TOWN OF MIDDLEBURG
PLANNING COMMISSION
WORK SESSION AND REGULAR MEETING MINUTES

MONDAY, MAY 18, 2026
PENDING APPROVAL

PRESENT: Morris "Bud" Jacobs, Chair
Donald Woodruff, Vice Chair
Carolyn Hersh, Member
Paul "Drew" MacMahon, Member
Michael Rocconi, Member
Christopher Hersh, Councilmember

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

ABSENT: Kim Basinger, Member

The Middleburg Planning Commission held their work session and regular monthly meeting on Monday, May 18, 2026 in the Town Hall Council Chambers. Chair Jacobs called the work session to order at 6:30 p.m. Town Clerk North called the roll.

Review of Comp Plan Chapter IV – Land Use

Deputy Town Manager Moore reminded the Commission that a couple of months ago, they discussed the possibility of bringing on a consultant to assist with some of the assembly of the plan; unfortunately, that did not occur due to the cost. He advised that Planner Rogers had previous experience using the software that, when combined with his GIS skills, would allow the Town to update the document on its own.

Deputy Town Manager Moore noted that this was the most significant chapter in the plan and reminded the Commission that they looked at it in September of 2025. He advised that this chapter defined the physical development of the town. Mr. Moore explained that the Land Use Chapter, also known as the Future Land Use Map or Land Use Policy Map, was the most critical component of the Comprehensive Plan. He advised that the draft before the Commission was a line-by-line markup of the text, with some updated pictures and maps. Mr. Moore noted that he highlighted three significant items that needed consideration. He reminded the Commission that the 2019 plan treated the Federal Street corridor as a mixed-use area and called for the complete redevelopment of the south side of Federal Street. Mr. Moore noted the conversations the Commission had during their review of the chapter and advised that they realized there were certain structures that really did not call for future redevelopment because they were in relatively good use and order. He cited as examples the three residential properties and the Federal Courts office building located at the intersection of Federal Street and The Plains Road. Mr. Moore also noted the retail buildings that contained stable commercial tenants and were on the newer side relative to Middleburg. He opined that there would be no near-term redevelopment of the entire block between Pendleton and Madison Streets. Mr. Moore noted a smaller residential property that was in residential use that was idealized for future commercial use, but that would not necessarily be a tear down and rebuild. He advised that it was not until one got to the east side of Federal Street where there were older, more utilitarian buildings that could possibly be open for future redevelopment. Mr. Moore noted the Middleburg Millwork property, which was located south of the buildings between Pendleton and Madison Streets, as well as the Town Shop property, and noted that there have been discussions that they may be ripe for redevelopment in the near future due to possible ownership changes. He advised that what was proposed in the draft language was to eliminate the text about wholesale redevelopment of the entire south side of Federal Street, with some exceptions, and to start anew. Mr. Moore further advised that the proposed map scaled back the redevelopment area but still indicated

to a potential developer that there were certain parcels where the Town would potentially support those types of redevelopment if the right opportunity arose and there was accompanying text in the plan that talked about what those opportunities might be. He reminded the Commission that the text also talked about the introduction of residential uses and advised that they should be uses that were advocated for elsewhere in the plan, including those that appealed to younger persons, families, and older persons.

In response to inquiries from the Commission, Deputy Town Manager Moore confirmed that any redevelopment of the south side of Federal Street would include adequate pedestrian facilities and adequate parking for the uses, as well as meet all the standard requirements. He suggested the Town did not want to automatically waive sidewalk requirements during a redevelopment just because there was no sidewalk to the left or right and noted the need to attack those kind of facilities on an incremental basis.

Chair Jacobs noted the amount of interest and concern about developing Federal Street during the first iteration of the Comp Plan and advised that it was loud and voluminous. He opined, however, that there would never be a big deep pocket developer who would want to redevelop the whole street. Mr. Jacobs advised that the aspiration the staff had laid out in the text was much more realistic.

Deputy Town Manager Moore noted that planners sometimes let aspiration be the sole driver of plans without any connection to reality. He opined that this may have occurred in the current plan and noted that the goal was to bring it back. Mr. Moore suggested the plan would still be aspirational; however, what was proposed was more realistic.

In response to inquiries from the Commission, Deputy Town Manager Moore advised that the Millwork property was one and a half acres in size.

Deputy Town Manager Moore advised that the next item he wanted to discuss was the Mixed-Use Village (MUV) zoned property owned by Salamander. He noted that the current Land Use Policy Map reflected the zoning of the property, as well as their other properties. Mr. Moore reminded the Commission that the residential development had just started when the current Comp Plan was under development. He reviewed the zoning designations for their properties and advised that he proposed to change the map to reflect the low-density residential nature of their R-1 and R-3 properties. Mr. Moore reminded the Commission of the difference between zoning and the actual use of a property and explained that despite the R-3 zoning designation, the lots had been subdivided and could not be subdivided further because the proffers limited the total number. He further explained that they were by definition low density despite their zoning and size. Mr. Moore noted that the Land Use Map stated that those lots should match the use in the Ridgeview area, which contained much smaller lots and tighter development than was taking place on the R-3 zoned portion of the Salamander property. He advised that they went way above the minimum lot size and noted that this was not an issue. Mr. Moore explained that he was simply noting this on the Land Use Policy Map.

Deputy Town Manager Moore reiterated that at the time the existing plan was drafted, it reflected the zoning of the three different areas. He noted the MUV zoned portion of Salamander's property and reminded the Commission that there were zoning regulations for that designation. Mr. Moore noted that there were also proffers for the development of that area that provided for up to 12 single-family homes to be used as teacher housing and up to 48 additional dwelling units that would occur in combination with commercial uses. He advised that the 48 units would be occupied as either workforce housing or housing for the elderly, as defined in the proffers. Mr. Moore reminded the Commission that nothing the Town did with regard to the Land Use Policy Map would change the zoning that was in place and advised that the owner had the right to develop it in accordance with the zoning proffers. He explained that based on the discussions the Commission previously held, the draft version reflected that the ideal use of the area, despite the proffers, was open space. Mr. Moore reminded the members that Prem Devedas, the President of Salamander, addressed them about their future plans for the property and advised that they had no plans to currently develop it. He opined that Mr. Devadas wanted to distinguish no plans to develop it from no current plans to develop it. Mr. Moore reiterated that what the map was saying was that the idealized use of the property in terms of the community was that it remain open. He suggested the need to get public comment on this and make adjustments if necessary. Mr. Moore reiterated that this would not remove Salamander's rights to develop the property in accordance with the proffered zoning and explained that this change would influence any future rezoning of the property if Salamander wanted to change it or revise the proffers associated with the current zoning.

In response to inquiries from the Commission, Deputy Town Manager Moore explained that the current proffers did not address how the land uses that were included would be situated. He noted that it could in the form of a condominium or individual lots, which would require a subdivision. Mr. Moore advised that the zoning was for the entirety of the land and noted that subdividing would not change it. He confirmed the zoning could only be changed at the request of the landowner or if the Town initiated a rezoning. Mr. Moore advised that he did not anticipate the latter would ever happen for this particular land; however, there was a process by which it could happen. He explained, however, that this would wipe away all the proffers because the Town could not include proffers in a municipal initiated rezoning. Mr. Moore suggested it could be rezoned to a category such as agricultural conservancy, which would require that any development occur in accordance with those regulations.

Commissioner Hersh advised that she was thrilled the staff was being proactive in this. She noted that if a rezoning was proposed, there would be an indication that this was the preference the community wanted to see.

Councilmember Hersh noted the text that went along with the map and opined that it did a great job of explaining the sequence of what occurred and Salamander's position on the land.

Deputy Town Manager Moore advised that the final item he wanted to raise for the Commission's consideration was the establishment of a new zoning district for land uses that were public and civic in nature. He explained that this would include educational, institutional, public, and semi-public types of uses, such as the Community Center, Charter School, Hill School, fire station, National Sporting Library, etc. Mr. Moore advised that the existing zoning designation for such properties did not necessarily provide for the best future use of them and noted that almost all of them fell into some non-conformity in terms of zoning. He cited as an example the Middleburg Community Center, which was zoned R-2 Residential, and advised that this limited its ability to do certain types of accessory structures. Mr. Moore explained that they would like to build a pavilion; however, because of the zoning, it could not be any higher than fifteen feet. He noted that The Hill School and Charter School properties were both zoned agricultural, which did not provide for the best future uses of their properties. Mr. Moore noted that the Town Hall was zoned C-2 Commercial, which may not provide for the best future uses. He advised that the proposed amendment would not accelerate the drafting of a new zoning district and noted that the staff must first deal with accessory dwelling units. Mr. Moore suggested this would be something that could happen in the future.

Chair Jacobs suggested the Asbury Church be included in the new zoning district.

Deputy Town Manager Moore noted that it was a small property and confirmed it was already included as public civic use on the Land Use Policy Map.

Commissioner Hersh opined that the zoning would be very different.

Deputy Town Manager Moore confirmed the staff would have to draft new regulations for the new district that would be specific to those types of uses and would distinguish them for agricultural and commercial uses.

Deputy Town Manager Moore suggested the members make a side-by-side comparison of the maps and noted that there were some other small changes proposed. He noted the Boyd Bed & Breakfast property and advised that years ago, when there was an effort to revise the ordinance to allow for the construction of something of a much larger scale, the Town received a lot of feedback from the residents. Mr. Moore noted that the south side of East Marshall Street, from Madison to Jay Streets, was shown for future commercial use. He opined that this was an area that could be considered for potential revision. Mr. Moore displayed a draft map that removed several stable residential uses on both sides of the intersection at Hamilton Street, as well as three properties closer to Jay Street, and suggested those remain designated for future residential use. He noted that the Town had not heard any desire to rezone those properties or put them into commercial uses. Mr. Moore suggested that if the map was left as it currently stood, it could plant the seed for a future owner to request a rezoning. He reiterated his suggestion that the members do a side-by-side map comparison to identify any other proposed changes.

In response to an inquiry, Deputy Town Manager Moore proposed that this be returned to the Commission for discussion next month in order to give the members more time to review the draft text and provide any suggestions. He suggested they spend more time with the maps. Mr. Moore advised that he would provide revisions to at least two, possibly four, additional chapters at the same time, which were based on the members' review last year. Mr. Moore expressed hope to wrap up the review in the next few months and put the draft plan in a format that they would feel comfortable rolling out for public input in late summer or early fall.

Chair Jacobs closed the work session and called the regular meeting to order at 7:03 p.m.

Disclosure of Meetings with Applicants

No meetings were reported with applicants.

Approval of Meeting Minutes

Vice Chair Woodruff moved, seconded by Commissioner Hersh, that the Planning Commission accept the April 27, 2026 Work Session & Regular Meeting Minutes as presented.

Vote: Yes – Commissioners Hersh, MacMahon, Rocconi and Woodruff and Councilmember Hersh
No – N/A
Abstain – N/A
Absent – Commissioner Basinger
(Chair Jacobs only votes in the case of a tie.)

Council Representative Report

Councilmember Hersh reported that Interim Town Manager Bryan Foster was onsite and working with Town Manager Davis to transition into his new role. He noted that he would be out for four weeks during which Deputy Town Manager Moore would cover.

Discussion Item

Outdoor/Rooftop Dining

Councilmember Hersh opined that the biggest thing under discussion by the Council was rooftop dining and reported that there were four options under consideration. He noted that the Council tried not to weigh in on any of them. Mr. Hersh reviewed the four options, which included: (1) a special use permit for all outdoor dining, with existing uses being grandfathered; (2) a special use permit for rooftop dining only, with other outdoor dining remaining by-right; (3) a prohibition on rooftop dining and other outdoor dining allowed by-right; and (4) a prohibition on rooftop dining and a special use permit required for other outdoor dining.

Deputy Town Manager Moore reported that the staff took three options to the Council to get their input since this was one of their strategic initiatives and he wanted to give them the right to decide if they preferred one particular approach. He reported that they agreed they wanted to be deferential to the Commission and let them do the job they were appointed to do, which was to study the options and give them a recommendation. Mr. Moore noted that the Council did discuss the options. He advised that there was some discussion of discarding the first one; however, after concerns were raised about some of the existing outdoor dining spaces, they agreed to leave them all on the table and add one that would prohibit rooftop dining and require a special use permit for all other outdoor dining at either ground level or on an elevated porch. Mr. Moore noted that there was not a lot of background provided and questioned whether the staff could provide anything to better help the Commission inform their deliberations.

In response to an inquiry from the Commission, Deputy Town Manager Moore advised that if there was a decision to regulate outdoor dining, other than rooftop dining, all the existing spaces would immediately become legal non-conforming uses. He further advised that if one of those spaces altered their configuration, it would be required to seek a special use permit. Mr. Moore reiterated that the existing outdoor dining spaces would be grandfathered and would be legally non-conforming.

In response to an inquiry from the Commission, Deputy Town Manager Moore advised that a Councilmember had heard a concern about the King Street Oyster Bar sidewalk dining and noted that he was going to meet with them later in the week to discuss it. He advised the Commission that there were no visual cues to alert the public as to where King Street's property ended and the public space began; however, in reality, their tables and chairs were on their property. Mr. Moore explained that even though this appeared to be a very wide public sidewalk, not all of it was public property. He advised that their property aligned with the edge of the building that was next door. Mr. Moore noted that when they initially set up the sidewalk dining, there were issues of encroachment into the public space that were eventually addressed by the general manager through the use of smaller tables that were situated directly against the building.

In response to an inquiry from the Commission, Deputy Town Manager Moore advised that this issue first came to light when a proposal went before the Historic District Review Committee (HDRC) for the redevelopment of the former Fun Shop property, which included a proposal for a rooftop dining area. He advised that many members of the Committee expressed concern with both the use and the aesthetics. Mr. Moore noted that use was not in the HDRC's purview; however, they still advised Council if they had concerns that were outside of their purview. He reiterated that many of them expressed concern that this use was not typical for a historic town and had never occurred in Middleburg. Mr. Moore further reiterated that they had concerns about the aesthetics, which have been addressed through the approval process. He noted that they also did not have guidelines regarding outdoor dining in the Historic District and were working on them. Mr. Moore advised that based on their discussions, they seemed to be inclined to feel that they did not want to see them, meaning it would need to be concealed, which would take the use out of their purview. He reiterated that they were saying they did not want to see it. Mr. Moore opined that this was their inclination regarding any rooftop dining space regardless of what happened with the regulatory review. He noted that the HDRC's conversation did include use as well as aesthetics and advised that there were members who have concerns about the use. Mr. Moore reported that at least one member of the public had commented during a Council meeting about preferring not to have that use in Middleburg.

Chair Jacobs opined that this was a timely question for the Commission's discussion. He suggested they wanted to do everything they could to protect the integrity of decisions already made and to not unnecessarily mess with the existing outdoor dining.

In response to an inquiry from the Commission, Deputy Town Manager Moore reported that it cost $2,000 to file a special use permit application. He explained that this was intended to cover the required advertising costs and time requirements for the staff's review of the materials.

Chair Jacobs noted that this could be a concern for a future applicant. He advised that he did not know what to think about rooftop dining. Mr. Jacobs noted that the Town of Warrenton had some rooftop dining facilities; however, he did not know whether even a very small version of them would fit well with what Middleburg had in its downtown area. He noted that Middleburg was careful to protect what was here and suggested this would be a factor going forward.

Councilmember Hersh advised that one of the things that struck him was the need for ADA accessibility. He noted that the way around that was to make it a private club, which meant there would be no accessibility. Mr. Hersh advised that Middleburg did a nice job of being inclusive to everyone and noted that this was something he would consider. He asked Deputy Town Manager Moore whether the structural analysis would fall to Loudoun County if someone added a roof to a rooftop dining area.

Deputy Town Manager Moore confirmed it would fall on the building official. He noted that it would include a review of the requirement for accessibility provisions. Mr. Moore suggested the owner may not necessarily, even if it was a public space, have to make a historic building accessible.

Commissioner Hersh questioned whether the Town would have the ability to say it must be used for public versus private use and advised that this made a big difference to her. She asked that Deputy Town Manager Moore have a conversation with the Town Attorney about that and reiterated that it would impact her decision. Ms. Hersh shared her history with the City of Portsmouth. She advised that they did not have much retail and tried to open the door to businesses, particularly retail ones. Ms. Hersh suggested this use be included but that the restrictions on the special use permit be very strict and then refined even further due to Middleburg's historical views. She acknowledged the aesthetics concerns and suggested there were also noise concerns. Ms. Hersh suggested alcohol should only be allowed to be served at tables and that there should be no bars. She further suggested the use be allowed but that there be enough criteria that it must fit within something very narrow in order to make it appropriate.

Councilmember Hersh advised that he conducted some online research of the Virginia Code provisions such as occupancy, egress, load requirements, guardrails, fall protection, etc. He noted that the Town of Leesburg had a rooftop dining ordinance and reported that they had barrier requirements and limited it to specific streets.

Chair Jacobs asked Councilmember Hersh to share those references with the remainder of the Commission.

Commissioner Rocconi advised that he was hesitant to issue an outright ban on rooftop dining and opined that a property owner should be able to present their concept. He further opined that there could be a wide range of concepts, such as a small rooftop alcove with two or three intimate tables. Mr. Rocconi reiterated that they should have the opportunity to present the concept and suggested it require a special use permit. He agreed a large rooftop dining area with a bar and music that could be seen from the street would not fit in Middleburg. Mr. Rocconi questioned what would be the grounds for denying a special use permit application for ground or street level dining if the existing uses were grandfathered.

Deputy Town Manager Moore advised that the Commission would need to be able to articulate a reason for denial. He noted that under the initial options, the staff provided a few bulleted items to spawn some thinking. Mr. Moore cited as an example that it would be good to require a special use permit if there were concerns about noise, lighting or hours of operation regardless of location. He advised that another option that would be a good one would be to allow outdoor dining if there were no concerns with the impacts of the existing ones. Mr. Moore reminded the Commission that Middleburg had many different outdoor dining uses that were in many different configurations, from porches below the grade of the sidewalk to those against the sidewalk. He suggested that if there were no concerns, it may be worthwhile to consider allowing the use to remain by-right.

Chair Jacobs advised that the only complaint he had heard was the occasional one about noise levels at the Salamander Resort. He opined that they acted quickly to address them. Mr. Jacobs suggested the Commission would be very conscious about the recommendation it forwarded to the Council and the public and noted the need to be consistent and not be charged with being capricious. He reminded the Commission that they needed to be able to defend their decision, which meant it must make sense.

Deputy Town Manager Moore suggested the members take some time to look at the different options, walk around town to observe the existing outdoor dining spaces during their busy times, and think about whether there were any concerns. He opined that there may be impacts that could be addressed through conditions. Mr. Moore suggested a fifth option was to adopt performance standards for by-right outdoor dining uses. He cited some examples such as limiting the number of tables and addressing noise from restaurants. Mr. Moore suggested this was an option that would not require a special use permit.

Commissioner Hersh requested a copy of what the HDRC had been working on so the Commission could have a sense of their thoughts since they have been working on this.

Deputy Town Manager Moore confirmed he would provide the materials, as well as the minutes from the meetings. He suggested the HDRC be invited to send a representative to the next Commission meeting to talk about this item.

Chair Jacobs agreed and advised that he would welcome the opportunity to hear what the HDRC had to say.

Councilmember Hersh opined that this was better than looking at documents. He advised that having citizens show up to provide their thoughts would also be greatly appreciated.

Deputy Town Manager Moore advised that the staff had enough to work with. He noted that he would not have anything further drafted for next month, as he would need more direction. Mr. Moore suggested the Commission could have a better informed discussion to help them with their deliberations.

Chair Jacobs expressed appreciation that the Council returned this to the Commission for their input.

Councilmember Hersh asked that the staff provide examples of performance standards during the next meeting.

Chair Jacobs also asked that Leesburg's rooftop dining ordinance be circulated to the Commission.

Deputy Town Manager Moore advised that Planner Rogers had also done other research that could be shared.

Quorum for June Meeting

With the exception of Vice Chair Woodruff, the remaining members of the Commission who were present confirmed they would be present for the June 22nd meeting.

Middleburg Day

Councilmember Hersh reminded the Commission of Middleburg Day to be held May 29th at the Town Hall.

There being no further business, Chair Jacobs adjourned the meeting at 7:34 p.m.

RESPECTFULLY SUBMITTED:

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Rhonda S. North, MMC, Town Clerk

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

Bud Jacobs: Okay. Shall we call our meeting to order? Rhonda, would you read the roll, please?

Rhonda North: Chair Jacobs.

Bud Jacobs: Here.

Rhonda North: Vice Chair Woodruff.

Don Woodruff: Present.

Rhonda North: Commissioner Basinger is absent. Commissioner Hersh.

Carolyn Hersh: Here.

Rhonda North: Commissioner MacMahon.

Drew MacMahon: Here.

Rhonda North: Commissioner Rocconi.

Mike Rocconi: Here.

Rhonda North: Council Member Hersh.

Chris Hersh: Here.

Bud Jacobs: I hope everybody had a chance to look at the draft. Land Use Chapter Review for our Comprehensive Plan. Will you want to walk us through or through it or Amy or whoever?

Will Moore: Sure. I'll give it a shot to start. So firstly, thank you for your patience so far this year as we have tried to gear back up to get back into our ongoing review of the Comprehensive Plan. I think I'll let you know, a couple of months ago that we had discussed possibly bringing on a consultant to assist with some of the assembly of the plan. Ultimately, we did not proceed with that at least at this point due to some cost considerations. But fortunately, in talking with Miss Rogers, she had some previous experience using the software program that is used to format this plan and its graphic version. I have some basic level GIS skills to assist with doing some mapping. So, we thought we'd give it a shot on our own. So, what we wanted to do this month is bring back the Land Use Chapter. We last looked at it in September of last year mostly because it is the most significant chapter for most Comprehensive Plans, because a Comprehensive Plan by definition is for the physical development of the jurisdiction. So generally, the Land Use Chapter and some call it the Future Land Use Map. We call it a Land Use Policy Map. Those are a couple of the absolutely most critical components to a Comprehensive Plan. So, we thought we would start by bringing back this plan. This includes a line-by-line markup version of the text of the chapter. It includes a formatted version of the draft

chapter, which includes a clean version of that text, along with a few updated pictures and with updated maps of existing Land Use and the Land Use Policy Map. As noted in the memo, I'm highlighting three pretty significant considerations. When we talk about maybe differences between this chapter, this draft chapter and map vis a vis the current version of the 2019 plan. Those being the way in which we would be treating the Federal Street Corridor. So just kind of bring up the current Land Use Policy Map. And sorry, I don't have this plugged in. Give it one second. It should populate on your screens on the dais here, as well as the large screens behind you if it's easier to see there, but so the current version of the Land Use Policy Map as well as the text includes what's referred to as a mixed-use area. And that's the area that you see kind of in this purple color where I'm circling on screen along the south side of Federal Street, as well as the purple color as noted in the mixed-use village zoned portion of the Salamander property. The accompanying text and some additional exhibits in the existing plan essentially call for or call for designate that corridor on the south side of Federal Street as an area that could be completely redeveloped. So almost encouraging complete redevelopment of all structures, all properties along that corridor. Some of the conversations we had last year during the review as we looked closer at some of the structures along the corridor. Let me try to zoom in a little more on this version. We realize that there are certain structures. And again, I'll try to circle on screen here the best I can. Hopefully it's showing up, but we have starting at the west end of the West Federal Street Corridor, wrapping around onto the Plains Road, we have essentially three residential properties that are in relatively good order and don't really call for any future or near-term future redevelopment of those because they're in good use, and good, stable condition. Next to that, this red parcel that you see, this is the Federal Court office buildings. Sorry. There are like three Federal or four Federal developments here in town. So, this is the Federal Court. Our police used to be located there before we built our joint facility, but it has quite a number of regular tenants and condo owners in there, not likely to be redeveloped anytime in the future. Next to that, you have the gravel lot that is part of the Atlantic Union Bank property. Just to the side of that, at the corner of Pendleton Street, you have what is known as the Cartier complex. This includes Tack Box, Tack Exchange, Tack Exchange, I believe Stitch a few other Middleburg Design, and a few other stable commercial tenants. And it's again, it's a structure that is on the newer side relatively for Middleburg and very good repair. And we would not anticipate any near-term redevelopment of that. The entire block on the south side of federal between Pendleton and Madison Street. Similar there are some smaller properties in here one that's in residential use that were designated as an idealized commercial use in the future, but not necessarily a tear down and rebuild of everything there. So, it's not really until we get to the east side of Federal Street and in particular the area where we have the old fencing supply company now, storage units, the more utilitarian buildings where we could possibly reasonably see efforts for redevelopment in the future. Then kind of behind to the south of the buildings between Pendleton and Madison, we have the Millwork property, which we discussed recently as well as the town shop property, which is located in there. And for various reasons, due to the ownership entity of the Millwork property possibly transitioning out in the near-term future, that could be an area that would be ripe for redevelopment in the future. So, what we're proposing in this draft, again, going back to the existing plan, we're basically saying, hey, wholesale redevelopment of the entire south side of Federal Street, with the exception of the Town Shop property and the small residential community in which Mr. Woodruff lives on Meadowbrook Court. Wipe it all out and start anew. Whereas the draft map scales back that but still indicates to potential developers that there are certain parcels in here that if the right opportunity came up and then there's accompanying text in the plan that talks about what those opportunities might be. And in particular, it would be provision of a potentially residential units up to 20 per acre or commercial uses or a mix of the two. So essentially calling for the same types of uses that are called for in the existing plan but just scaling back the areas in which we are saying that we would potentially support those type of redevelopment areas. And the text also talks about you know, if it were to introduce residential uses, it should be residential uses that are being advocated for elsewhere in the plan, which in particular are those that would appeal to younger persons and families as well as older persons and families. So, there's that consistency between our existing plan and the draft plan. So maybe it's a good time to pause there get your inputs on what we have in draft version, at least on the south side of Federal Street.

Bud Jacobs: Are there any comments? Discussion.

Don Woodruff: Will, as you look at that redevelopment of the south side of Federal Street does that include pedestrian access?

Will Moore: Yes. Yes.

Don Woodruff: My magic word, sidewalks.

Will Moore: No. Yeah. Absolutely. So, we would we would envision that any redevelopment project would provide for adequate pedestrian facilities, adequate parking for the uses, all the standard ordinance requirements. But I think it's a very sage point at this juncture that we don't want to find ourselves in a position where if one parcel is being redeveloped in a wholesale fashion, and just because there's no existing sidewalk to the right or left today, that doesn't mean you're automatically eligible for a waiver of yours. Because we will really have to attack those kind of facilities on an incremental basis.

Don Woodruff: And thank you for looking at the big picture.

Will Moore: Yes, sir.

Bud Jacobs: Anyone else.

Drew MacMahon: What's the total acreage of the Millwork property? Is it three acres roughly?

Will Moore: I apologize; I would have to look that up. Yeah, Amy will look that up as we keep talking. Thank you. I think there's two parcels in the area.

Bud Jacobs: I've got a couple of quick comments. First, I have to tell you that I've been contacted by phone, text, and email, stopping me in the street by members of this commission, demanding to know when we were going to move forward with our Comprehensive Plan Review. So, I'm delighted to know that we're moving forward. It's no reflection on your work. By the way none of that is true. [laughter] What is true is I remember when we were putting together the very first iteration of this Comprehensive Plan, the amount of interest and concern we had expressed from citizens about developing Federal Street was pretty loud and pretty voluminous, if you recall. And we responded to that, but on reflection I don't think the way we did it was very realistic. There will never be a big deep pocketed developer who is going to want to come in and redevelop the whole of Federal Street. It's just not going to happen. But what you have laid out is aspiration, at least for a much more realistic set of circumstances, and I appreciate it. I thank you a lot for it. It's good.

Will Moore: Yeah. Thank you. It's a good point. Planners, myself included, have to a fault sometimes let aspiration be the sole driver of plans they develop without any connection to reality. And I think we may have done just that as you're stating a little bit with the previous effort, the current plan and that was kind of the goal here is to bring it back. This is still aspirational. And it would still take deep pockets to do that kind of redevelopment on any one of these parcels. But I think we're getting it more in the realm of being realistic at this point.

Bud Jacobs: Any other comments?

Will Moore: And for Mr. MacMahon, it's one and a half acres total for the [off mic] property.

Bud Jacobs: What do you want to do next? Will you want do you want to go through the other two categories or they're pretty much?

Will Moore: Yes, please. So, one of the big ones is the kind of the designation of what I'll call the MUV zoned portion of the Salamander property. So again, on screen here, our existing Land Use Policy Map, it should be noted that the three areas that are shown on the existing Land Use Policy Map essentially simply reflect the zoning of those properties. They were not under development at that time, although the residential development was just about to get kicked off. But this accurately reflects the zoning of the properties. Actually, before we move on to the MUV zone portion, I'll note. So, this is the existing plan you see on screen. The R1 portion of the Salamander property to the west here being circled on screen is noted for future use as low density residential. The R-3 zoned for medium density residential. You'll notice on the draft map I am proposing to revise both of those to reflect low density residential. So, this is again when we get differences between zoning and actual use of property. So, despite the smaller and I use that term relative the smaller lot section of the Salamander Residential Development and the fact that it is zoned R-3, which could theoretically provide for very small lots. The lots have now been subdivided. There can't be any more lots, because it was a proffered zoning that limited the total number. And all of those lots by definition are low density despite their zoning the size of them relative to size of other homes. So again, maybe look at the existing map and it was basically saying that use there should also match the use that is in the Ridgeview area. Those are much, much smaller lots in general, much tighter development than what we're seeing take place on the R-3 zone portion of the Salamander property. And again, that's just fine. That's, you know, minimum lot size. They went way above the minimum lot size. There is no issue with that. But we're simply noting on the Land Use Policy Map that despite the two different zoning categories, both of those are low density residential. And again, we point that out that at the time of the drafting of our existing plan, we were simply reflecting what the zoning of those three different areas was. So back to the MUV zone portion. There are two things going on here. One, we have the existing zoning of the property. It's zoned Mixed-Use Village. We have regulations for that zoning designation in our ordinance. We also have a set of proffers for the development of that area, much like we did for the residential area. And that's where it talks about there would be up to 12 single family homes for teacher housing. There would be up to 48 additional dwelling units in combination with commercial uses. And then those 48 dwelling units would be restricted on their potential occupancy either as workforce housing or housing for the elderly. And again, those are defined in the proffers. Nothing that we would potentially do with the designation of this area on our Land Use Policy Map would change the fact that that zoning is in place. It is a proffered zoning that is in place and that the owner has the right to develop that in accordance with the proffers. Based on the discussions we had, though, what we're reflecting again, and this is just a draft version subject to change, is that the idealized use of that area, despite the fact that a proffered zoning exist would be to have it in remain in open space. A reference in the draft text that you'll remember except for Ms. Hersh and Mr. MacMahon, they weren't on the Commission at the time, but in September Prem Devadas, the President of Salamander, came and addressed us talking about their future plans for the property. And his words were we have no current plans for any development of the property. I think he wanted to distinguish that from no plans to develop it to no plans to currently or no current plans to develop it. And that's perfectly fine that he wanted to make that distinction. What we are saying in here is the idealized use in terms of the community. And this is where when we take this out to public hearing or public input, we can get feedback and make adjustments if needed but would be for it to remain open. But that would not take away the right to develop it in accordance with the proper zoning that exists. What it would do, though, would be to influence any future rezoning of the property. So if they wanted to change the zoning of the property, or if they wanted to revise the proffers associated with the current zoning of the property, our Comprehensive Plan designation at that point in time would become relevant, because what we would be saying here is we would prefer it stay in open space or with a targeted use that could include certain more restricted uses as defined in the text. So, want to make it clear what's being drafted here. Again, this is absolutely not a change to zoning. But if they wanted to change zoning in

the future, it could influence what that process would look like. That's a lot to throw at you, but any questions on that?

Bud Jacobs: Any questions? I have one. Does this provide any protections for any future effort to subdivide that land?

Will Moore: It doesn't. So, the proffers as they are currently discussed, do not address how the various land uses that are included in that proffered array of uses would be situated, whether it's in a condominium format, whether it would be in individual lots, which would need to be subdivided where it would potentially provide. I don't know if protection is the right word, but the zoning for the entirety of the land is what it is. By subdividing it, you don't change the zoning. You simply can parce it off into different lots. But that would not affect the zoning. So, to establish any use on there, again, it would have to be in accordance with the current proffered zoning or a future rezoning or profit revision.

Bud Jacobs: Thank you. Any other comments?

Mike Rocconi: So, the zoning, that could only be changed if the landowner wanted it changed? Is that correct?

Will Moore: Correct.

Mike Rocconi: Okay.

Will Moore: Let me walk that back for a second. There is a process in which the locality can initiate a rezoning of land. We don't anticipate that the town would ever initiate a rezoning of this particular land. There is a process by which that could happen. If that were to happen, that wipes away all proffers though, because we can't include proffers if we do a municipal initiated rezoning, we could potentially rezone it to a certain category, such as agricultural conservancy. But any development from that point in time could happen in accordance with those existing regulations. And we couldn't like rule out certain uses, things like that.

Mike Rocconi: Thank you.

Bud Jacobs: Please.

Carolyn Hersh: I'm just thrilled that you're being proactive on it so, that if we go somewhere that at least that would be what they see as the preference, which might improve more open land with the new use. Is that correct?

Will Moore: I think that's the intent of this draft. But I want to make sure that everybody is aware of that specific intent and that we have consensus that at least that's the best thing to include in the draft version before we go out for public input.

Bud Jacobs: Do you want to finish this up Will?

Will Moore: I think Council Member Hersh had a comment. He's shaking his head.

Bud Jacobs: I'm sorry.

Chris Hersh: All I was going to say was that the writing, the text that goes along with the maps does a great job of explaining kind of the sequencing of what happened and respects the Salamander's position on the land. So, I thought, well done.

Will Moore: Yeah. Thank you. And we really did want to make sure that that statement that the owner has the right to develop it. I mean, it's factual, but we wanted to make sure that that was included in there specifically. So, the final thing that I pointed out in my memo, that would be a consideration. This would not necessarily put this at the top of the list of things we would need to do but would be to consider establishing a new zoning district in the town for what we just referred to basically as those land uses that you see designated on this map in green as public civic. These are educational, institutional, public, semipublic type uses, which could include the community center, the charter school, the hill school, the fire station, sporting library, different types of uses like that. What we have seen is that the existing zoning designations that a number of those different properties have don't necessarily provide for the best future uses of those properties. Almost all of those, not all, but almost all of them fall into some sort of nonconformity with their existing zoning. The community center, for example, is zoned R-2, just like Ridgeview. So, it limits their ability to do certain types of accessory structures. For example, they would like to build a pavilion on their property. Right now, I have to treat it like an accessory, like a garden shed in the R-2 district, which means it can't be any higher than 15ft. It really creates a conundrum there. The Hill School and the charter school are in agricultural zones don't necessarily provide for the best future uses of their properties. Town Hall is in C-2 zoning, which is the same as our commercial core. Again, may not provide for the best future uses there. So, it's a consideration again, it would not accelerate the writing of a new zoning district to the top of our list. We're going to have to deal with accessory dwelling units and things like that first, but it would just plant the seed that, that might be something that should happen in sometime in the future.

Bud Jacobs: I'd like to throw Asbury Church into that mix as well.

Will Moore: Yes, sir. And if you notice, it's very small here. I'm kind of circling it, but we already do have it, as noted as a public civic use.

Bud Jacobs: Oh great, yeah.

Will Moore: Land Use Policy Map.

Bud Jacobs: Yeah. So, thank you.

Will Moore: Yes, sir.

Carolyn Hersh: Would the zoning then be more restrictive? Less restrictive? It would just have to be very different if it's going to incorporate.

Will Moore: Yeah.

Carolyn Hersh: We're like really redoing.

Will Moore: Yeah. We would have to; it would be a big lift to draft the regulations for a new district. But yes, it would be more specific to those types of uses, distinguishing those from agricultural uses, commercial uses, and such.

Bud Jacobs: Thank you very much.

Will Moore: And just if you want to take the time, if you're ever bored at night, like I get sometimes and do a side-by-side comparison of these maps, there are some other small changes that you might see. I'll just point out one, and I remember this, there was an effort. Some of you may recall a few years ago where the Boyd bed and breakfast, which is a new business now opening up right next to the Exxon. There was an effort to revise our ordinance to allow for construction of something of much larger scale there. And during that, we got a lot of feedback from residents in the surrounding area, particularly behind the use along Marshall Street and then a little bit from some of the residential uses to the east as well. If you notice and this stood at that time, the south side of East Marshall Street from say, well, actually almost the entire entirety from Madison Street all the way to Jay Street shown on our current Land Use Policy Map for future commercial use. I think that's probably an area as well that would call for some potential revision. Here's the draft map I have prepared, which basically pulls out several stable residential uses from, say, the both sides of the intersection at Hamilton, as well as down three properties here closer to Jay Street. Instead of advocating for commercial use of those properties. I think maybe based on that feedback it might be better suited that those remain designated for future residential use. We've not heard of any desire of owners to rezone those properties or use them for commercial use. But if we leave the designation as it is currently, that could plant the seed for a future owner to request a rezoning of those. So, there are a few of those kind of small adjustments from our existing plan. Another one being, as the chairman mentioned, the designation of Asbury Church on here as a public civic use. So, I would encourage you to do a little side by side comparison of all the minor changes like that that we are proposing for your consideration.

Bud Jacobs: Good work. What are our next steps?

Will Moore: So, I think our next steps are because we gave this to you with kind of very short notice. Again, we're meeting a week earlier than normal. I would propose to bring this back as a discussion item next month, to give you a little more time to review the draft text to make any annotations, any suggestions. Spend a little more time with the maps and again, make any annotations and suggestions. Bring it back for discussion next month. But at the same time, we will get you at least two, three. Oh, sounds like we might be getting you four additional chapters next month. In actual draft form. So, this would be building off the text review that you had done last year. And Amy is evidently a lot farther along with plugging those into the formatted version than I knew. So, that's a good thing. So, we'll have some additional chapters for you. Our hope is to wrap up in the next few months so that you are in a version you the plan, the draft plan is in a version that you would be comfortable rolling out for public input, maybe late summer, early fall so, we can keep momentum on this.

Bud Jacobs: Does Will's proposal for our next meeting and schedule to review this material work for everyone? Yeah. Great. Thank you very much, Will.

Will Moore: Thank you.

Bud Jacobs: I think we can close our work session, which gives me the opportunity to do this.

Don Woodruff: Come back and hit me in the head. [laughter]

Chris Hersh: I was worried for you.

Bud Jacobs: I want to call the meeting to order. And Rhonda, would you review our disclosure statement?

Rhonda North: Chair Jacobs.

Bud Jacobs: I've had no meetings with any applicants with any matter before this Commission.

Rhonda North: Vice Chair Woodruff.

Don Woodruff: I've had no meetings. Such meetings with any applicants.

Rhonda North: Commissioner Hersh.

Carolyn Hersh: I've had no such meetings.

Rhonda North: Commissioner MacMahon.

Drew MacMahon: I've had no such meetings.

Rhonda North: Commissioner Rocconi.

Mike Rocconi: I've had no such meetings.

Rhonda North: Council Member Hersh.

Chris Hersh: I've had no such meetings.

Bud Jacobs: We had one civilian here, and she's left so, I don't know what we've got by way of public comment. Well, I didn't mean to do that. That's what it was. We need someone to make a motion to approve our minutes from our last regular meeting.

Don Woodruff: I so move that the minutes from the last meeting be accepted as presented.

Bud Jacobs: Is there a second?

Carolyn Hersh: Second.

Bud Jacobs: All in favor, say aye.

All of Commission: Aye.

Bud Jacobs: Opposed? Abstentions? Nope. They are approved. And we move to item number seven, the Council Representatives Report. And, you know Chris, if you want to mix and match that with our next agenda item on outdoor dining, that'd be okay.

Chris Hersh: Sounds good. Let's see. The Interim Town Manager is on property. And he's transitioning with Danny in terms of getting him up to speed. He leaves, I think, for 3 or 4 weeks later in the summer. And so, the town will be covered by Will is my understanding at that point. In terms of our discussions, the biggest thing is rooftop dining, which was discussed at the Council meeting. As you know, from looking through the information, the memos for tonight. And basically, there were four options and Council really worked hard not to weigh in on any of the options, but to kind of discuss through the different options. So, the first one is all outdoor dining, even the existing, although it would be grandfathered would be under Special Use Permit. The second is rooftop dining is a Special Use Permit with other outdoor dining remaining as is. The third is rooftop is prohibited, but other outdoor dining is by right. And then the fourth is rooftop dining prohibited and outdoor dining in going forward, Special Use Permit. There was some discussion about traffic impediment by some tables or by people. And there was some concern about that. So, there was a focus on

maybe there's a fourth option and really interested in kind of the dialog here and the discussion so, Council feels informed about kind of how the community is feeling about the idea of rooftop dining and outdoor dining as is. That would be my report tonight.

Bud Jacobs: Thank you very much. Will, do you have anything to add or Amy?

Will Moore: I'll start. And Miss Rogers can feel free to jump in as well. So, what we took as Commissioner Hersh noted to Council was three initial options for their consideration. We wanted to get their input since this rose to the level of them adopting it as a strategic initiative. We essentially gave them first right to decide if they had consensus on one particular approach that they wanted that they strongly favored. And their discussion was more they wanted to be deferential to the Commission. They wanted to let you do the job that you were appointed to do, and to really study all options, and to give them a recommendation based on your study. So, they did talk about these individual options. At first in the discussion, there seemed to be some momentum to discarding option one which was the one that would require a Special Use Permit for all outdoor dining and only look at options two and three. But when one Councilmember raised the potential that there is some concern with some of our existing outdoor dining spaces or maybe just one individual space. The consensus was, you know what, leave all the options on the table. And in fact, maybe add one where the rooftop would be prohibited, but you would still need a Special Use Permit going forward to establish any new outdoor dining at, say, the ground level or on an elevated porch. So, it's brought to you for your initial discussion here. We don't have a lot of background information. We're interested in what we could provide to you to help better inform your deliberation if anything. But those are the initial options for your consideration.

Bud Jacobs: Don.

Don Woodruff: Yes. Will how does this impact current outdoor dining?

Will Moore: So, if there was a decision to implement a regulation for outdoor dining other than rooftop, so this would be ground level or on an elevated porch. So, if you think of Red Horse, for example, they have both a patio level and then some up on the porch. If you were to introduce a regulation applicable to those types of spaces, all the existing spaces would immediately become non, legally nonconforming uses. And only if those spaces were to be altered in their configuration so, expanded. If somebody had it on a patio level, but not on their porch and they wanted to add it to their porch, that would require a Special Use Permit. But otherwise, all the existing spaces a citizen who spoke during public comment noted that we have 13 spaces. I've not gone around and counted them yet. I think Amy may have started doing that, but if that number were correct, all 13 of those would be grandfathered, if you will they'd be legally nonconforming.

Don Woodruff: Thank you. That answers that. So, I had a question from a town member, citizen, the Oyster Bar's use of the sidewalk along Madison Street. How did they come to that? I don’t, I didn't recall.

Will Moore: Yeah. And so, that's an interesting one. And I'm learning that that may be the one that a Council Member Hersh had heard some concerns about. I'm going to meet with that Council member later this week to discuss that. So, there is no readily available visual cue to most people in the public that tells you where the property ends and the public space begins along the side of the Oyster Bar? But in reality, where all of their tables and chairs are situated are actually on their property. So, even though it appears to be a very wide public sidewalk, it's not all public property.

Don Woodruff: That certainly answers the question. Thank you.

Will Moore: Yeah. So, and just to help inform you, so, if you were to go and stand up at the Washington Street corner and look down Madison Street and align yourself with the next building behind the Oyster Bar, that's essentially where the public way begins. So, they have the width. Now when they first were permitted to do the outdoor dining there, we did have some issues with them continually encroaching out into the public way. You know, they were using larger tables, they were putting them on an angle. And of course, the diners would just scoot back to wherever they wanted. There were many, many long months of training. We actually went out and painted a line of brick at one point in time, but eventually the general manager, who was there now, reconfigured with some smaller tables, situated them directly up against the building. And it has been managed very well from that point forward.

Don Woodruff: Excellent.

Bud Jacobs: Well, I don't have a sense of what people in Middleburg might think of these particular options. I haven't heard from anyone. Have other conversations taken place to give us a whiff of what this looks like in the public perception?

Will Moore: Yeah. So, this and we talked about this a bit last month. This first came to light with a proposal that went before our Historic District Review Committee for redevelopment of the former Fun Shop property, and that includes a proposal for a rooftop dining area. Many members of that committee expressed concerns with both the use and the aesthetics. The use is not really in their purview. But they can still advise Council sometimes if they have concerns that are outside of their purview. So, many of them expressed concerns about the use not being something that is typical for our historic town at least. It's never occurred in our historic town, that I know of ever, in the past. They also had concerns about the aesthetics. Those were addressed through their approval process to this point they are going to take some additional steps. We don't have any, currently, we currently don't have any adopted guidelines regarding outdoor dining in our Historic District Design Guidelines document. They were working on some of those guidelines at one point, and that kind of fell off on the wayside. They're revamping that. They seem to be per our discussion earlier this month, they seem to be inclined to treat, oh, sorry, rooftop dining the same way. This is the way I frame it. The same way they treat solar panels in the Historic District, which is they can be there. We don't want to see it. So, there are, there's no provision, for example, in the guidelines that says solar panels are okay on the back of a building, even if they can be seen from the public right of way, but not on the front. What our guidelines say is they need to be concealed. So, that takes the use out of the HDRC's purview. And they're simply saying we don't want to see it. And that seems to be their inclination with any rooftop dining space is regardless of what happens with this regulatory review, from the aesthetic point, we don't want to see it. So, that conversation has been going on. But that conversation did include use as well as the aesthetics. There were members of that committee who were concerned with the use. Obviously, there were the Council discussions. We have had; I think at least one public commenter talk during a Council meeting about preferring not to have that as a use in our town. So, there's been limited discussion, but there has been some.

Bud Jacobs: That's helpful. Well, this obviously is a timely question for us to start looking at and thinking about this. I believe we want to do everything we can to protect the integrity of decisions that we've already taken. In other words, not to mess unnecessarily with the existing outdoor dining that we have. And if at all because of some things we have to do, if it all becomes nonconforming, it's fine. It in a way, that's almost a better outcome. So, that's a concern. Remind me again, what does it cost to file a sub?

Will Moore: It costs $2,000.

Bud Jacobs: $2,000.

Will Moore: And a lot of that is a lot of that is related to required advertisements that we must place, and there are certain costs that go along with that. But there are processing, there are time requirements for review of the materials as well.

Bud Jacobs: Well, that obviously might be a potential concern from a future applicant. I just throw it out so that we're aware of what we're doing. I don't know what I think about the rooftop dining.

Don Woodruff: That's a good question.

Bud Jacobs: It is a good question, you know, and the only one I looked at with any reference to this is over in Warrenton. And they have a district with a couple of bars that have all sorts of rooftop facilities. And it's fine, it's kind of neat, but I don't know necessarily that even a very small version of that would fit very well with what we have in our downtown area. And we're always pretty, pretty careful to protect what's there. So, that going forward for me at least, is going to be a factor. And there may be other factors. You guys have anything you want to pile on here, please, Chris?

Chris Hersh: Well, one of the things that struck me was with rooftop dining public that there would need to be ADA accessibility and potentially the way around that would be if you made it a private club, then there is no accessibility. And we're a community that I think does a nice job of being inclusive of everybody. So, that's for me, something that I would consider in that and Will, I kind of had a question about the, if you make a roof you know, dining or bar from a structural standpoint, you've now added an additional floor to the building. So, the structural analysis part, does that fall on Loudoun County? How does that work?

Will Moore: Yeah. Anything related to that would fall on the building official. And that includes the review for the requirement for accessibility provisions. So, you won't always necessarily, even if it's a public space, have to make reuse of an existing building, particularly a historic building. Accessibility, even if you're opening up a space that wasn't previously used a potential example, omitting rooftop is if you think of King Street on the inside. So, there is a mezzanine level it's not accessible by any means, but because I think because there is adequate accessibility at the ground level, they're able to use that mezzanine level in addition.

Chris Hersh: Mr. Chairman.

Bud Jacobs: Commissioner Hersh.

Chris Hersh: A couple other things. I was doing a little online research.

Bud Jacobs: Wrong, Commissioner.

Chris Hersh: Oh, excuse me.

Bud Jacobs: Go ahead. Commissioner Hersh.

Carolyn Hersh: Okay, I guess I'm going to pull to this first one is, is this something as a Special Use Permit, we can say it's private versus public? Is that within our or Council's ability? Because A that makes a big difference to me. And B I'll give you just a past experience from Portsmouth.

Will Moore: I would have to have some discussions with our attorney before I could give you a clear answer on that.

Carolyn Hersh: Would you be willing to do that?

Will Moore: Sure.

Carolyn Hersh: Because I do think that impacts a lot. It was from my perspective, the. I know I have heard people not wanting rooftop dining at all, going back to spending a number of years in Portsmouth where we didn't have much retail. I mean so much was public use, Navy. We tried very hard to find that nice balance of being a town that did try to at least have open door to businesses and especially retail, especially since that is a big piece of what works for our tax base. My thought would be to include it, but with a very strict almost base of Special Use Permit and then refine it even further because we know historical view would be part of it. So, we know that it's an aesthetic, but that we have certain parts of it, especially around the noise, and that like alcohol has to be served at tables, there's no bar. And that we put in enough criteria that it turns into, yes, we're willing to do it, but you have you do have to fit in something very narrow that makes it appropriate. It's sort of finding that balance rather than not, but I do. I see both sides of it.

Bud Jacobs: But thank you very much. Commissioner Hersh.

Chris Hersh: Sorry about the interruption there. In terms of, in terms of some research done online, looking at some of the Virginia codes which are things you think about, occupancy, egress, load requirements, guardrails, fall protection, things that would fall in. I pulled up since Leesburg was similar. Leesburg has a rooftop dining ordinance, and I pulled up an example of it. And basically, they actually have like barrier requirements where there has to be a railing to block it from the sidewalk. And they have some amendment examples and things. So, and they limit the streets. That's why I was bringing that up is that they have it on specific streets within Leesburg and can occur on other streets. So, that's a way of kind of controlling. Thank you.

Bud Jacobs: That's very helpful. Can you share those references? Please?

Mike Rocconi: I would be a little hesitant, I think, to issue an outright ban on something like rooftop dining. Just because I think when a property owner, I think a property owner should be able to at least present their concept. And I think there could be a wide range of concepts for rooftop dining. There may be, you know, a small rooftop alcove, and the owner wants to put out 2 or 3 tables for a quiet, intimate dinner setting. So, I think they should have an opportunity to present that, which I think would require an SUP. I do agree that, you know, a large rooftop dining area with a bar and music that can clearly be seen from the street probably wouldn't fit, but and then regarding ground level or street level dining if we were to grandfather the existing and then for the future require an SUP would that make it kind of messy to start issuing denials at that point? And what grounds would we even use to do that?

Will Moore: Yeah. So, it's a good question. And the answer is, you know you need to be able to articulate a reason for denial if you're denying. So, this is where kind of when under these initial options, we gave just a few bulleted items to try to spawn some thinking among Council and then you as well. And so, for example, you know, this requiring all to have an SUP would be good if there are concerns with impacts such as noise, light, hours of operation with outdoor dining, regardless of where it's located. But the other option, other consideration, if you look at the other outdoor dining by right is, you know, this is maybe a good option to consider if there are generally no concerns with the impacts of the ones we have. So, we have many, many different ones. They come in different configurations. Some are on porches down at Nomad. It's sunken down. We have King Street, which is right up against the public sidewalk, but not on. So, we have different configurations. Until the most recent Council meeting, I've not really heard. I mean, obviously I had concerns myself with King Street encroaching out and we dealt with that. But you know, if there are generally no concerns with our existing configurations and the uses, it might be worthwhile to consider

allowing that to continue by right. Because you want to be able to articulate a reason for requiring that permit as well as if you get into a position where you're going to deny one, what are those grounds? So.

Bud Jacobs: You know, thinking about it, the only complaints I've heard ever have been the occasional complaint about noise level at the resort. And at least in those few occasions I'm aware of the resort acted pretty quickly to bring it down and everybody seemed pretty content. I've not heard anything expressed about the facilities that we have in town so, hard to read that. I would say that we, obviously, we're all going to be very conscious to make whatever we propose to Council and to the public consistent and not allowed to be charged as being capricious. We want to we want to be able to defend these decisions. And that means they've got to make sense.

Will Moore: What I might suggest, I'm guessing I could be wrong. But I'm guessing we're not going to have necessarily consensus tonight that says pick, you know, use this option and draft something. And I don't want to push you on that. What I might suggest is that you kind of look over these different options. The fourth option that Council Member Hersh referenced is kind of captured in the paragraph following those three initial options. Maybe, think about those over the next month, maybe take a walk around, observe some of the outdoor dining spaces we have in action during their busy times. Think about are there concerns here that I'm just not thinking of? Maybe I've not heard them, but, you know, do you have concerns? Do you see things that are happening that if you had an influence on, maybe there would be a different configuration? Maybe there are some impacts that could have been addressed through conditions. Not that you need another option, but I'm going to throw one at you. And it was one that Miss Rogers brought up in our discussions around this. And that is you can also adopt performance standards for by right uses. So, we don't have really any performance standards in our ordinance right now for outdoor dining. We could introduce performance standards that would be applicable to all outdoor dining. And you wouldn't have to have; it wouldn't have to be a Special Use Permit to have these applicable for any new ones going forward. We could say no more than ten tables. I mean, that's just off the cuff there, you know, but we could have some performance standards that talk about maybe with a little more specificity than our noise ordinance does, although we do have a noise ordinance. And it addresses specifically noises from restaurants. We do have outdoor lighting standards. But maybe we could capture those in a kind of a performance standards section in our zoning ordinance that makes it clear that even though outdoor dining, if it were to remain by right on the ground level, these standards apply going forward. So, that's yet another option without requiring a Special Use Permit.

Bud Jacobs: Commissioner Hersh.

Carolyn Hersh: Oh. Is there any, since we may have very differing views of sort of what this looks like. Can we have copies of what HDRC has been working with? Can we? I mean, is that a reasonable. So, we at least have a sense, because they've spent way more time on this and are looking at something concrete.

Will Moore: Yeah. I mean, you're absolutely welcome to any and all materials that they've looked at. We can get you minutes from their discussions. We could even invite HDRC to send representatives to your next meeting to talk with you and just have the kind of discussion that we're having. And I think the chairman would probably, assuming his schedule works, would be more than happy to engage with you on that. And that's perfectly reasonable. Yeah.

Bud Jacobs: I think that's a brilliant idea, actually. I welcome the opportunity to hear what they have to say.

Carolyn Hersh: And that's even better than just the documentation. Get their sense of can they make it look certain anyway?

Chris Hersh: And with people reading, Mr. Chairman, with people reading the minutes as well as potentially watching, you know, citizens showing up and giving us their thoughts would also be greatly appreciated in terms of this issue.

Bud Jacobs: Do you see a way ahead, Will?

Will Moore: Yeah, I think we have enough to work with. We won't have anything concrete drafted for you next month because again, we're going to need some more direction. But I think we'll have some maybe slightly better-informed discussion to help guide some of your deliberations next month.

Bud Jacobs: Please, before you start, I'm grateful that Council has kicked this back to us as for the first cut, and I hope we can come up with something that will help them out.

Chris Hersh: Thank you for that. Can you also give some examples of the performance metrics at our next meeting? Just so that because that would be helpful.

Will Moore: Yeah, we can work on something like that for you. Sure.

Bud Jacobs: Would you like to have this circulated among all the Commissioners?

Chris Hersh: Yeah.

Bud Jacobs: Could you do that, Will? This is the Leesburg statute on rooftop dining.

Will Moore: Yeah, absolutely. And I believe Miss Rogers had done some other research. And we may have some additional examples to send you. So, it will give you all sorts of homework to read up on for next month.

Bud Jacobs: None of this is going to be on the test, right? [laughter] Let's see. Done agenda. If we're done with that, we have a quorum as far as we're aware on June 22nd?

Chris Hersh: 22nd. I [off mic].

Bud Jacobs: I will be here. Does it all work?

Chris Hersh: Looks like it.

Bud Jacobs: Looks like we have a date. Any other matters? Questions? Comments?

Chris Hersh: Middleburg Day is next Friday. Not this Friday, but the following Friday. Just so that everybody's aware of having that on their calendar. Thank you.

Bud Jacobs: Thank you very much. If you haven't gone to Middleburg Day, you've missed out. You should try it this year. It's always fun. Well, this is our second one, right? Our third one. Third one. Yeah. So, it's always fun. With that, I'd like to adjourn us.