was if I was approved only for 90 days, would that be a hardship to me? No, I would find that fair.

Ed Fleischman: Thank you very much.

Dev Roszel: Thank you. Anyone else? Commissioner Jacobs. Hearing no other comment. Do I have a motion to approve or deny? We do have the option to approve straight up, or you can approve with conditions.

Bud Jacobs: Do we want to think about the number of guests? The other applications? Well, the one in Salamander was restricted to eight guests, I guess. The Jay Street to two guests, which is sort of a special case. And then the West Washington one was restricted to six guests. So maybe we ought to require I don't know what the magic number is but reduce it anyway.

Dev Roszel: I would I agree with your thought. When we discussed the saturation issue, I think that that would have a huge impact on how we evaluate some of these. Do I have a recommendation or a motion for what you want to do?

Bud Jacobs: Well, I would be comfortable reducing it to eight guests and simply attaching that as a condition to a recommendation to approve and forward to Council.

Unknown Audience Member 2: I guess the public comment is closed but would procedurally be denial of the application for them to refile with their own [off mic].

Dev Roszel: No, we can make a motion based on recommending with conditions or not.

Ed Fleischman: This is Ed Fleischman. I'd like to modify the request to put a maximum of 30 days or 90 nights on the applicant for our previous code that the Commission did not [inaudible] with. Thank you.

Dev Roszel: Any other comments? So, we have a motion to approve with conditions of eight maximum guests and 90 maximum nights per year. Is that correct?

Will Moore: That seems to be the way the discussion is going, but a motion would have to be made specifically.

Don Woodruff: You made the motion. You want to want to modify your motion, Bud.

Bud Jacobs: Oh, God, I guess so. There's no need to do anything about surrendering this up as a condition. That was a condition she waived already.

Will Moore: Correct. That's in the applicant's materials. So, there's no need to reiterate in the motion.

Bud Jacobs: Okay. Jump in here, fellas if I mess this up. I move that the Commission forwards Special Use Permit application 24-07 to Council recommending approval as contained in the application materials and with the following conditions. Number one, the special use is limited to a maximum of eight guests. Number two, the special use is limited to a maximum of 90 cumulative nights in any calendar year.

Don Woodruff: I second.

Dev Roszel: All in favor.

All of Commission: Aye.

Dev Roszel: Moved. So, moved. Thank you. All right. So, we are now moving on to the fourth item of our public hearing, which is zoning text amendment 24-01. This is an ordinance to amend articles two, eight, ten and 11 of the Middleburg zoning code. 12. Sorry. Yes. You're right. 12 my Roman numerals are off. The Middleburg zoning ordinance pertaining to definitions permitted and special use exception uses special exception uses lot requirements and building height in the R2 single family residential district. Nonconforming lots of record and permitted extensions into required yards. The memo is ZTA 24-01 PC 2024-08. Will, can you go ahead and.

Will Moore: Yes. So, the Commission is very familiar with the background here. I won't go into a lot of detail other than much of the redevelopment that has occurred within the last decade or so. Within Middleburg has been concentrated in the R2 zoning district. And a lot of concerns by members of the public as well as the elected officials has been raised over the character of the nature of the redevelopment. This body has taken action on two previous occasions to initiate text amendments. One in 2022, another in 2023, which made incremental changes to the development requirements. However, redevelopment has continued and many of those same concerns have been echoed. So, October of last year, 2023, there was a community meeting held facilitated by a consultant to gather some more specific input on what, the nature of the concerns actually are. And was it maybe a few loud voices or was there an overwhelming concern? And so, the results of those inputs from the community meeting were tallied. They were discussed by Council at its strategic planning retreat in April of this year. And then the two bodies, the Council and this body, the Planning Commission, held a joint meeting in May to discuss some of those findings. And essentially this is simplifying by far, but essentially it was about a 2 to 1 margin. The two thinking that more needs to be done to address the character of redevelopment that's occurring. And the one didn't think anything else was necessary. But based on those inputs, the Council initiated this latest amendment and has sent it to the Commission for recommendation and hearing. And we'll just quickly outline the different elements that are proposed within. You have a lot of accompanying data to go along with this. That was provided over the last couple of months. Hopefully, you've had some time to look at that and to help better understand if some of these changes were made, what that would actually physically mean. But the quick rundown of the amendments proposed are that minimum side yards in the R-2 district would be increased from 7.5ft to ten feet. So, a little separation, a little additional separation between homes. There's existing a stipulation that defines the maximum height at 25ft, but you can go up to 30ft if you provide additional side yard that would go away that stipulation. So that would go away. So 25ft height to peak of roof would be the hard limit. There would be no way to increase that. The next item was to further reduce the maximum building lot coverage that is currently defined as a maximum of 30%, or a hard cap. If your lot is 12,500ft² or larger, you're limited to 30% of 12,500ft². So, the proposal would be to reduce that to 25%. A reminder, building lot coverage is the area under roof on the property. We have a separate requirement regarding impervious lot coverage, which includes the area under roof, but it also includes all other impervious surfaces on site that is currently at 45%. There's no proposal to change that element of the district standards. The next item is not necessarily specific to R2. It goes wider than R2, but it was generated by a redevelopment project that occurred in R2. So currently there's a provision regarding nonconforming lots of record that are less than 80% of the required lot area or lot width. So, by standards today, if you were to create a lot in the R2 district, it would have to be a minimum of 8000ft². There are quite a number of lots throughout the district that are less than that. If you are less than 80% of that requirement, there's a provision now that allows you to reduce your side yard to as little as five feet, that provision would be removed. You still could develop on an undersized lot, but you would have to meet all the applicable standards, including the side yards as proposed, which would be ten feet. Now the next item was one that was a big takeaway from the community meeting inputs, which was an opposition to the front load garages that have been most common with a lot of the redevelopment projects. So, after much discussion on this with the Council, the proposal would be to prohibit front load garages. Now on a corner lot that would apply to either side. So, a front load would be defined as an attached garage that has the overhead doors facing a public street. So, whether it's the corner side or whether it's the front that would be prohibited. Side and rear load garages would be considered as a special exception use. So those type of uses the side load or rear load oftentimes require longer driveways wider driveways to accommodate turning radii. Now those impacts related to that additional impervious surface would still be governed by our maximum impervious requirements. So, you may or may not be able to accommodate that. And just factually, many of the lots in the R-2 district in particular, are of such a narrow character that getting a side or rear load garage would be very difficult, but it would allow on a case by case basis if you had a sizable enough lot and you could meet those various requirements, in particular the impervious limitation that you could still do an attached garage in that fashion. Related the next item has to do with detached

garages, and this would require them to be placed in the rear yard. So that is behind the rear plane of the building. Currently an accessory structure, which could include a garden shed or a detached garage. They can be located in a side or rear yard, meaning that the side yard ends at the front plane of the building. So, this would prohibit you from de facto creating a front load garage by detaching it from the home but still pushing it all the way up to the front plane of the building. So again, that's kind of in response to those inputs from the community meeting. Now that revision would only apply to the detached garage, you could still put your garden shed in your side yard or other types of accessory structures, just not a detached garage. We note that there are some other minor revisions proposed in here. Mostly it has to do with encroachments into side yards. Those could take the form of mechanical units area ways which are your kind of underground stairs to access a basement. Those types of things, they would be specifically added to things defined in the ordinance that can encroach to a certain distance into a side yard. And in this case, they could encroach as much as five feet. But with a ten-foot side yard, that would mean you would still have five feet clear of those to the side property line. And then finally, as if that wasn't enough, probably the biggest item for your consideration is to consider implementing a floor to area ratio, specifically in the R-2 district. So, this is an item that staff has noted in the report, as well as in discussions with Council. It is not an item that has typically been seen as a regulatory requirement for single family detached homes, but it is a requirement that you often see related to commercial but other types of residential uses, particularly multifamily. And this establishes a relationship between the total gross floor area on the property to the area of the property as a whole. So again, it's something that has not typically been seen for single family detached. But in order to address some of the concerns we think some of the dimensional requirements that we're proposing in this amendment would help to further address those. You've tackled some of those on a smaller degree before, but in terms of your setback requirements, your height requirements, your coverage requirements but this just goes to the total floor area of property. So many of these properties are being developed with full basements full of living area in addition to two areas above grade. And it's not a criticism of people who want that floor area, want that size of home. But the R-2 district is specifically defined in our ordinance as older, established neighborhoods. And as you see, many of those older, established homes going away and replaced by homes that are 2 to 3 times the floor area of what was there before, you're moving further away from the intent of the district. So, this is one additional tool to consider to address those concerns around the character of the redevelopment. We give you again, this is just one data point. You were given many spreadsheets of many additional data to go along with this. But we looked at the 17 most recently constructed or permitted homes. So, 15 have been constructed, two are currently underway. And the median square feet, for example, of those 17 homes is at 4,730. Whereas the median of all other homes in the R-2 district is at 2284, and likewise with the FAR that is a median of 0.56 for those 17 most recent homes, whereas the median in the district otherwise excluding those is 0.19. So, it's a tangible difference what you're seeing in the nature of the redevelopment. What was proposed by Council when they initiated the amendment was moving to a 0.3 FAR. Now, the data, the charts that you were given gave you what that number would mean, as well as certain other numbers. So, Council 0.25 was one that Council considered as well. They eliminated that one from consideration when they initiated the amendment. But you also have data points for what 0.35 is where as well as 0.4 would mean. So those are the contents of the amendment. I'll reiterate, as I did last month, that in this case, the Council initiated this amendment as a package. So, the expectation is whether it's this month or next month. If you desire, further study of these items is that you would return a recommendation of approval or denial as drafted. However, if you were to return a recommendation, they still welcome any comments that the Commission has any recommendations that you would have for improvement. So hypothetically, and this is hypothetically only I don't presume that you are on board or in opposition to any of these requirements. But hypothetically, if you were on board with everything except the 0.3 FAR you would recommend denial. However, you would attach a comment that says we would be supportive if it were 0.35 or 0.4, or we would be supportive of everything else except the imposition of a Floor to Area Ratio. So, the Council was not necessarily trying to tie your hands, but just procedurally they have initiated this amendment as opposed to you initiating it. So, the expectation is to get a recommendation on it as drafted, but accompanied by any comments that you would want to include.

Dev Roszel: Great. Thank you Will. I really appreciate that input. At this point I'll open the floor to public comments. Do I have someone that Rhonda? Do we have a list?

Rhonda North: Yeah. Yes, yes. Mr. Chairman, we do have a list. Megan Gallagher.

Megan Gallagher: I'd encourage fellow citizens to go before me. That was just in case nobody's [off mic]. I'll speak later.

Rhonda North: Okay. The next item on the list is John Benedict.

John Benedict: Thank you. And yes. I'm John Benedict. Jeb to my friends. I live at 23349 Parsons Road. You know, I just outside of time limits, but still part of this the Middleburg community and care about the character of the area. Middleburg is a small town with a historic and traditional character. It's a tribute to its people and the broad consensus that you know that we should be sensitive to our neighbors and to the community's historic aesthetics. That's one of the reasons why the community rallied to protect Mickie Gordon Park. People in this community don't appreciate buildings that gradually, inadvertently undermine the town's character. Whether it's a sport complex with light towers at Mickie Gordon Park or residential or business buildings that are similarly out of place in their neighborhoods. An essential part of Middleburg's character is the relative harmony in size and scale of its homes and businesses, whether on Main Street or in the neighborhoods. The scale of structures is fairly traditional and comparatively uniform. That's part of Middleburg small town charm, and it shouldn't be taken for granted. Many communities, including towns and HOA's all over America, have standards to help harmonize the height and size of new homes within neighborhoods. It's wholly appropriate that Middleburg should do the same. This doesn't preclude owners from enlarging or building larger homes, but it just ensures a reasonable balance and reasonable harmony and height and square footage in these established neighborhoods. I'd encourage the Planning Commission to recommend adoption of these zoning changes. Thank you.

Dev Roszel: Thank you. Anyone else on the list?

Rhonda North: I have no one. I have no one else on the list.

Dev Roszel: Thank you. State your name and where you live, please.

David Blanchard: Good evening. Thank you. Yes, I'm David Blanchard. My home address 22805 Carter's Farm Lane, also just outside of town limits. But I've been renting an office at 111 East Washington Street for almost a year now and love this community dearly. Certainly, just want to thank you guys for the consideration here. Obviously, a lot of work went into the consideration and the studies over the past months and years. Certainly, grateful for the attention to that. And I would just, you know, speak to approve the measure as drafted. The thought being that the community itself is a historic element. I happen to also be the Chair of the Preservation Committee of the Virginia Piedmont Heritage Area Association. So, speaking from that lens, Middleburg is a historic resource that we need to protect, you know, dearly as well. So certainly, grateful for the consideration that we have here. Just a thought on the FAR the allowance for a 0.34 FAR versus a 0.19 median as today. And that zoning district is still a 50% increase in the allowable building structure. So if you think of that just in context, I think that that is more than generous enough for people to be able to have the economic development that we want to see and the growth and development that we want to see in this town, but still with some sort of measure of understanding of what the town has been and wants to be in the future. So again, grateful for the time that you guys put into this and just want to speak on behalf of that draft. Thank you.

Dev Roszel: Thank you very much. Anyone else? Yes. Oh. No.

Mike Morency: Good evening. I'm Mike Morency. I live at 2329 Landmark School Road, about two miles out of town, but my wife and I own property on Reed Street, 104 Reed Street, which my family has owned for over 30 years, and my parents lived there for over 30 years, and my wife and I own it now and rent the house out. It consists of five lots and that could be built on there. It's across from the library and the houses that Coe Eldredge built. So, I've been following the progress of the modifications to the Zoning Ordinance. And I want to thank Will again. I've thanked him before and the staff and the town for all the work that he's done to clarify the issues and provide numbers of what's here and what has been built lately? Everybody has had a visceral reaction to the houses that have been built lately. They're quite large, and so obviously they appeal to some people and that's fine. But I think that we need to put a limit on the size of houses that can be built in place of houses that may be torn down. So as and I've provided written comments as you as you all know, and I just want to reiterate my support for the amendment as written, and I hope that you'll recommend approval to the town Council. I think that the changes to the ordinance are reasonable. I think they're prudent, and I think they're necessary to preserve the character of the town that we all love. Thank you.

Dev Roszel: Thank you. Yes, ma'am.

Virginia Jenkins: My name is Virginia Jenkins, and I live at 101 Walnut Street in Ridgeview, which is pretty much the area you all are discussing. And I want to second exactly what Mike has said. I'm worried about the changing of the character of the town. I've lived here most of my life and I've seen so many of the changes. Most of them good. But I think the size of the houses have gone, gotten really out of hand, and I would like to see them remain normal and have some properties around, you know, area around them rather than cheek by jowl. So, like I said, I agree with Mike. Thanks.

Dev Roszel: Thank you. Thank you. Okay.

Megan Gallagher: Hi. I assume I repeat, I'm Megan Gallagher 214 East Marshall Street. And first, a shout out to Will. He had two different meetings with me to help me get my head around what this package was. Then he sat down with me, Pam Curran, and a resident of Ridgeview who's not happy with this plan. And he's just patiently walked us through it. And I wholeheartedly support the whole package. But I wanted to share with you why my memories of the Ridgeview neighborhood go back to my childhood, especially when I jumped my small pony Easter Bonnet over three feet for the first time. A very big deal when you're eight years old. At a paddock where Pop Eye Hatcher would school us kids, and it was at Chestnut and Martin Street. It's still there. And the neighbor, I just very much worry this neighborhood is at a tipping point. And how soon will it be before we see the trees wiped off that panic? And a 5000 square foot house? Or 2 or 3. It's a big paddock. So, I do fully support the package. I hope you will too. I feel it balances the rights of property owners and the needs of the community with the tools to retain the character. It's very much needed now. It would be really great. It would be really great if you were to vote to send it along today and speed this process up so the town Council could address it next month. But if you need more time, we'll understand. Thanks. Thank you.

John Ross: Thank you again. My name is John Ross. I live at 10 Orange Drive, and I really want to echo Megan. Shout out to Will. I can't believe anybody works through that level of detail and arrives at such clarity in such a heated environment. So, Will, thank you so very, very much. I'm in the process of writing an article about droughts and deluge, and looking at how our water table is recharged, and by thinking about how modifications to our two zoning presents the Council and the town with a phenomenal opportunity. We all would like to believe that Debbie, when it came through and dropped nearly two inches of rain, recharged the water table. Nada, it all ran off. Our water table is recharged by rainwater percolating slowly through the ground. So, I would hope that in consideration of changes to our two zoning, we might be able to find a way to recommend a non-binding condition that pervious surfaces permeable surfaces be considered when paving driveways, when paving sidewalks and paving patios and other similar spaces. Thank you very much.

Dev Roszel: Thank you. Any other comment?

Laura Francis: Hello, I'm Laura Francis at 503 Stonewall Avenue, and I agree with the previous resident’s comments, and I hope that you do approve this. Thank you.

Dev Roszel: Thank you. Any other speakers? All right with that said public [off mic]. And we will move on to discussion amongst the Commissioners. Any.

Will Moore: It's in your packet, but I just wanted to remind you that you're not obligated to take action tonight, but you're welcome to if you are prepared to the Council's goal when setting out this process was to try to have your recommendation returned by your September meeting. By code, you are obligated to return a recommendation by your October meeting. So, I just wanted to make that clear.

Dev Roszel: Great. Thank you.

Ed Fleischman: Mr. Chairman. Yes. Could I give some comments?

Dev Roszel: Yeah, we can hear you. Sure.

Ed Fleischman: Mr. [inaudible] Commissioner and I think that the proposals are wide ranging and have a lot of good aspects to them, but I would request further analysis, a couple of specific items. I lived in Ridgeview for the last 12 years, and I think that parking is a problem. And it would be helpful if it will be for the next meeting. Could talk about the intended consequences of restricting location parking garage. If we have more parking on the street. Streets are narrow. I think that unintended consequences are going to be a problem with cars negotiating that street. Have more cars parked in an illegal area. [inaudible] paved area. So [inaudible] I further an analysis of that as an item. The second item, my additional analysis at the next meeting, is on the height limit. And the unintended consequence of reducing the height. Because of the potential for a split foyer. Depressed basements and flats that might occur, so developers can get around height limits [inaudible] in many different ways. And it would be if Will could give some more information and it. So those are the two options that I'm concerned about. [inaudible] And for my recommendation, we don't approve the package until we get further information. Thank you very much.

Dev Roszel: Thank you, Ed. Will?

Will Moore: If I may just quickly Commissioner Fleischman did raise those exact concerns last month, and I did my best to address those in the updated memo. So, the relevant paragraphs have some boldface language in there in which I attempted my best to respond to those. If the Commission has any questions on the information included in that memo, I'd be happy to discuss.

Dev Roszel: Thank you. Will. Those items were noted. I did, hopefully the rest of the Commission had read through those. You know, I just want to say this is a lot of information, but we have addressed a lot of this in the past year. In several recommendations to the Town Council. We've made recommendations that they have approved, and then they have asked us to come back and revise them. I, am for one, believe that we need to move forward on this because it's not going to stop. I believe that the building in this area is going to be done regardless. If we don't do anything about this. I think that more and more people are going to come in here and tear down houses, and if we don't put a restriction on what size houses that can go in, what coverage of the lot is the impervious, impervious coverage? I believe that we will lose what everyone here is concerned about retaining, which is the look of Middleburg. So, I just want everybody to really think about how, you know, the FAR recommendation is far out there, but it's what we need to be looking at in order, I believe, in order to keep things in line for what we're trying to do. We're not trying to limit people from building. We're trying to limit the effects of what this thing does. There are unintended consequences to everything we do almost on a daily basis. So, I think, you know, you have to take some of the good with the bad. I think you have to do make the best decision. And I believe that the things that are in this recommendation are good. I think obviously five years down the road we may look back, but I don't think we can look back today and think that we haven't done the right things because we've passed several ordinances that have done well. But I think this actually adds a little more meat to what we're trying to do in the community and as a Commission, I think we need to really think long and hard about how we move forward on this. Bud.

Bud Jacobs: I agree with everything you just said, Mr. Chairman. Given that we are scope of action on this is a little bit limited, we can either recommend approval or we can deny it and suggest changes. I would submit that over the course of the past year, we have taken deep dives into most of the issues associated with these changes. I think the one that perhaps we didn't look at as much as we might have, at least I didn't, was the overwhelming negative response to front loading garages. Never occurred to me that that was going to be an issue, but as it turns out, it's an issue. Yeah. I would like to recommend that we move to recommend approval to Council as drafted. But if folks feel we need more time and to engage in paralysis by analysis, then let's do that. But I think I don't know about you, but I'm a little frustrated. I'd like to get this over and done and.

Dev Roszel: Okay.

Bud Jacobs: You want me to make a motion?

Dev Roszel: I need you to make a motion.

Bud Jacobs: I'd rather make a speech, but.

Dev Roszel: I'm sure you would. [laughter]

Bud Jacobs: Move that the Commission forward zoning text amendment 24-01 to Council recommending approval as contained in draft three dated July 16, 2024.

Dev Roszel: Do I have a second?

Don Woodruff: I second.

Dev Roszel: All in favor?

All of Commission: Aye.

Dev Roszel: So, moved. [applause]

Will Moore: Do we have a vote for Mr. Fleischman?

Dev Roszel: Yeah. Yeah.

Ed Fleischman: No. Who voted against my recommendation to delay action until the next meeting. So, I vote against it at this time. But I'm open to voting for it [inaudible] Meeting.

Dev Roszel: Okay. Okay. Thank you very much. So, noted. Okay. That is that portion of our public comments. Now we're going on to some new business. Will, correct me, this is also public comment?

Will Moore: This is not for public hearing. This is just for discussion and your consideration to possibly initiate an amendment.

Dev Roszel: Got it. Okay. So that is the end of the public discussion. You're welcome to stay and listen.

Rachel Minchew: Can't wait.

Dev Roszel: Okay. [multiple speakers] Thank you everyone. Thank you.

Bud Jacobs: Thank you.

Aleco Bravo-Greenburg: Thanks.

Rachel Minchew: We're standing.

Aleco Bravo-Greenburg: Bye Rhonda.

Dev Roszel: Thank you. Okay. New business item 9A is consideration of a motion to initiate the zoning text amendment 24-02. This is an ordinance to amend articles two, ten and 11 of the Middleburg Zoning Ordinance pertaining to the definitions for a bed and breakfast, domestic employee and family. Use regulations for bed and breakfast, and rooming and boarding house in residential and commercial districts and use regulations for dwellings and commercial districts. Will.

Will Moore: Thank you. I'm sure you appreciate the timing of throwing another one of these on you right now, but a couple of things have come up recently that have encouraged the pursuit of possibly amending the ordinance around a few separate things. So, this is not one coherent ordinance, that's all intended to address the same items. So, we'll break it down first. Regarding the definition and use provisions for bed and breakfast. So currently a bed and breakfast is

defined in our ordinance. It has to be owner occupied and it can have up to three guest rooms. So, we heard some public comment earlier around some concerns about possibly increasing the number of guest rooms. I'll touch on that in a second. We also heard some public comment about the proposed definition overall. I should just be clear that the definition is in the ordinance as currently stated, the only addition would be to add the owner occupant or I'm sorry, the manager occupant option, as well as to possibly increase the number. The language about around the meals provided is existing language. We have not anticipated that as being potentially problematic, but I will think more on that, whether it needs to be better defined. What is clear is that it is not a restaurant. So, it's clear in my mind as the zoning administrator who must make that interpretation. So, I'll have to think a little more about, do we need to clarify the definition so that a future administrator would certainly have the same interpretation. So, we'll put some thought into that. If you choose to move forward with this. So, the proposal to add the manager occupant option is in direct response to a specific proposal a property owner has. I just want to be very clear about that. So last year a zoning text amendment was proposed, and it was also in response to a proposal for the same property. So, this is 204 East Washington Street. It was most recently occupied as the Washington Fine Properties Office prior to them relocating to South Madison Street. The proposal last year was to add on to the building and to create an Inn as we define it. It would be to add an inn as a use in the C-1 district, where it does not exist today for up to 20 rooms. Long story short, that got to Council and Council denied the zoning text amendment, so that put an end to that proposal. Some other purchasers have stepped up and completed a closing on the property. They now own it. Dr. and Mrs. Moore. No relation. Just to be clear. But their proposal is to establish what would otherwise be called a bed and breakfast by today's ordinance, which would be three rooms. However, their proposal is to have a manager occupant. So, this is someone who would live in the building but would not necessarily be one of the couples that would own the building. So, I did present this to the Council, that aspect prior to bringing it to you just to get their initial temperature check. Because the way this may progress may affect their decisions to invest in the property before there's a final decision on the amendment, which would be at least two months just because of advertisements and things like that. But so that's one aspect is to redefine it, that it would be an owner occupant or a manager occupant. The other portion to possibly increase to five guest rooms was added by staff, but not in relation to that proposal, that proposal is at three rooms, but it was in direct response to discussions that occurred at the Council level last year during that deliberation over the inn and kind of being forward thinking. I think it was clear with them that that proposal was mostly dead-on arrival. However, they indicated openness to possibly doing lodging uses in C-1 beyond the current limited three-bedroom bed and breakfast. So, this would be one incremental proposal to consider that would allow a bed and breakfast, which would still be a by right use. So, it would not include additional review, which is important to keep in mind. But it would include up to five rooms. That use would still have to meet all other ordinance requirements. Most critical I think is off street parking. So, there's a parking requirement that goes along with bed and breakfast. It requires one for each guest room, plus two for the dwelling unit, so a three-room B&B would have to have five parking spots. If it reached the maximum of five, it would have to have seven parking spots. So, we would suggest that that would cure concerns about parking impacts in neighborhoods. But again, it's a proposal for you to consider. It is not critical to this proposal from staff. It was just one attempt at addressing some items that we heard during discussion by Council last year. And then finally, regarding bed and breakfast, it's proposing changes to our use provisions around those. So currently it's allowed in several of our residential districts. The use is. But it does kind of conflict with our short-term rental regulations, because the way it's interpreted is that a bed and breakfast is a short-term rental. So, we're qualifying it as a subset maybe of short-term rentals. So in those residential districts where we're looking for that additional scrutiny, where we definitely want the special exception consideration, we would remove the use of bed and breakfast if somebody wanted to operate that traditional bed and breakfast where it was owner occupied, where they cooked the breakfast meal, those kind of things, they could still do that, but they would have to apply for a short term rental SUP. So, we're not getting rid of the possibility of them in residential districts. We're just clarifying this is the pathway to do it. So, we would remove the terminology bed and breakfast from those residential districts. We would also remove the use from our core C-2 district. So, this is the core downtown where prioritization has been given for retail, restaurant and personal service uses. So, we would remove that to discourage conversion of properties in our core district to B&B. And we would also introduce it as a special exception use. Wait a second. No, we removed that. I entertained the idea of moving it from a permitted use to a special exception use in C-2, as well as establishing it as a special exception use in C-3. However, because of some state legislation that we will talk about later, we can't do that. We cannot make it a special exception use now when it isn't currently one. So, we'll talk about that part later. So instead of doing that we would just remove it from C2. So, the end result is C1 district is the only district in town that would allow for bed and breakfast use. If we went with these revisions to use provisions. Maybe I should stop there, and we could talk about the B&B related things before moving forward. Would that be preferable?

Dev Roszel: Yeah, that'd be great. I have one question regarding the applicant's request. Their request was for three bedrooms. Is that correct? But we would have the option to I want to say expand it, but you could put it at five. But that doesn't necessarily mean that that's where that application is going?

Will Moore: Correct. Because it would be a permitted use that that could always be something they could do in the future. They would have to go through the proper processes with Historic District Review if it involved expanding the footprint of the building. They would have to get all proper permits, but it would be a permitted use. However, I did discuss this, particularly with those applicants, just to give them a heads up that I'm throwing that and I'm throwing some other things that we'll get to in a minute with this package. And they made it clear that that's all well and good, but they want to do three rooms.

Dev Roszel: So, if we don't address it and someone comes in and wants to do submit an application for five rooms, that could still be denied based on other criteria within the application. Right. I mean, I don't know if I'm making sense, but I mean, so.

Will Moore: If this amendment were adopted as drafted. Right. And someone came in with an application for a five room B&B it would be an administrative review. It would not be something that comes to you unless it required them to create parking spaces in which you would consider the site plan. But it could be denied if they don't, if they could not meet the parking requirement. So, if they applied for a five room and they said, oh, we can only fit 3 or 4 spaces on here, well, that's criteria for denial because there's an ordinance requirement that would say they need seven for that five room.

Dev Roszel: Okay. And vice versa. If we approve the amendment and we initiate what's there. And somebody comes along three years down the road and says, hey, I want to do this with five bedrooms. Would that be open for discussion? Would it be a special use permit for that, or would that be off the table completely? Because it's not. We didn't.

Will Moore: So, if you don't include that in this amendment and somebody proposed a five room one in the future, it could not be considered unless the ordinance were amended. So similar to the fact that the owners want to do the manager occupant and that provision doesn't exist right now, we would have to go through this process to possibly expand the use to five.

Dev Roszel: Okay. Thank you. Well, I think that it's definitely a good item for discussion. I think the manager occupant owner occupant issue is to me is not I don't find that as concerning. To me. I mean, I think that we want to be able to have the space it needs to be appropriate. The parking has to be appropriate. And I think that specific space that is being discussed in this amendment is the initiation of is has plenty of parking space for three bedrooms, so it's not like they would be encroaching. I don't believe based on the use that it was there's enough parking to handle five cars. So that's just from my own view. So, you know, unless somebody has something else.

Bud Jacobs: Just a quick question, Will if we approved five bedrooms for B&B's in C-1, then that use becomes a by right use.

Will Moore: Yes, sir.

Bud Jacobs: Okay.

Dev Roszel: But only in C1.

Bud Jacobs: Only in C1. Right.

Rachel Minchew: What is the parking right now in that space in the back. How many spaces are there?

Will Moore: It's difficult to say because when it was the real estate office, they weren't clearly delineated. But I'm going to guess in the neighborhood of it's upwards of ten, maybe as many as 15 or more. The applicants in this case would do a little better defining of the parking. They wouldn't be paving, but maybe just delineating with wheel stops edging better so that it's clearer. Park here, don't park here.

Dev Roszel: Ed, do you have comments?

Ed Fleischman: No comments.

Dev Roszel: Thank you. Commissioner Woodruff. So does the, I just need to make sure that I'm understanding this in making the recommendation. Do we have to qualify it for the 3 or 5 bedrooms?

Will Moore: If you choose to initiate this amendment you could initiate it as drafted. You could remove the five at this time if that's a sticking point for you. You could remove the five at any time prior to you taking your vote to make a recommendation to Council. So, this would just start the process. If you initiate it, it would be scheduled for public hearing next month. And it could be you could even hear the comments during the public hearing. And you could choose to change the contents. Unlike the previous text amendment, this would be yours. So, you're free to play with it until it's time to send that recommendation.

Dev Roszel: Great. Thank you. Any comment, Commissioner Woodruff?

Rachel Minchew: I think we should do the five to the start of it.

Dev Roszel: Yeah. Yeah. Anyone want to make the.

Will Moore: Well, if we could just move on if discussion on the B&B portion is over, I'll move on to the rest of the items included here.

Dev Roszel: Okay.

Will Moore: If that's okay?

Dev Roszel: Yep, yep.

Will Moore: Okay. So, the second part of this kind of catch all amendment is revising and clarifying the residential use provisions in our commercial districts. So, I included in the draft amendment itself, there is some kind of convoluted language that I think had good intent regarding the types of uses that can be considered in the commercial districts, the type of residential uses. But it has resulted it's not worded very well. It assumes that the district in which such a property is located is somewhat adjacent to a residential district, which is not always the case, depending on where the property is. So, I'm proposing to just remove that convoluted language and proposing to rely on some language in the comprehensive plan, which seeks to expand our mixed-use provisions and trying to clean up the ordinance that way. So, the proposals related to this would be removing that confusing language about a use or being allowed, subject to the uses that are allowed in the adjacent residential district. It would in the C-1 district. It would retain a single-family dwelling as a permitted use as it is today. That's our transition zone. The transition between C-2 and our residential only zones. And it would also retain what we call dwellings in combination as a permitted use. So that's your mixed use, where you have maybe a commercial use on the first floor and residential uses above, so no changes to C1 and C2. It would also retain those two uses, the dwelling and combination, or it would retain the dwelling in combination as permitted use. It would revise single family detached up to a special exception use.

Rhonda North: [multiple speakers] Ed, could you mute yourself, please?

Ed Fleischman: No, I got it. Fine.

Will Moore: Okay. So again. Sorry. C2 you would still be allowed to do the dwelling in combination. It would revise single family detached dwellings. They're currently a by right use in C2, which seems contrary. This is our core commercial district. I would respectfully suggest you don't want somebody randomly purchasing a building in your core commercial district. And by right changing it to a single-family detached dwelling. I'm proposing changing it to a special exception use, because there may be some instances understanding that the north side of Federal Street, there are places along there that are zoned C-2. So, you might have some openness to that, but it would be on a special exception basis. So that's the proposal there. But I think most important here to support the comprehensive plan is in C3. So, this is the south side of Federal Street. The corridor that we identify is the one most being most primed for redevelopment. And we also have language in there about expanding the mixed-use provisions to that district. So, we would propose making that dwelling in combination by right in that district. Again, we have that convoluted language in there right now. We have interpreted that in the past as allowing it by special exception, the dwelling in combination. So, if you think when the folks who own the Mr. Print building wanted to do apartments above, they had to come for a special use permit. This would make that process by right now. Again, they would have to meet all ordinance requirements. But that's what it would propose in C3.

Ed Fleischman: Mr. Chairman this is Ed Fleischman. I hate to interrupt, but could I.

Dev Roszel: Probably not.

Ed Fleischman: Well, let me interrupt and just say I have no problems with these amendments and changes, and I'm going to have to sign off now. I'm available for the next meeting date in September, and I appreciate all the work that Will did for us. He, as always, does a comprehensive job. Thank you very much.

Dev Roszel: Thank you.

Will Moore: Okay. Any questions or commentary on the proposals for the residential use provisions in our commercial districts? No. Okay. The next one is taking kind of an antiquated use. I say antiquated because we've not had these in this town. The rooming and boarding houses. So, these are basically. [inaudible]

Dev Roszel: Excuse me Ed. Can you? [inaudible]. Can you Rhonda, can you cut him off?

Rhonda North: I think I've got him muted.

Dev Roszel: Or can you mute his mic?

Rhonda North: I've got I think I've got him muted.

Will Moore: Okay. So, the rooming and boarding house these are our homes. And you might see these commonly in urban settings. It's not something we've seen in this town, but the use provisions remain in a number of our districts. And it's basically when you take your home and you chop it up and rent rooms, but you don't give those occupants access to other facilities in the home, maybe a bathroom, hopefully a bathroom. But they don't have access to a common living room. They don't have access to kitchen facilities. They don't have access to those types of areas in a home. I would just respectfully suggest it's not something that's occurred in Middleburg. It would be a valuable enforcement tool. If the use were removed from our ordinance in case something does pop up like that.

Dev Roszel: Okay.

Will Moore: Any questions on that particular use? And then finally the definition of family. And I just want to qualify this this is the zoning ordinance definition of family. This this is not getting into what we think a traditional family should be these kinds of things. So, it's, important that we accurately qualify who can and cannot live within a single-family home and under what circumstances? So similar to the rooming and boarding house. We don't want those situations where people are renting rooms but that don't have access to common facilities. But you may want to make allowances for unrelated persons by blood, marriage or adoption, those kinds of things to be able to share a home legally. So, it might be to recent college graduates. It may be two municipal professionals or teachers, people who, for

economic purposes, financial purposes, want to share homes to split expenses. But because the use regulations in the districts are defined around single family home, two family home, it's important to make sure that those types of arrangements are contemplated. So that if we get a complaint about, hey there, you know, people sharing a home over here, well, under what circumstances are they sharing the home, and is that appropriate? So, I worked with our town attorney on this language. And it is tied into including a definition for a domestic employee. So, if this was the Brady Bunch Alice would count as part of the home as part of the family, if that helps make that clear. So, there are a number of different provisions in there, kind of different combinations of persons. Again, I worked with the town attorney closely on this. There's he did some certain tweaking of the language to make sure that we were in compliance with some rulings of the Supreme Court, some guidance of housing and urban development. And then finally, there are some provisions in the Code of Virginia which require us to treat certain other uses as though they were single family homes. So, group homes of up to eight persons under certain licensing authorities. So that's kind of all covered in this umbrella of the proposed definition of family. Any questions on those specific combinations that are proposed to be included in that revised definition.

Dev Roszel: Not it seemed pretty clear. It's quite in depth for a motion, it incorporates quite a bit of detail. Anyone have any comment? Does anyone? Go ahead, Bud.

Bud Jacobs: I don't have a comment. I'm ready to make a motion.

Dev Roszel: Please do.

Bud Jacobs: I move that the Commission initiates zoning text amendment 24-02 and advertise the amendment for public hearing.

Dev Roszel: Do I have a second?

Don Woodruff: Second.

Dev Roszel: All in favor?

All of Commission: Aye.

Dev Roszel: Okay. That ends this portion. So, Council Representative Report. Commissioner Jacobs.

Bud Jacobs: Oktoberfest is coming.

Dev Roszel: Yay!

Bud Jacobs: As I understand it, we're moving the pavilion and part of the activities that were on Madison Street down to South Federal Street. And it should be a lot of fun. And since it's the season, we are about 60 days out from the Mille Miglia. So put that one on your calendars as well.

Dev Roszel: Okay. So, we have some discussion items I would like to just say real quickly, which I should have done a few minutes ago, but Will thank you very much. That was really beneficial to understand all of that. And you work tirelessly to give us the right information so that we can make an informed decision. So, I appreciate that.

Will Moore: Thank you. Yes, sir. Although I did get tired, it wasn't tireless.

Dev Roszel: I was tired just listening to it.

Dev Roszel: Okay. Thank you. So, the discussion items briefing on the recent change to Code of Virginia re Short-Term rentals, proposed draft by the Town Attorney to further amend the code. Will, do you want to have anything you want to?

Bud Jacobs: Quick introduction for it. I asked that this be put on the agenda for you guys to see you're aware, I think, of the bill that was passed last legislative session that constrains what localities can do with respect to short term rentals, ordinances. Good part of it really didn't apply to us because our ordinance was in existence before December 31st, 2023. However, working with the Coalition of Loudoun Towns, our Mayor has put together a coalition of folks to support some achievable changes to the legislation. We understand that Delegate Higgins is on board with supporting it and maybe sponsoring an amendment, as is Senator Perry, both of whom voted against the bill when it passed last session. It's being shopped around, I'm told by VML to other jurisdictions in the Commonwealth, and there appears to be some interest and support in it. And the relevant paragraph is D on page two, which is highlighted in green and yellow. And if you have any technical questions, I'm going to turn it over to that to our lawyer in training, Mr. Will Moore.

Will Moore: The main thing to keep in mind, there's a lot of small things in here that don't necessarily affect the town. The main thing is that the legislation that went into effect, January, is being interpreted by local government attorneys, even though we're protected by our current ordinance because it was adopted prior to that date. It's being interpreted that, or I should say, it's unclear that if you were to amend that ordinance, does that then put you into the point where you can't require that special exception use for an owner-occupied short-term rental? That ambiguity is not good. You don't want to test that. This would make it clear that if the that the special exception requirement is what had to be in place prior to December 31st, and by doing that, it opens the door to us making other amendments. So, for example, if this body were to decide, you know what our ordinance says, we will consider up to 180 nights per year. Maybe we should. Maybe we're never going to recommend approval of that again. Let's just lower that number so people don't get confused by it. Right now, the local government attorneys would not recommend you amending that ordinance because that might remove that protection.

Dev Roszel: Okay.

Will Moore: Whereas if this were passed, then you could tinker with some of the intricacies of the ordinance as long as it doesn't introduce a new special exception requirement.

Dev Roszel: Okay. Thank you. I mean, it really sort of makes it so that, I mean, we already have it in place so we can condition it anyway. So.

Will Moore: Right. But this would give a little more clarity. And our I should say that, you know, it was the Local government attorneys association. I believe that took the lead on this. But Martin Crim, our Town Attorney, is the actual drafter of this, so he took up the mantle based on a lot of the concerns that were raised during recent hearings on these short-term rentals.

Dev Roszel: Great. Okay. Thank you very much. Any other comment on that item from anyone? Okay. September 23rd. Do we have a quorum for that? Everyone is going to be here on September 23rd. Okay. Is Ed in or out?

Rhonda North: Ed is going to be out for the September meeting.

Dev Roszel: Okay. Okay. I think that's it.

Will Moore: Rhonda, do you want to make any announcements about the Asbury meeting or the Mickie Gordon meeting, if you have any information on that?

Rhonda North: So, the county is holding a follow up meeting on their plans to make improvements to the Mickie Gordon Park, that's going to be held September the 5th. That's a Thursday at the community center, I believe that's at 6:00 in the evening. Then on Wednesday, September the 5th the town will be holding a community engagement session, or at least our consultants, Commonwealth Preservation Group, will be leading it.

Will Moore: 11th?

Rhonda North: The 11th. September the 11th? Yes. And that will start at 6 p.m. Along with that, we currently have a survey that is active. You could either complete that online or we have paper copies as well that survey associated with the Asbury church will close on September the 15th.

Dev Roszel: Great. Thank you very much Rhonda. Having no other business, we adjourn.