TOWN OF MIDDLEBURG
PLANNING COMMISSION
WORK SESSION AND REGULAR MEETING MINUTES

MONDAY, JULY 27, 2026
PENDING APPROVAL

PRESENT: Morris "Bud" Jacobs, Chair
Donald Woodruff, Vice Chair (arrived late)
Kim Basinger, Member
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

The Middleburg Planning Commission held their work session and regular monthly meeting on Monday, July 27, 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.

ZTA 26-01: Definitions & Associated Regulations for Parking Lots

Deputy Town Manager Moore reminded the Commission that last month, representatives from the Middleburg Methodist Church spoke regarding the potential use of their parking lot for paid hourly parking when it was not in use by the food pantry or for their own purposes. He further reminded them that the Town Code contained language related to a parking lot facility. Mr. Moore opined that this definition was adopted in 2005, with the goal of prohibiting the construction of standalone parking lots built just for that purpose. He advised that currently, the ordinance allowed for consideration of the use in the C-3 District, which was essentially the south side of Federal Street. Mr. Moore reported that in reviewing the ordinance, the staff identified the lack of a definition with regard to municipal parking lots in all the commercial districts. He reported that the staff analyzed this to see if there would be any unintended consequences if revisions were made and advised that they could not come up with any; therefore, they were proposing to rewrite the definition of a parking lot facility to simply call it a "parking lot". Mr. Moore explained that as proposed, a parking lot could be built to go along with the use in a commercial district and the use would be allowed as an accessory to an off-site use. He advised that it could also be made available to the public, with or without compensation, during off-hours. Mr. Moore explained that in regard to the church's request, the proposed amendments would give them another definition for a "freestanding parking lot", which would be a parking lot built on a piece of property that did not have a structure housing a primary use. He advised that while he did not anticipate such an instance, an additional parking lot could be built on a property with a use that would not serve that use. Mr. Moore opined that no such application would come forward; however, the staff still wanted to allow for its consideration. He noted that the consideration of this freestanding use in the C-3 District, where parking was currently limited, would be through a special use permit. Mr. Moore advised that a definition would also be provided for a "municipal parking lot", which would be allowed in all three commercial districts. He noted that the Town did not currently have plans to develop a municipal parking lot in the future. Mr. Moore explained that as an accessory use, the use would be by-right with a permitted use and would not require a permit. (Vice Chair Woodruff arrived at the meeting at 6:36 PM.) In response to an inquiry from the Commission, he confirmed that with the definition of an accessory use, the requirement for a special use permit would go away. He reminded the Commission that this item was on their regular meeting agenda to initiate the amendment. Mr. Moore further reminded the members of the need to hold a public hearing on the proposed amendments next month and to forward a recommendation to the Town Council.

The Commission agreed they would like to pursue the proposed amendments.

ZTA 26-02: Definitions of Restaurants, Outdoor Dining & Rooftop Dining, and Associated Uses

Planner Rogers reviewed the history of the Commission's discussions regarding rooftop and outdoor dining that had occurred starting in April. She reminded them that ordinance amendments had been drafted that would define outdoor dining, a restaurant, and rooftop dining. Ms. Rogers reported that Option 1 would allow rooftop dining with a special use permit, and Option 2 would prohibit rooftop dining. She noted that they also provided performance standards that would be associated with outdoor dining and rooftop dining. Ms. Rogers reminded the Commission that this generated discussion by them of things they wanted the staff to consider such as noise, location on private property, hours, etc. that the Town would have the ability to regulate.

Planner Rogers reviewed the Option 1 amendment, which contained standards for both outdoor dining and rooftop dining, and Option 2, which only had standards for outdoor dining, as rooftop dining would be prohibited. She reminded the Commission that the former Fun Shop building was being redeveloped and that the developer had included rooftop dining in his application. Ms. Rogers explained that because this application was filed prior to the adoption of these amendments, they would only apply to his application if he made a change to it after the adoption of the ordinance; therefore, rooftop dining would be permitted on his building. She further explained that he would have to request an expansion or make a change to what had already been approved for the ordinance to apply in his case. Ms. Rogers advised that the ordinance would affect future applications, not the current one unless he made a change.

In response to inquiries from the Commission, Deputy Town Manager Moore reiterated that the applicant had already been issued a zoning permit; therefore, that rooftop dining use would not be affected by this process. He noted, however, that there were some things in the performance standards, such as those related to outdoor music, that would apply because the use had not gone into effect. Mr. Moore confirmed that prohibiting or requiring a special use permit for that project would not be applicable because the application had already been filed and was already underway.

Councilmember Hersh noted that if the Commission opted for Option 2, there would be performance standards for outdoor dining. He questioned whether there should be standards for rooftop dining as well, even if the Commission decided to prohibit it.

Deputy Town Manager Moore advised that rooftop dining would still be considered outdoor dining. He opined there would be a way to tweak the ordinance to ensure the standards would apply in that particular situation.

In response to an inquiry from the Commission, Deputy Town Manager Moore confirmed that under the current definition of a "restaurant", dining that was outside of the structure was allowed. He noted that the definition did not say where outside of the structure it had to be; therefore, he had to interpret that rooftop dining was currently a permitted use until the ordinance changed.

Chair Jacobs reminded the Commission that it had been tasked by the Town Council to look at this issue. He inquired as to the Commission's thoughts on how they wished to proceed. Mr. Jacobs questioned whether the applicant for the former Fun Shop property was proposing to put an automobile on the roof. He further questioned whether his application in Leesburg included placing an automobile on the roof as a potential option for Hotel Berg.

Deputy Town Manager Moore advised that the Historic District Review Committee (HDRC) was undergoing a separate effort to establish design guidelines for outdoor dining, including the potential for rooftop dining. He reported that irrespective of the Commission's decision, because the property in question was in the Historic District, the direction the HDRC was going in with the amendments to the design guidelines was to prohibit consideration of the situation that occurred in Leesburg. In response to an inquiry from the Commission, Mr. Moore confirmed the amendments to the Historic District Guidelines would affect any existing outdoor dining area if they wanted to make a change; however, the Town could not force a change upon an existing situation.

Councilmember Hersh noted that a concern had been raised by an individual about noise. He questioned whether the regulations prohibiting amplification and screens for rooftop dining would apply to the approved application.

Deputy Town Manager Moore explained that if the screens were visible from a public right-of-way, they would fall under the HDRC's purview. He further explained that as to the amplification of outdoor music, if the operation were to start today, they could do so; however, the application did not include that, nor had it received approval. Mr. Moore reported that what had been approved to date was the physical construction of the outdoor space and the potential use of it. He confirmed that no particulars related to outdoor amplified music were approved and noted that there was no grandfathering of that. In response to an inquiry from the Commission, he confirmed the screens would be handled through the HDRC, and that amplified music would be addressed by the performance standards if they were adopted, as they would affect all outdoor uses.

Planner Rogers suggested a simple fix would be to add that the performance standards would apply to existing rooftop dining even if the decision was made to ban rooftop dining. She suggested that existing rooftop dining be subject to the regulations as of the date of the adoption of the ordinance.

Deputy Town Manager Moore agreed. He suggested the Commission hold a discussion on where the individual members stood with regard to whether to prohibit or allow rooftop dining by special use. Mr. Moore noted that this would allow the staff to shape the performance standards.

Chair Jacobs advised that he initially thought that prohibiting rooftop dining throughout the Town, and in particular in the Historic District, was the right decision. He opined, however, that the Commission could not close the door on everyone else since one establishment had gained approval.

Commissioner Rocconi opined that allowing it by special use was appropriate so the Commission could see the details of what was being proposed and then make a decision. He opined that someone could submit a proposal for outdoor dining that could not be seen or heard and advised that he would like to be able to see what was being proposed before a decision was made.

Commissioner MacMahon opined that rooftop dining did not fit in Middleburg.

Commissioner Hersh agreed with Commissioner Rocconi. She noted that this would allow the other restaurants to have the option, with the special use permit setting the criteria. Ms. Hersh thanked the staff for working on the criteria and opined that it was all encompassing.

Chair Jacobs advised that he was in favor of allowing rooftop dining as a special use permit.

Commissioner Basinger advised that when she first heard about rooftop dining, she was uncomfortable with it. She opined that changes were in order to make it more in keeping with Middleburg. Ms. Basinger advised that initially, she felt it just did not fit. She expressed hope that it would be made to honor the history and culture of the town. Ms. Basinger expressed concern, however, about saying that no one else would have an opportunity to do this. She opined that allowing it by special use permit was the most appropriate approach.

Councilmember Hersh advised that initially, he was of the opinion that Middleburg needed to stay as it was; however, he opined that knowing that one such use would be in existence, it would be inequitable to not allow it by special use going forward. He advised that this was what changed his opinion, even though he did not think it fit from a historic village perspective.

Chair Jacobs advised that initially, he shared the views of some members of the HDRC that this was an inappropriate use for Middleburg and the Historic District. He further advised that he still felt that way; however, he agreed with Councilmember Hersh that the Commission needed to view this toward equity. Mr. Jacobs advised that unless the staff told him differently, he believed a blanket refusal of future rooftop dining applications was not allowed. He expressed hope the Town would not receive an application for another one.

Vice Chair Woodruff advised that he was originally opposed to rooftop dining; however, he suggested that providing for it as a special use would allow the Commission to recommend denial if it did not fit. He expressed hope the Commission would have the opportunity to do so if they felt it was inappropriate.

Chair Jacobs asked that the Town staff call it to the Commission's attention if the current applicant submitted changes in the future. He opined the Commission was not in a position to do much beyond approving rooftop dining on a case-by-case basis or by special exception. Mr. Jacobs advised that he did not see any other options. He asked if there were any that they please be revealed.

Chair Jacobs closed the work session at 6:58 p.m. He called the regular meeting to order at 7:00 p.m.

Disclosure of Meetings with Applicants

No meetings were reported with applicants.

Public Comment

Scott Little, Managing Director of Salamander, advised that he wanted to comment on a remark that was made during the Planning Commission's discussion of short-term rental language on July 22nd to ensure the scope and practicality of the discussions were kept in perspective. He noted that Chair Jacobs made a comment that it was a grave mistake to grant approval of the special use permit for short-term rental use of one hundred eighty days for the Jay Street property. Mr. Little opined that the Planning Commission and Town Council both debated that application robustly. He reminded the Commission that there were currently three active short-term rental use permits, one of which had not rented in that manner for even a single day, one of which almost never rented for this use and one of which he did not know what was done. Mr. Little opined that there was not much visibility on what those occupancies looked like – only that there were three. He noted that there was a fourth; however, that permit was surrendered upon the transfer of the property's title several months ago. Mr. Little opined that special use permits were an invaluable tool to the Commission and Council.

Chair Jacobs noted that he did not recall the details of those discussions; however, he opined that at that time, he made a general statement that when the regulations were set up, the one hundred eighty day permitted period was a mistake given the views that have emerged about this use. He noted that this matter was still before the courts and opined that neither he nor the remainder of the Commission were in a position to comment further.

Mike Morency, of Landmark School Road, advised the Commission that he and his family owned commercial property on Washington Street and residential property on Reed Street. He expressed concern about rooftop dining, in particular the sound and light that accompanied it, in a small town. Mr. Morency reminded the members that sound carried a long way, especially at night. He noted that Route 50 became quiet in the evening and advised that sound, especially if it was two or three floors up a building, would carry. Mr. Morency opined that the higher the noise level was generated from, the further the sound would carry. He reminded the Commission that the Town was making an effort with regard to dark skies and opined that this use would not work well in that regard. Mr. Morency acknowledged the currently approved application and noted that municipalities changed rules after something was built that it realized may not be in the best interest of the town. He advised that he disagreed there was an obligation to allow rooftop dining opportunities to others, even with a special use permit, just because one person had it. Mr. Morency noted that he was not sure how many people were aware this was coming before the Planning Commission and Town Council and opined that it was worth having a public hearing on. He reiterated that he disagreed with the outlook that the Commission was obligated to go with Option 1 because of one application that was submitted before the issues were raised.

Chair Jacobs thanked Mr. Morency and noted that his commentary was very useful. He suggested that as the Commission worked through this issue, they take his perspective into account. Mr. Jacobs advised that for him, there was a question as to where this would leave the Commission on a number of issues. He noted that the Commission would present the Council with the best recommendation it could. Mr. Jacobs noted his past experience on the Council, Planning Commission and Source Water Protection Committee and reported that he never had as many

people reach out to him as he had on this issue. He further reported, for the record, that those whom he had spoken with were all uniformly negative when it came to rooftop dining, with not a single person being in favor of it. Mr. Jacobs opined that the Commission would hear a lot more when they held the public hearing.

Deputy Town Manager Moore reported that both this and the previous item would be scheduled for a public hearing during the Commission's August meeting. He noted that there were motions in the agenda packet to initiate both amendments if they were to the Commission's liking. Mr. Moore reminded the members that they could also continue to hold discussion. He advised that Planner Rogers provided a good starting point for the zoning text amendment related to outdoor and rooftop dining and performance standards and noted that the details mattered. Mr. Moore suggested the Commission could continue its discussion in August, or the staff would be happy to hear their feedback during this meeting.

Approval of Meeting Minutes

Councilmember Hersh moved, seconded by Vice Chair Woodruff, that the Planning Commission approve the June 22, 2026 Work Session & Regular Meeting Minutes as presented.

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

New Business

Initiation of Zoning Text Amendment 26-01: Definitions and Association Regulations for Parking Lots

Commissioner Hersh moved, seconded by Commissioner Rocconi, that the Planning Commission initiate Zoning Text Amendment 26-01 and advertise the amendment for public hearing.

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

Deputy Town Manager Moore advised that the public hearing would be held during the Commission's August meeting, at which point they could make a recommendation to the Council, who must then repeat the process.

Initiation of Zoning Text Amendment 26-02: Definitions of Restaurants, Outdoor Dining and Rooftop Dining, and Associated Use Regulations and Design Standards

Commissioner Hersh moved, seconded by Vice Chair Woodruff, that the Planning Commission initiate Zoning Text Amendment 26-02 Option 1 and advertise the amendment for public hearing.

Vote: Yes – Commissioners Basinger, Hersh, MacMahon, Rocconi and Woodruff and Councilmember Hersh
No – Chair Jacobs
Abstain – N/A
Absent – N/A

Councilmember Hersh noted that Deputy Town Manager Moore talked about potentially refining the wording for Option 1.

Deputy Town Manager Moore advised the Commission that they could still make certain amendments to the ordinance after it was initiated. He suggested that if any member had any thoughts on the performance standards, now would be a good time to discuss them. (None were raised.)

Planner Rogers suggested the members send her any concerns they may have regarding the performance standards and how they would like to handle them.

Council Representative Report

Councilmember Hersh reported that during its last meeting, the Council implemented mandatory water restrictions. He displayed a map of Virginia that identified the drought status of each area and noted that groundwater was an issue across the state. Mr. Hersh proposed some draft language for inclusion in the Comprehensive Plan related to water and water conservation.

The Commission agreed they had no issue with the insertion of this language.

Quorum for August Meeting

With the exception of Vice Chair Woodruff, who advised that his attendance was questionable, the members of the Commission confirmed they would be present for the August 24th meeting.

There being no further business, Chair Jacobs adjourned the meeting at 7:21 p.m.

RESPECTFULLY SUBMITTED:

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Rhonda S. North, MMC, Town Clerk

Attachment: July 27, 2026 Meeting Transcript

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

Rhonda North: Mr. Chair, you are live.

Bud Jacobs: We are opening the work session for our Monday, July 27, 2026 meeting. Miss North, would you roll call us please?

Rhonda North: Chair Jacobs.

Bud Jacobs: Present.

Rhonda North: Vice Chair Woodruff, absent. Commissioner Basinger.

Kim Basinger: Here.

Rhonda North: Commissioner Hersh.

Caroline Hersh: Here.

Rhonda North: Commissioner MacMahon.

Drew MacMahon: Here.

Rhonda North: Commissioner Rocconi.

Michael Rocconi: Here.

Rhonda North: Council Member Hersh.

Chris Hersh: Here.

Bud Jacobs: Thank you very much. We've got two items for discussion tonight. One of which I think is pretty straightforward and the other perhaps less so. Could I ask Will or Amy to start taking us through the issues.

Will Moore: Certainly. Thank you. I am happy to take the more straightforward item, [laughter] and will leave the more complex one to Miss Rogers. So, the first zoning text amendment for your consideration. For those of you who were here last month you'll remember the Middleburg Methodist Church had some representatives speak regarding potential use of their parking lot as paid hourly parking during off hours, when not in use by the food pantry or for their own purposes for their services. And we identified that there was a kind of a hiccup with that idea in our ordinance. So, our ordinance currently contains a definition for a parking lot facility. And as you read that, that would address essentially what they want to do now. The ordinance defines a parking lot facility as one which is serving the use during serving an on-site use during its hours, but then can be made available to others, if you will, with or without compensation during off

hours. Looking back in the history of that, it seemed that it had been drafted in around 2005, adopted in 2005 to address the potential for a potential desire at that time from one particular entity to build essentially just a standalone parking lot that could be potentially in competition with or supplementary to municipal lots that we operated at the time. So, the ordinance as it currently stands only allows for consideration of that use in the C-3 district. So that's essentially the south side of Federal Street. And then we also identified some gaps where we have a use a use defined that's allowable in all of our commercial districts for a municipal parking lot but lack the definition thereof. So based on the comments last month and the commission's reaction and then we did spend some time just analyzing over the last month to see try to think through if there might be any unintended consequences if we made these proposed revisions and we really couldn't come up with any. So, what we're proposing is to essentially rewrite that definition of parking lot facility and just call it a parking lot. And then give some categories. So, we've got a parking lot. We have what we're proposing to call a parking lot or accessory parking lot. So, this is just a parking lot that is built to go along with the use in a commercial district, oftentimes required to be built to go along with that use. And it would say that the use is accessory to an on-site use. But then it could be made available to the public with or without compensation in off hours. So essentially what the church was saying they would want to do then we'd give another definition for what we're calling a freestanding parking lot. So, this would be a parking lot built on a piece of property that doesn't have a structure housing a primary use. It could also be, even though we don't anticipate an instance like this, an additional or secondary parking lot that could be built on a property with a use. However, it was not built to serve that use. So again, we don't see probably any application of that coming forward, but we wanted to still allow for its consideration. We would limit the consideration of that particular use, the freestanding one, to the C-3 district where parking lot is currently limited. And that would be a special use. And then just giving a definition to our municipal lot that we would continue to allow for consideration in all three of our commercial districts. We don't have any current plans to seek out or develop an additional municipal parking lot. But we want to keep that option open should an opportunity present itself in the future. So again, as an accessory use, it's by right that goes along with a permitted use. So, you wouldn't even have to obtain a permit for the church, for example. And there was some discussion of how can we make that potential use be as easy to obtain for that particular user not require an expensive Special Use Permit or anything like this. And this would simply mean that it would be a permitted accessory use of the lot that they already have. So happy to answer any questions about the way the amendment is structured or if you have any particular questions or concerns.

Bud Jacobs: Any questions or comments?

Caroline Hersh: It looks good.

Bud Jacobs: You may have said this and I missed it, but with the accessory definition the requirement for a Special Use Permit goes away.

Will Moore: Correct. Correct.

Bud Jacobs: Okay. Well, this is pretty clear. I don't have any questions either.

Will Moore: Okay. So, when we get to this item during the regular meeting, there's a motion that I would ask you to consider making to initiate the amendment. That's essentially the process of you filing an application to start the process. And then we would have to go through the public hearing on the proposal next month.

Bud Jacobs: And our recommendation to Council would go after the public meeting?

Will Moore: Yes. And it could occur during that same meeting.

Bud Jacobs: Everybody happy with that? Yeah. Well, let's do it, Will.

Will Moore: Yes, sir.

Bud Jacobs: Thank you.

Will Moore: And I'll turn it over to Miss Rogers for the next discussion item, if you'd like.

Bud Jacobs: Oh, I bet you will.

Amy Rogers: Okay, so you all have the memo. Excuse me. About the rooftop ordinance. We have been talking about this since April. It was first brought forth prior to the Town Council meeting to make you be prepared that the Town Council was going to take it up at their May meeting. Mr. Moore presented some options to the Town Council, and they chose that they would like the Planning Commission to review this, study it and make a suggestion for the Town Council to consider. So those same options went to Town Council were brought to you in May, and the outcome of that meeting was that you wanted to know some language from other jurisdictions, which you talked about in June. So, after that discussion we took the conversation and drafted an ordinance or a couple ordinances for you all to consider. Those involve defining outdoor dining, defining a restaurant. We didn't have a definition of that before. And then defining rooftop dining. And in one option of the ordinance, it allows rooftop dining with a Special Use Permit. And in the second option, it prohibits rooftop dining. Along with that, we gave standards associated with outdoor dining and rooftop dining, again generated from discussion of things we heard that you would like us to consider noise, location on private property, hours the ability to you know regulate those kind of items. So, one option has standards for both outdoor dining and rooftop dining. The other just is outdoor dining, we're prohibiting rooftop dining in the second option. Just something I want to make everyone aware of you know, everyone knows that the former Fun Shop building is being redeveloped and the developer has come forward with a rooftop dining in his application. Because he brought that forth prior to this being adopted unless he makes a change after the adoption of this ordinance, it will be permitted on the building. So, he would have to come forward and make an expansion or make a change to what's already been approved for him, for this ordinance to take effect in that case. So, looking at this ordinance is going to be the future ones that come forward and again will not affect that current application unless he makes changes. So, I'm more happy to discuss this in more detail. Hear what you all have to think or what you might like changed with this.

Bud Jacobs: Just one point of clarification, Amy. We are not permitted to make retroactive determinations. We cannot amend let's say we propose an amendment to outdoor rooftop dining that would not affect the current application or could not affect, I guess I should say?

Don Woodruff: Are they grandfathered in?

Will Moore: So, his application to have the rooftop space has already been approved, the zoning permit. So, rooftop space and its use for outdoor dining cannot be affected by this current process. Now, there are some things in the standards, for example, the performance standards around rooftop dining because the use has not actually gone into effect yet. So, when it comes to any of those related to outdoor music or any of the other standards that are drafted in here, those would be applicable to the use once it began. But no, so there's this, this potential of prohibiting or requiring a special use would not be applicable to that current project because that project had already been filed and is already underway.

Chris Hersh: So, if the Commission decided to go with option two, if you had standards for rooftop dining, should there be a separate ordinance to cover rooftop dining, even though going forward it would not be allowed to make sure that there's things in place for the existing rooftop?

Will Moore: Yeah, that is a good question because we in option two, we don't have the specific standards for rooftop. Now rooftop would be considered still outdoor dining. So, I think there might be a way we could tweak this so that we can still have standards that would apply to that particular situation. Even if you went with option two, we might have to spend a little more time on that. It's not something I'd really thought about, but that's a good point.

Bud Jacobs: Other comments, Don?

Don Woodruff: I just concur with you. I'm surprised.

Bud Jacobs: I was going to say you never concur with me. Other comments? Questions. Anybody? Please.

Caroline Hersh: So, there was because it didn't exist, there was no Special Use Permit for the rooftop dining?

Will Moore: Yes. And specifically, the way our definition of restaurant is structured currently, it allows for dining to be included that is outside of the structure, but it doesn't say where outside the structure. So, the interpretation that I had to apply in that case was that it's currently part of the permitted use until the ordinance were to change. So, yeah.

Caroline Hersh: Okay. Thank you.

Bud Jacobs: Putting aside the question whether we or we have been tasked by Town Council to look at this issue in light of what Will and Amy have just told us, is there any feeling at all that it's not necessary to consider this issue at this time, or should we move ahead?

Don Woodruff: Move ahead.

Bud Jacobs: Okay. The plans Will or Amy did he include the possibility of putting an automobile on the roof?

Don Woodruff: Putting what?

Bud Jacobs: An automobile.

Will Moore: That was not included, I don't think.

Bud Jacobs: I wonder if, in his submission of plans to Leesburg, whether he included that as a planned option. He has put an automobile on the top of his rooftop dining facility in Leesburg at the Hotel Berg.

Will Moore: So. [off mic]

Bud Jacobs: No comment.

Will Moore: So, I will let you know that the Historic District Review Committee has a separate effort going on currently to establish design guidelines for outdoor dining. So, to kind of and this is everything from the

tables and chairs that are used at ground level to the potential for rooftop dining, irrespective of what decision comes out here. So, because that property is located in our Historic District, the direction that they're going with those design guidelines, I think would effectively prohibit consideration of that particular situation that has happened in Leesburg.

Bud Jacobs: Please.

Michael Rocconi: Question for Will. So, all of these new design guidelines for outdoor dining are going to affect all of our currently existing outdoor dining areas.

Will Moore: They would affect any existing outdoor dining areas if they wanted to make a change, for example. So, you won't force a change upon any existing situations.

Michael Rocconi: Thank you.

Chris Hersh: Mr. Chair.

Bud Jacobs: Please.

Chris Hersh: On rooftop dining. One of the concerns that was raised by individuals was the noise. So, in terms of if no amplification is allowed outside, no screens, etc., is that in existence now with the current application, like the current approved application, or is he able to use that? Somebody in that situation would they be able to use amplified and screens?

Will Moore: The screens if they were visible from a public way again, that's getting into Historic District purview. In terms of the amplification outdoor music, if the operation were to start today, they could use that, but that's not part of what the one particular applicant has received approval for. What he's received approval for is the physical construction of the outdoor space and potential use of it, but not the particulars of, okay, can I have outdoor amplified music? There's no grandfathering of that particular.

Chris Hersh: So, would that be a separate process then through you in terms of the screens and the amplification.

Will Moore: The screens would be a separate part. Yes. Through HDRC in terms of the amplified music, we hope to get that adopted as part of this process and that part, the call it the performance standards, if you would, that would accompany that. Those would affect all outdoor uses.

Amy Rogers: Perhaps this is just off the cuff, a simple fix if we decide to go with dining outside being prohibited, perhaps we take the rooftop dining standards in the first part and say, existing rooftop dining areas shall be added and take that whole paragraph and add it back into the prohibited section. So, if there's an existing outdoor rooftop dining, the standards that we had drafted as F in the first version are just added back in with the word existing. So existing as a day of the adoption of this ordinance, they would be subject to these regulations when they started working. Does that sound off the cuff, Will like that would work?

Will Moore: Yeah. I think it's a good. I think maybe if we take a step back what might be most useful, Mr. Chairman, right now is to kind of do some discussion as to where the individual members stand on if we set aside the performance standards right now to figure out where we stand on prohibiting or allowing by special use. Because that can then help us shape the next section, which has to do with the performance standards.

Bud Jacobs: That sounds right. I do have a sense, Will and Amy, that we're standing before the barn as it burns and haven't quite figured out a way to save all the horses. We've only saved one, as far as I can tell so far. I initially, and I'd like to ask everyone to share their views. I initially thought that simply prohibiting rooftop dining throughout the town and certainly in the Historic District was probably the right decision. But having learned that we've been placed in this position, I'm not sure we can do that. We can't close the door on everybody else having one establishment having gained approval. So, I'd like to know what everybody thinks about that.

Michael Rocconi: Yeah. I'm still of the opinion that a Special Use Permit is probably appropriate so that we can see the details of what's being proposed and then make a decision. I think it's; it may be possible that somebody sends up a proposal some day for outdoor dining that you can't even see or hear from the street level. And I'd like to be able to see what that is before we make a decision. That's my opinion.

Drew MacMahon: Yeah, I'll keep it short and sweet. I mean, I like Arlington, I like Alexandria, this whole thing doesn't fit for me personally here. So, I know that doesn't answer question, provide a solution, but that's my honest feedback right now.

Caroline Hersh: I am with Michael in the sense I would like to have the rooftop dining by special permit. So, it does allow at least the rest of the restaurants to have the option, but the Special Use Permit giving us the criteria. And thank you all for working on all of the criteria because it looks very all encompassing.

Bud Jacobs: As, as we do not have rooftop dining currently, I am in favor of a Special Use Permit in order to obtain rooftop dining. That explains all aspects of program. Thank you.

Kim Basinger: I'm kind of a blend of everybody. I think I was taken unaware when I first heard about rooftop dining. I was uncomfortable with it. I believe there's some changes that are made in order to make it more Middleburg, though my first feeling was this is it just didn't feel like it fit. Personally, I hope that when it's all said and done, it is made to honor the history and the culture of our town. But I definitely think to say that that's the only one. And there's no shot for anybody else makes it so that you have to have a membership and nobody else gets a shot. And so, for that, I definitely think the Special Use Permit is the most appropriate.

Chris Hersh: Yeah. So, I started the meeting kind of going with the Middleburg stays as it is with knowing that one is going to be in existence I think it's inequitable from my standpoint not to allow it by special use and go forward from there. So, kind of that little piece of information has kind of flipped for me where I would stand on the issue, even though from a historic village standpoint, I don't think it fits.

Bud Jacobs: Initially, I certainly shared the view of some of the members of the Historic District Review Commission Committee. Excuse me that this was an inappropriate use for our town and for the Historic District. I actually still feel that way, but I have to agree with Council Member Hersh that we've got to approach this with some view toward equity, and that would unless our experts tell me different that to me would seem to rule out a blanket refusal for future rooftop dining applications that we may receive. My heart of hearts, I hope we don't ever receive another. But as I said earlier, the barn door is open and I'm not sure we're going to be able to get to a particularly satisfactory result, but it is what it is. Any other comments?

Don Woodruff: Yeah, I would say that I agree, I was originally no, we don't need to have it. Why have it. But on the other hand, now that it's sort of been put forward Special Use Permit gives us the opportunity or our successors perhaps to say no, that it's does just doesn't fit either. So, I really hope that that is a consideration to allow us the opportunity, should we feel that it's inappropriate to say no.

Bud Jacobs: I would ask that with respect to this application, if the applicant does submit changes down the road that you guys call that to our attention. I'm not sure we've done not knowing what we didn't know. I'm not sure we were in a position to do much beyond approving rooftop dining on a case-by-case basis or special exception. I don't see any other options. If there are any, please reveal them. No? Yeah, I guess we can close the work session or anything else here. Yeah, we're right on time. Let's close the work session and call the 7:00 meeting to order. You all have a minute and a half to rest before 7:00. Actually, I'm revoking that. Let's get this moving. [off mic] He couldn't stand anymore.

Will Moore: If you would, Mr. Chairman, we should wait till right at 7:00, just in case there's a member of the public who wanted to come and comment on something. And they're not here yet.

Bud Jacobs: Picky, picky, picky. All right, we'll wait until 7:00.

Will Moore: It's. Yeah, 65 seconds. We'll be okay.

Bud Jacobs: All right. Will, it's 7:00.

Don Woodruff: Somewhere.

Bud Jacobs: Somewhere. Well, here I'm going to call the meeting to order. Could we go around and have our comment on disclosure of meetings with participants? Council Member Hersh.

Chris Hersh: Council Member. Sorry. I am used to going last. So that was a little I have no meetings to disclose with applicants with business before the commission.

Kim Basinger: I have had no such meetings.

Don Woodruff: I also have had no such meetings.

Bud Jacobs: I have had no meetings with any person with any matter pending before this commission.

Caroline Hersh: I have had no such meetings.

Drew MacMahon: I've had no such meetings.

Michael Rocconi: I've had no such meetings.

Bud Jacobs: Thank you very much. I'm going to open public comment. I understand we have at least one person who signed up to speak.

Rhonda North: We do, Mr. Chairman. Scott Little.

Bud Jacobs: Long time no see, Mr. Little.

Scott Little: Good afternoon.

Bud Jacobs: Good afternoon.

Scott Little: Thank you, Mr. Chairman and Commissioners, for just giving me these few minutes. I just wanted to take a moment to just remark on some of the discussion I observed in the July 22nd Planning

Commission meeting. And this is not to characterize some of what was said there, but more so to just make sure that the scope and the practicality of those discussions are kept in some perspective. Mr. Chairman, you made a comment that there was a grave mistake made by granting the Jay Street property 180 days. We really screwed up. And there was quite a bit of conversation about that short term rental permit. And I would say though, you know, the Commission debated it robustly. The Town Council debated it robustly. And in the scheme of things, just to be clear, there are three active permits. One of them has never rented, not a single day. One of them almost never rents. And the other one, we don't know what that property does. You know, but there's not much visibility on what those occupancies look like, but there are three. There were four. One of the permits was surrendered when it transferred title several months ago, and I just thought it was worthy of pointing out that in the, you know, although any one of these decisions, like you were just talking about rooftop dining, you know, I could shout from rooftops on that one as well and Special Use Permits and how they are an invaluable tool to Commissioners and to Council Members. So, I just thought it was worthy for the public to hear that and to just echo some of those things that I heard in the last meeting. And that's all. Thank you, Mr. Chairman.

Bud Jacobs: Stuart, I'm at a bit of a disadvantage because in my dotage, I don't recall the details of our discussion at the July meeting. I think I was making a more general statement because there have been discussion and Council and elsewhere that initially, when we set up the procedures for considering Airbnb, the 180-day permitted period was a mistake given the views that have emerged about this issue. The second thing I have to say, which only slightly contradicts what I just said, is that this matter is still before the courts, and neither I nor any member of the commission will be in a position to comment further. So. But thank you for coming. Anyone else? Mr. Marenzi. Good evening.

Mike Morency: I'm Mike Morency. I live two miles out of town on Landmark School Road, but I do own, my family owns commercial property on Washington Street and residential property on Reed Street. So, I came to just comment on the rooftop dining proposal or possibility of an amendment. And my concern with rooftop dining is I think there, I can understand the appeal of it to those who partake in and, but my concern is in a small town like we have is that the sound and the light. And sound carries a long way, especially at night when things are quiet. Route 50 becomes much more quiet in the evening, and the sound carries a long way, and especially when it would be two floors up, it's on the third floor of the building. And so, in the case of the applicant that that we've been talking about, but in general I think the higher up the facility might be, the further the sound carries and the light as well. And I think the town has made an effort to move in the direction of dark skies. So, I don't think that would work well. So that was all I was going to say. But since it's come up that the one is apparently in the works without anything to do about it. I think that and obviously I hadn't heard about it before. It was revealed this evening. So, I haven't had much time to think about it, but I think there are many cases where Municipality realizes that maybe rules that are on the books or something that's been built has not been in the best interest of the town or county. And so, then the rules are changed. And so, I disagree that there's an obligation to allow rooftop dining to others, even with a Special Use Permit, just because one person or one company has it. And so that's not to preclude further discussion. And I don't know how many people in town are aware of this coming up before the Planning Commission and the Town Council. And so, I think that it's worth a public hearing on either one of the options that you all decide. But I disagree with the outlook that you're obligated to go with option one because this one applicant submitted his before these issues were raised. So, thank you for listening.

Bud Jacobs: Thank you very much, Mike, that's very useful commentary. And I think as we work through this, we're going to take your perspective into account. It's not clear to me on a number of issues where this is going to leave us. At the moment I'm not real happy, but as I said earlier, it is what it is. And we'll continue to march and present Council with our best cut of a recommendation for amending the ordinance, however, that turns out. I also think I should say that in my years on Council and on the Planning Commission, and before that on the water committee, the Groundwater Committee, I never had as many people reach out to

me to talk about an issue as they have this issue. And I would add that the attitude, as at least expressed by the people with whom I've spoken uniformly, has been negative, and I haven't had a single person come forward and tell me, yeah, we ought to approve this. It's a good thing. I guess I'm saying that just to put it on the record, and I'm pretty sure when we hold a public hearing, we're going to hear a lot more about that. Any other comments? Will. I guess we will proceed with the public hearing.

Will Moore: So, we don't have public hearings on either of these items this evening. They will be scheduled for your August meeting. But we do have for your consideration motions to consider initiating both of these text amendments if that is to your liking. We could also continue to hold additional discussion. We would have some interest, particularly on, the text amendment regarding outdoor and rooftop dining on your review of the proposed design and use standards. So, Amy has drafted so I think it's a really, really good starting point for those, but like, for example, there's, for outdoor dining, there's proposed hours during which live music or performances could happen and then what's your outlook on those hours and any of those design review standards, because the details really do matter when we're putting those kind of things into effect. So that doesn't have to be done tonight. Realizing you just got these on Friday, we could continue that discussion in August, but if you have any initial feedback on those items, we would be happy to hear those. But I would suggest if you would in order of the agenda let's first maybe deal with zoning text amendment 2601 and whether or not you would consider initiating that.

Amy Rogers: I believe I believe the minutes were not approved yet either. I think you need to go back to that item.

Bud Jacobs: Say again.

Amy Rogers: The approval of the minutes from last month.

Bud Jacobs: Oh, did I skip that? I sure did.

Will Moore: Thank you.

Bud Jacobs: Would anyone like to make a motion on approving minutes?

Chris Hersh: I move to approve the minutes.

Michael Rocconi: I second.

Bud Jacobs: All those in favor?

All of Commission: Aye.

Bud Jacobs: Opposed? Abstain? Minutes are approved. So, we need a motion Will to. Do what exactly?

Will Moore: So, the memorandum for zoning text amendment 26-01 has a proposed motion for your consideration. Unless you wanted to hold any additional discussion on that text amendment prior to considering such a motion.

Bud Jacobs: Would anyone care to read that motion?

Caroline Hersh: I will. I move that this Commission initiate text amendment 26-01 and advertise the amendment for public hearing.

Michael Rocconi: Second.

Bud Jacobs: All those in favor?

All of Commission: Aye.

Bud Jacobs: Opposed? The amendment will go to the recommendation will go to Council.

Will Moore: No. Not yet.

Bud Jacobs: Why.

Will Moore: So, you have to hold a public hearing at your August meeting before you can make your recommendation. And then it would be forwarded to Council, that must then repeat that process, holding their own public hearing and then voting.

Bud Jacobs: I'm sorry, I thought you said we didn't do a public hearing with respect to the zoning text amendments?

Will Moore: No. We do. Yes, sir.

Bud Jacobs: All right. Shall we move to a public hearing?

Bud Jacobs: Okay. Do you need a vote for that Will?

Will Moore: That's what you just did. So, we're good on zoning text amendment 26-01.

Caroline Hersh: We can't do it today.

Bud Jacobs: Anyone want to make a motion with respect to ZTA 26-02?

Caroline Hersh: Yes. I move that the commission initiate the zone zoning text amendment 26-02 Option number one and advertise the amendment for public hearing.

Michael Rocconi: Second.

Bud Jacobs: All those in favor, say aye.

All of Commission: Aye.

Bud Jacobs: Opposed? Nay. Do you wish to change your vote?

Chris Hersh: In terms of the wording that's in the option one for the restrictions, we had, Will had just talked about potentially refining that wording so.

Will Moore: We can still make certain amendments to the ordinance after it has been initiated. So, if you would like to discuss some of that at this time, if anybody has any thoughts on those particular design and use standards, now would be a good time to discuss. But it's fine that the motion was made in that form.

Chris Hersh: Okay.

Bud Jacobs: Well, we've voted on it, right? Okay. So, I guess we're going ahead. The record should show everybody but me voted to approve moving ahead with this.

Amy Rogers: Was there some discussion about the standards we wanted to make changes to? Would you like to read through them and maybe send what your concerns are? How would you like to handle that?

Bud Jacobs: Well, Rhonda shut off my microphone. [laughter] Thank you. I do not wish to discuss them this evening. I'm happy to look at them outside of the meeting and give you my reactions. I don't know about my colleagues.

Chris Hersh: Happy to honor that.

Caroline Hersh: That's fine.

Bud Jacobs: Is that okay with everyone?

Michael Rocconi: Yes.

Bud Jacobs: Okay.

Don Woodruff: Very good.

Bud Jacobs: Yes. Now, are we done, Will?

Will Moore: Yes, sir.

Bud Jacobs: It's time for our enlightening Council Representative Report.

Chris Hersh: Thank you sir. So, first item to bring up is the fact that the mandatory water restrictions Rhonda has put up the map of the state.

Bud Jacobs: I don't know about my colleagues. [multiple speakers]

Chris Hersh: Was released by the state a report about east of 95, which you might think why would that?

Bud Jacobs: Is that okay with everyone?

Chris Hersh: West of 95 in Middleburg? But if you look at.

Bud Jacobs: Is that okay? Now, are we done Will?

Chris Hersh: Groundwater is an issue across the state.

Bud Jacobs: Yes. [multiple speakers] Now are we time for our enlightening Council representative report? It's time for our enlightening Council representative report.

Chris Hersh: So, first item to bring up is the mandatory water restrictions. [technical difficulties] First item to bring up is the mandatory water. I don't know about my colleagues was [multiple speakers]. [technical

difficulties] I don't know about my colleague. Is that okay with everyone? 1995. You might think. Why is that okay? Are we done with 95? Yes. Is that okay now? Are we done for our enlightening council representatives report. [technical difficulties] Now it's time for our enlightening Council representative report. It's time for our enlightening council representative. So, first item to bring up is the fact of mandatory water restrictions. My colleagues. I don't know about my colleagues was released by the state. Is that okay? I don't know about my colleagues. Is that okay? Are we done with that? Middleburg. Is that okay now? Are we done with for our enlightening. Yes. Council representative. Okay. Now, are we done for our enlightening Council representatives report. Now it's time for our enlightening council representative reports. So, first item. So, I don't know about my colleagues. Is that okay? I don't know about my colleagues. Is that okay? Is that okay? How long? We've been waiting for the right answer. Okay. Now, how are we doing for our enlightening the council representatives? Now it's time for our enlightening council representative reports. It's time for our enlightening council representative for the first item to bring up. My colleagues first, because I didn't know about my colleagues. Is that okay? Is that okay? How long is. That, okay? How long Four hours later in the House of Representatives. [technical difficulties]

Bud Jacobs: Does anyone have any comments or problems with Council Member Hersh's proposed language? Nope. I like it too. Let's do that. Are there any other discussion items for this evening? Nope. We normally wouldn't be meeting, I think August 24th. I guess we have the option of doing it on the 31st. Is there a preference?

Will Moore: So, I'm going to have to remove the 31st option. Miss North kindly more kindly than she needed to reminded me that she had already booked August 31st for FOIA training that evening. So

Bud Jacobs: FOIA training.

Will Moore: So that’s not available as an option for you any longer.

Bud Jacobs: I would be upset if I didn't love FOIA training so much. Okay. It's August 24th. Are there any members of the Commission who will not be available August 24th.

Don Woodruff: Question.

Bud Jacobs: Question I think we'll have a quorum. So, let's move ahead with August 24th. And if there are no other issues, I'd like to adjourn the meeting. We are adjourned.