TOWN OF MIDDLEBURG
PLANNING COMMISSION
WORK SESSION AND REGULAR MEETING MINUTES

MONDAY, AUGUST 24, 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, August 24, 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 Comprehensive Plan Chapter VI

Deputy Town Manager Moore reminded the Commission that this was the final chapter for their initial review. He noted that the staff was still incorporating the members' comments for some of the chapters that have already had an initial review and would return with those. Mr. Moore reviewed the staff's proposed changes to Chapter VI. He reminded the Commission that Strategy #3 set up proposed major improvements to Federal Street in the 2019 Comp Plan. Mr. Moore explained that the staff's proposed changes referenced the Town Council's shift in focus to South Madison Street and potentially other connecting streets before moving to Federal Street. He advised that as to Strategy #5, the staff was proposing to strike the reference to pursuing co-working space in town, as two have already opened. Mr. Moore noted the updates in the employment data, which were based on the American Community Survey (ACS) data. He further noted that the 2024 ACS data showed that almost 60% of town residents worked within the borders of the town, which was a significant change over 2009, when the number was only 22%. (Vice Chair Woodruff arrived at the meeting at 6:34 p.m.) Mr. Moore advised that the staff was recommending a minor change to the language regarding the Town's annual revenues and opined that the 75% currently cited did not come from hard data. He suggested the phrase "more than 50%" be used instead. Mr. Moore noted the update to the Economic Development Director's title and advised that it was now "Director of Community Engagement." He advised that the proposed changes also referenced that she worked with EDAC. Mr. Moore noted the language related to vacant storefronts. He further noted that vacancies tended to ebb and flow over the years. Mr. Moore suggested that instead of saying the town "continued to experience it", the language state that "there are periods of time where we experience it." He noted the proposed wordsmithing related to parking. Mr. Moore advised that while there has been a perception that the Town had inadequate parking, studies have shown there was an adequate supply. He opined that it was just a case of directing people to it. Mr. Moore reminded the Commission that the nature of street parking was that it was perceived differently than surface lot parking. He noted the reference in the Comp Plan to the Asbury Church and advised that the staff was proposing to remove the language suggesting it be used as an economic development driver. Mr. Moore reiterated that changes were proposed to the language related to focusing on improving the side street connections to Federal Street prior to focusing on its redevelopment. He reminded the Committee that the 2019 Comp Plan talked about pursuing a marketing and branding initiative, which was now complete, and advised that the staff proposed updates to that language. Mr. Moore advised that Planner Rogers proposed updates to the data in the charts.

Chair Jacobs noted that the increase in the number of residents who worked in Middleburg was stunning and advised that he would be curious to know whether this represented employment at the Salamander Resort.

Deputy Town Manager Moore noted that Salamander was running strong at the time the 2019 Plan were published. He opined that this may have been an effect of the increase in remote working that happened as a result of the pandemic.

Vice Chair Woodruff suggested the language related to revenues be amended to say, "a majority of…."

In response to an inquiry from the Commission, Deputy Town Manager Moore advised that he did not reach out to Visit Loudoun for any numbers; however, he would be happy to have the Director of Community Engagement do so.

In response to an inquiry from the Commission, Deputy Town Manager Moore confirmed there was not a more recent study than the 2017 Economic Development Survey. He advised that he would raise this with the Director of Community Engagement so she could discuss a possible update with the Economic Development Advisory Committee.

Commissioner Hersh noted that it was nice to see the Town had accomplished some of the goals in terms of the Asbury Church, the co-working space and branding.

Deputy Town Manager Moore agreed and noted that this was the idea, at least with the shorter-term goals.

Chair Jacobs noted that several years ago, the Commission discussed holding a planning charrette for the redevelopment of Federal Street. He acknowledged this would be premature; however, he suggested the staff revive the idea when some grant money became available. Mr. Jacobs suggested language be included in the revisions related to the progress being made on the Asbury Church Restoration Project.

Deputy Town Manager Moore acknowledged that it had been a while since the Commission looked at the Community Facilities & Services Chapter and noted that he was waiting for input on some items from the Utility Committee with regard to water and wastewater treatment. He agreed something could be added related to the Asbury Church Project.

Chair Jacobs advised that the fundraising was moving forward, as were the construction plans.

Town Clerk North reported that the construction plans were now complete and were at the agency review/permitting level. She confirmed the fundraising was also underway.

Deputy Town Manager Moore reported that the staff would incorporate the Commission's comments in the chapters they had already reviewed and noted that the most significant were to the Environmental & Natural Resources Chapter. He advised that it, as well as a couple other chapters, needed the Commission's final endorsement. Mr. Moore explained that the endorsement would be for a version that could be rolled out to the public and would not be the final version that would be advanced to the Council. In response to an inquiry from the Commission, he suggested that next month, they discuss the forum for rolling it out to the public. Mr. Moore advised that it could be as simple as advertising a public hearing or it could involve some supplemental outreach to get as much input as possible. He reminded the members of the public input session that was held at the Community Center during the 2019 rewrite. Mr. Moore noted the importance of getting as much meaningful input from the community as possible; however, he acknowledged the need to weigh that against the degree of changes that were being made to the plan. He further acknowledged that the proposed changes were fairly minor in nature; however, there were a couple of items that would be suited for input.

Chair Jacobs noted that the previous sessions were well attended and opined that this mitigated in favor of doing something along those lines for this amendment.

Chair Jacobs closed the work session at 6:50 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, complimented the Town staff on striking a balance related to the two proposed zoning text amendments. He acknowledged the increase in the number of town residents who worked in Middleburg and opined that this was fantastic. Mr. Little advised that the new Director of Community Engagement was capable and adept. He noted the amount of regionalized data that was available through Visit Loudoun and suggested the Commission may find that to be helpful. Mr. Little acknowledged the importance of the Comp Plan and noted that this was the public's opportunity to get involved.

Approval of Meeting Minutes

Vice Chair Woodruff moved, seconded by Commissioner Rocconi, that the Planning Commission accept the July 27, 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.)

Public Hearings

Zoning Text Amendment 26-01: Definitions and Associated Regulations for Parking Lots

Deputy Town Manager Moore reminded the Commission that this zoning text amendment was the result of a request from the Middleburg Methodist Church. He reviewed the history of the regulations related to parking lots. Mr. Moore advised that the staff was proposing the addition of some definitions in the zoning ordinance for a municipal parking lot, accessory parking lot, and freestanding parking lot. He explained that a municipal parking lot would be owned or leased by the Town; an accessory parking lot would be allowed to be used for other purposes, with or without compensation, in addition to its required use for the site; and, a freestanding parking lot would be a parking lot facility. Mr. Moore advised that the freestanding parking lot would continue to be allowed only in the C-3 District by special use. He opined that these changes would clean up the uses and provide a clear path forward for the Methodist Church to use their parking lot in the way they wanted. Mr. Moore advised that others could do so as well; although, he did not see a demand for it. He opined that it would be a good thing for the town in general to allow others to use their parking lots, with or without compensation, when they were not being used for their business.

No one spoke and the public hearing was closed.

In response to inquiries from the Commission, Deputy Town Manager Moore advised that Seven Loaves had a landlord-tenant relationship with the Methodist Church. He further advised that the church wanted to allow the parking lot to be open to them. Mr. Moore advised that parking enforcement would be handled privately and would not involve law enforcement. He noted that if a property owner was going to have a provision that allowed for towing or disabling a vehicle, they would have to post certain signage by law to explain who to call to remedy the situation. Mr. Moore advised that the church was aware of this and had provided some temporary signage until the amendment was adopted. He explained that the Town would have control over how much time was used for money-making purposes in that, if it was obvious that they were using it for hourly parking when the on-site uses were in operation, it would be a violation. Mr. Moore confirmed freestanding parking lots would require a special use permit and would only be allowed in the C-3 District, which was located on the south side of Federal Street. He noted that he was not aware of the history of the Town's lease of the church parking lot; however, he opined that it occured for at least

twenty-five years. Mr. Moore reported that the previous Town Manager engaged in a very long-drawn-out negotiation with the church to keep it; however, they were unable to reach mutually acceptable terms.

Commissioner Basinger moved, seconded by Vice Chair Woodruff, that the Planning Commission forward ZTA 26-01 to Council recommending approval as contained in Draft 1 dated July 24, 2026.

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.)

Zoning Text Amendment 26-02: Amend Articles II and XI Pertaining to Definitions of Restaurant, Outdoor Dining and Rooftop Dining, and Associated Use Regulations and Design Standards

Planner Rogers reminded the Commission that earlier this year, the Council initiated an amendment to the zoning ordinance as a part of their strategic initiatives. She reviewed the history of the proposed amendment. Ms. Rogers reminded the Commission that after reviewing two options, they decided to move forward with Option 1, which would allow rooftop dining as a special exception and outdoor dining as a permitted use. She reported that the draft ordinance was revised to address comments the Commission raised in their prior discussions related to hours of operation, noise, and lighting. Ms. Rogers summarized that the current draft included definitions for outdoor dining, restaurant, and rooftop dining, with rooftop dining being allowed by special exception and outdoor dining being allowed by right in the C-2 and C-3 Districts. She reviewed the standards for outdoor dining, which included that it must be on a hard surface on the property; could not be within required parking or extended to the public right-of-way or sidewalks; could only be open the same hours of operation as the restaurant; could not contain outdoor kitchen service areas; and, that the hours for music/vocal/performances outdoors could only occur until 10:00 p.m. on weekends and 9:00 p.m. Sundays through Thursdays. Ms. Rogers advised that as to rooftop dining, no part of the operation could exceed the maximum height in the district, which was thirty feet; no one could be on the roof after hours, with the hours being limited to 7:00 AM to 10:00 PM; the same prohibitions that applied to outdoor dining would apply to rooftop dining; no live entertainment, music, speakers, address systems or activities that would generate amplified sound would be allowed on the rooftop; no events, weddings, receptions, birthday parties or viewings would be allowed on the rooftop; and, the height of lighting could not exceed eight feet and the lighting must be off when the restaurant was not in operation. She advised that the staff provided three recommendations for the Commission's consideration – approve and forward the proposed zoning text amendment as written to the Council; table it; or reverse course and initiate a zoning text amendment to prohibit rooftop dining (Option 2).

Megan Gallagher, 214 East Marshall Street, requested that the Commission re-initiate the zoning text amendment that would ban rooftop dining. She acknowledged that one would occur "through the loophole." Ms. Gallagher opined that the Commission did not have enough time to think about the impacts of rooftop dining and suggested it would be a waste to go through a special use permit without thinking it through carefully. She advised that she strongly supported the standards for the one rooftop dining establishment that would occur and opined that they were strong and appropriate. Ms. Gallagher noted that she liked the outdoor dining standards and opined that outdoor dining provided great value to visitors and residents. She suggested that outdoor dining was not an intrusion into the public commons and was very limited in operation. Ms. Gallagher reiterated her request that the Commission not allow rooftop dining. She opined that no one ever dreamed the code as written would morph into someone thirty feet in the air and suggested that the only reason it was in Middleburg was because someone who had a car on top of his rooftop dining space in Leesburg thought it was a great idea. Ms. Gallagher agreed with Mike Morency who said that fairness did not come into play without the need for a rigorous review. She noted that during the Comp Plan discussion, it was noted that a 2017 study revealed that visitors came to Middleburg for its small-size beauty, quaint character, atmosphere, and historic character and suggested the need to protect those qualities.

Wendy Osbourne, owner of Chloe's of Middleburg, 12 East Washington Street, expressed hope that rooftop dining would be prohibited. She advised that Middleburg was a charming, quaint, historic town and opined that rooftop dining had an urban feel. Ms. Osbourne noted that there was discussion of putting rooftop dining on the building adjacent to her shop and opined that it would have had an impact on the Red Fox Inn. She noted the impact to her business if someone put rooftop dining on an adjacent flat roofed building. Ms. Osbourne expressed hope the Commission would deny the request and opined that rooftop dining was not right for the town.

Nancy Gardner, 11 North Hamilton Street, advised the Commission that she opposed rooftop dining by special exception and suggested that once allowed, the Town would have a terrible time closing it. She opined that the Town did not have the resources to monitor rooftop dining. Ms. Gardner asked that the Commission not allow it.

John Ross, 1 Orange Drive, advised that years ago, he lived next door to the Hunters Head Tavern and noted that when it opened with outdoor dining, it turned into a garden party. He advised that he had to keep his windows closed. Mr. Ross noted the construction projects that were occurring on Washington Street and questioned how much of the "if we build it" notion was put into the approval decision. He questioned the liability the Town would face if it denied a rooftop dining request.

Scott Little, Managing Director of Salamander, noted that the Commission worked hard on the standards and opined that they were comprehensive. He advised that the Town had a number of zoning ordinances and other laws that it was good at enforcing. Mr. Little expressed appreciation for the balance that had been struck with the proposed ordinance.

No one else spoke and the public hearing was closed.

Commissioner Basinger advised that after she left the last meeting, she realized she wanted more time to consider this. She noted the letter the Commission received, plus Ms. Gallagher's comments, and advised that her instinct was to reverse what she said last month (allow rooftop dining by special exception).

In response to inquiries from the Commission, Deputy Town Manager Moore advised that the private club that would open was a part of the restaurant use, regardless of whether it was by private access to certain portions of the building. He further advised that any standards that went into effect would apply to that rooftop space. Mr. Moore confirmed there were no requirements to park that restaurant and suggested this was something the Commission may want to look into in the future.

Commissioner Rocconi advised that after hearing the public input, he was willing to reconsider his previous stance (allow rooftop dining by special exception). He thanked Deputy Town Manager Moore and Planner Rogers for developing the standards; however, he opined that some of them would be difficult to enforce. He agreed, however, that having them in the code would be helpful.

Commissioner Hersh advised that she still believed the system could manage whatever would come before the Town through the special use process and the HDRC's review. She advised that she was still comfortable with the option before the Commission, with the criteria that would be put into place. Ms. Hersh noted that this would provide choices and allow the Town to bring in something that was unique and could fit in the Historic District and the guidelines.

Commissioner McMahon noted that he was opposed to this last month and was still opposed to it. He advised that the public outcry was consistent. Mr. McMahon suggested the Commission revisit the option to prohibit rooftop dining.

Councilmember Hersh noted that he met with Deputy Town Manager Moore, the Mayor, and the Town Attorney to discuss the options. He advised that in terms of the rooftop dining that got through, there was no recourse. Mr. Hersh noted that he had heard public comments suggesting rooftop dining be forbidden. He suggested the proposed standards to be changed to prohibit outdoor dining after 9:00 p.m. every day of the week. Mr. Hersh questioned whether there should be standards limiting the hours of operation for rooftop dining even if it was prohibited, since there would be one. He opined that based on the comments he had heard, noise would be an issue. Mr. Hersh noted that enforcement would become important.

In response to an inquiry from Deputy Town Manager Moore that the suggestion was that in no case would rooftop dining extend past 9:00 p.m., the Commission confirmed they wanted that change to be included.

In response to inquiries from the Commission, Deputy Town Manager Moore confirmed the standards they were discussing would most likely apply to the current enterprise, assuming they were adopted before it was in operation. He opined that they would probably be adopted before that occurred, as there was still significant build-out to occur and Health Department approvals that were needed for the establishment of the restaurant. Mr. Moore advised that if the Commission proceeded with the option before it, which would allow rooftop dining by special exception, the Commission could forward a recommendation during this meeting, with the Council potentially taking action on it during their second meeting in September. He further advised that if they changed course and prohibited the rooftop dining use, it would extend the process by one month, as the Commission would have to re-advertise and hold a public hearing on that zoning text amendment in September, with the Council's earliest adoption being in October.

The Commission held some discussion as to whether it was possible to advance the schedule for adoption of an amendment to prohibit rooftop dining. They further discussed the impact of the regulations on the rooftop dining establishment that was already in the works.

Chair Jacobs noted that during the last meeting, he made it clear that he was opposed to rooftop dining in Middleburg, as it did not fit the town. He acknowledged that one such establishment already had approval to move forward. Mr. Jacobs opined that it was important to address the concerns through standards. He noted that the Salamander Resort cooperated whenever there was a noise complaint; however, the Town could not always count on getting that kind of cooperation from others. Mr. Jacobs suggested the need to be careful in defining the standards and how they were applied. He further suggested that parking was something the Commission needed to address as a part of the standards discussion.

In response to inquiries from the Commission, Deputy Town Manager Moore confirmed the standards would apply, once adopted, assuming they were put in place before the operation began for the already approved restaurant.

Chair Jacobs opined that in terms of the good of the community, an outright ban on new or other rooftop dining proposals was preferable. He questioned, however, whether the Commission should continue with the option before it.

After some discussion, the majority of the members expressed a desire to initiate the zoning text amendment process to prohibit rooftop dining.

In response to inquiries from the Commission regarding whether the performance standards could be initiated by the Council, Planner Rogers advised that she would add the performance standards in for rooftop dining so they would apply to the existing one. Deputy Town Manager Moore confirmed there was no way for the Council to initiate the performance standards.

Commissioner Basinger moved, seconded by Councilmember Hersh, that the Planning Commission withdraw the request for consideration of ZTA 26-02 Option 1.

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

Commissioner Basinger moved, seconded by Vice Chair Woodruff, that the Planning Commission initiate ZTA 26-02 Option 2 and advertise for public hearing.

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

Deputy Town Manager Moore advised that this would be scheduled for a public hearing during the Commission's September meeting. He further advised that the staff would revise the standards in time for the public hearing notice.

In response to an inquiry from the Commission, Deputy Town Manager Moore advised that the HDRC had finished their work on the amendment to the Historic District Guidelines related to outdoor and rooftop dining and noted that the Council would consider adopting the amendment during their next meeting. He advised that the proposed amendment would prohibit any elements of rooftop dining that could be seen from the public way.

Councilmember Hersh noted that the proposed amendment to the Historic District Guidelines would address tables, chairs, umbrellas, planters, fences, trash containers, and lighting. He further noted that it would allow rooftop dining where the elements were not visible; however, it would prohibit umbrellas, sails or other similar coverings, with awnings being evaluated based on the guideline criteria.

Council Representative Report

Councilmember Hersh reported that the Interim Town Manager was still in place and that the Council would continue its discussion of the hiring of a Town Manager in closed session during its upcoming meeting.

Chair Jacobs noted that he understood the preferred candidate was no longer available.

Discussion Items

Town Clerk North reminded the Commission of the Virginia Freedom of Information Act Council's FOIA training scheduled for Monday, August 31st. In response to an inquiry, she confirmed the only people who were required to take FOIA training were the Mayor and Council; however, she encouraged those who were able to attend.

Quorum for September Meeting

All the members of the Commission confirmed they would be present for the September 28th meeting.

There being no further business, Chair Jacobs adjourned the meeting at 8:01 p.m.

RESPECTFULLY SUBMITTED:

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Rhonda S. North, MMC, Town Clerk

Attachment: August 24, 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: Thank you, Rhonda. Would you call the roll, please?

Rhonda North: Chair Jacobs.

Bud Jacobs: Present.

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

Kim Basinger: Here.

Rhonda North: Commissioner Hersh.

Carolyn Hersh: Here.

Rhonda North: Commissioner McMahon.

Drew McMahon: Here.

Rhonda North: Commissioner Rocconi.

Mike Rocconi: Here.

Rhonda North: Council Member Hersh.

Chris Hersh: Present.

Bud Jacobs: Thank you very much for our work session. We're going to quickly review our long delayed next chapter of the Comprehensive Plan review. And I would ask Will or Amy to kick that off, please.

Will Moore: Yes. Thank you, Mr. Chairman. This brings us to the final topical chapter for at least your initial review. As I noted in my correspondence when sending out the agenda, there are some other chapters that have been through at least an initial review that we're still incorporating your comments. We're going to bring those back. Some of them next month if not all the goal is to get a draft plan in order to then roll out for the public input process it would just an initial draft. So, but this is the last chapter, as I previously stated that you'll need to look at for the first time that omits the introduction and the executive summary, which would then be crafted after all of the topical chapters are finalized. So again, this is the chapter on economy. Rhonda, do we have the dais monitors on? I'm not seeing them.

Rhonda North: Well, they're supposed to be. Okay, put it that way. Let me let me take it down and try to do it again. See what happens.

Will Moore: That's okay. If you would like to open up the text markup, the initial. Oh, there, now it's popped up. Thank you, Rhonda. So just run through quickly. This is I think fairly straightforward on what we're proposing in the markup, but again, happy to get any feedback that you have on revisions to proposed language additional changes or just additions in general, things that aren't in there, but starting with the strategies and we'll get to this later when we go through the text, but revising strategy three, which spoke more to setting up the proposed major improvements to Federal Street that were in the 2019 plan. This references the Council's shift in that to first concentrate on South Madison Street and then potentially other connecting streets to focus on those improvements first before moving to Federal Street. And then strategy five, we're proposing to strike that involved pursuing a coworking space in Town. We have since had two of those open. There's one on East Washington Street and then the community center also has established a coworking space in their top floor. So, proposing that we would remove that. Moving on to the next pages are just minor changes proposed. There's some update to the employment data that Amy pulled out of the latest. Was it the American Community Survey? American Community Survey data. Again, this is just some update to data with a little bit of commentary. In particular, an interesting number that the 2024 ACS is showing that almost 60% of Town residents who are employed are actually working within the borders of the Town now, which is a fairly significant change with previously it says in 2009, which I think was the most recent data we had at that point in time. We only had about 22% of the residents who were working within the borders. Again, reference to the coworking spaces under tourism, it previously started saying that tourism accounted for 75% of the Town's annual revenue that was not a hard data figure by any means. Probably should not have included that phrased that in that manner. It is we don't have a hard number on that because it's hard to quantify, but we are very comfortable saying that it is more than 50%. So, I would just suggest revising that. Under Economic Development that staff person's title has changed. So, we're just updating that it's the Director of Community Engagement now and also referencing the fact that that director works with a Council appointed Economic Development Advisory Committee. So, her work is not all on her own. She does have that committee that she works with. At the time of the crafting of the 2019 plan, we were in one of those, I'm not sure which is the ebb or flow, but one of those moments where we had more vacant storefronts. We still have some. And that's a, there's a little bit of a turnover there. Again, there's an ebb and flow. Sometimes we have none. Sometimes right now we have a couple that are noticeably vacant and then others that are under construction. So, we just, instead of saying we continue to experience it, we're saying that there are periods of time where we experience it. So just a little wordsmithing there talking a little bit about again, wordsmithing that having inadequate parking can be something that prohibits businesses maybe from being interested. We're saying that when parking is perceived as inadequate because all of the studies that we've conducted now, it has been nearly ten years, nine years since we did a parking study, have concluded that we have adequate supply, but it's more getting people directed to that parking. Along with the nature of street parking being perceived differently from surface lot parking. I always talk about how somebody will be willing to walk 300ft across a parking lot to get to a big box store and think nothing of it. But if they have to walk 50ft down the street to get to a storefront on a street, it seems like it's inconvenienced. And it's just, it is a perception issue. And, but the perception can be a reality for folks. So that's something we have to constantly deal with. On the next page we have, since we have a vision for our use of Asbury church at this point in time, we've taken out this part that suggests that it could have been used as maybe an Economic Development driver by utilizing one of our properties. So, striking that the following paragraph is what I referenced when we talked about the strategies up top, which is the Town Council refocusing its priority on improving the side street connections to Federal prior to actually focusing on redevelopment of Federal Street. And then in the final paragraph of the chapter, it previously talked about at the time of the publication of the 2019 plan that we were pursuing a marketing and branding initiative, simply updated that language to talk about what was done because that initiative was completed with the branding. So that is our initial text markup. We also have and by we, I mean, Amy, has prepared an update of the data that is contained in the charts within the plan. So, it just kind of gives you how some of the makeup of the different business categories within the Town have changed since the previous plan as well as the

employment characteristics of our residents. And then on the following page just again, this is talking about our residents who work, are they commuting or are they working within Middleburg and kind of showing how those numbers have changed a little bit over time? So, with that at your pleasure Mr. Chairman, I'm happy to take inputs on the draft. Any thoughts any Commissioners have on revisions to the proposed revisions, additional language, etc. we'd be happy to receive that at this time.

Bud Jacobs: Thank you Will. Thank you, Amy. The charts are particularly interesting and that increase in the number of people of residents who actually work in Middleburg to me is quite stunning. It's a big, big growth. I would be, I wouldn't call it out in our Comprehensive Plan, but I would be curious to know how much of that represents employment at Salamander.

Will Moore: Oh, that's a good question. I don't know.

Bud Jacobs: Do we know?

Will Moore: We have data on the number of residents in Town who work there. But you know, Salamander was up and running strong at the time of the publication of the previous plan. So, I'm not sure again how that would affect it. There may have been an effect simply on the increase in remote working that happened during and after the pandemic that there may be a lot more of that type of work going on as well.

Bud Jacobs: Will, thank you very much. Could we go around and get any comments or edits from the panel, please?

Don Woodruff: Will, I was just thinking that were you to put impact on the importance of tourism you don't have to have a percentage, say, a major portion of.

Will Moore: We could do that.

Don Woodruff: I think that would put emphasis on it.

Will Moore: Okay. I like that major portion.

Bud Jacobs: Related to that, Will, I was going to ask if Visit Loudoun had any numbers at all.

Will Moore: We did not have outreach to them as part of this effort. I'd be happy to have Jennifer, our new Community Engagement Director, reach out if you would.

Bud Jacobs: Might be worth a question.

Will Moore: Have some input. Sure.

Bud Jacobs: Other comments, please.

Chris Hersh: Along those same lines. On the tourism 2017 Economic Development Survey, has there been anything more recent or can we add something more recent than 2017?

Will Moore: I don't think we have done any type of outreach or study since that time. So again, that's something we can bring up to Jennifer, and she can talk about that with the EDAC to see if that's something that and maybe our plan could encourage an update to that. Okay.

Bud Jacobs: Thank you. Other comments, criticisms, complaints? Please.

Carolyn Hersh: It was just nice to see that we've accomplished some of the goals set out with the Asbury Church with the.

Will Moore: Coworking space, maybe.

Carolyn Hersh: Coworking space, the branding.

Will Moore: Yes. Yeah. It's always a good thing when we're doing a Comprehensive Plan update and we can check things off the list because that really is the idea, at least with the shorter-term goals that might be in the plan.

Carolyn Hersh: Yes.

Bud Jacobs: Any others? A couple quick questions. Reading this, Will, I recalled several years ago, we talked about having a charette for, I believe it was just the Federal Street development. And it's premature, I know, to think very concretely about that right now. But as Council moves forward on the Madison Street improvements, and hopefully, as we maybe get some grant money to help facilitate those, let me plant the seed with you guys to revive the charette idea for Federal Street and see look again and see if it's worth doing.

Will Moore: Yeah, that's a great idea.

Bud Jacobs: The other thing I wanted to mention was, I've forgotten whether we mentioned the ongoing work or progress that's being made on the Asbury Church Restoration anywhere else in the Comprehensive Plan? I can't recall offhand if we did. If we didn't, perhaps it's worth including a sentence or two about that.

Will Moore: Yeah, I think it's been a little while since we looked at the community facilities and services chapter. I know there are a couple of things that I'm still waiting for some inputs from Utility Committee on that with regard to water and wastewater treatment, but yes, we'll look at that. And if I just, I can't recall at this point in time, but we would certainly want to add something in there.

Bud Jacobs: Well, if you would take a look at that and talk to Rhonda, we are moving forward on the fundraising piece. And Rhonda has been working diligently with the folks involved in doing the actual work, and it might be in the spirit of showing that we've actually done something beyond writing a Comprehensive Plan, maybe it's worth putting something in there.

Will Moore: Absolutely. Thank you.

Bud Jacobs: Is that okay with you, boss?

Rhonda North: Sure. That's fine. And just to report the construction plans are now complete. And we're in the agency review and permitting process, as well as in the fundraising process.

Bud Jacobs: See, there we go. And I had one more, but I've forgotten. Yeah. I'm sorry. I don't have anything else. Anybody have anything else to say? I'd say, well done, guys. Very nice.

Will Moore: Thank you very much.

Bud Jacobs: [off mic] That is all we have for our work session, I believe. So how should we proceed Rhonda? Can we swing? Well, I guess we have to wait. All right. Time out until 7 p.m..

Will Moore: Excellent.

Bud Jacobs: Thank you.

Will Moore: So, we still want to get some of the chapters that you've reviewed and given comments on that which we've yet to incorporate. I think the most significant one is probably in the Environmental and Natural Resources chapter. There's been some good information that the Chairman provided. Council Member Hersh provided kind of a statement last month, I believe we'll see how we might be able to incorporate some of those ideas into that chapter, but a couple other chapters that we kind of need your final endorsement. And again, I just want to be clear, endorsement of having it in a version that we think is fit to roll out to the public, not the final version that we would advance to Council but getting it packaged into a kind of a full plan, a full draft that is then suitable to take out to the public for input.

Bud Jacobs: Terrific. How do we do that? How do we get it to the public?

Will Moore: Well, I think that's something we'll talk about either next month or in October. As to what kind of forum, you would prefer to that for that. Is this simply advertising it as a public hearing, but then doing some supplemental outreach to try to get more than just the four community members that we have here this evening to try to get as much input as we can, or is it more along the lines of what we did with the 2019 complete rewrite where we had a, a much larger forum like, like at the community center where we prepare some larger exhibits and give a little more ability for kind of interactive input. So, I would love to get your input on that. I mean, I'm happy to take that input now. Any time you do an update to the plan, I think it's important to try to get as much meaningful input from the community as possible. But you weigh that against the degree of changes that are being made in the plan. A lot of what is being proposed for revision, I would suggest, is fairly minor in nature. However, there are a couple of things in there that probably would be more suited on the get as much input as possible side, so.

Bud Jacobs: Recall that for the current version of the Comprehensive Plan, I think we held four sessions with the public, our contractor facilitated those. I went to all of them and they were really well attended. There was a lot of interest. So maybe that mitigates in favor of doing something along those lines for this rollout.

Will Moore: Sure.

Bud Jacobs: Our regular meeting for Monday, August 24, 2026, is now in session. I'd like Rhonda to roll around with our discussion, our disclosure of any meetings with applicants.

Rhonda North: Chair Jacobs.

Bud Jacobs: I've had no meetings with any applicants with any matters before the Commission.

Rhonda North: Vice Chair Woodruff.

Don Woodruff: Like the Chairman, I have had no meetings with those applicants, any applicants.

Rhonda North: Commissioner Basinger.

Kim Basinger: I've had no such meetings.

Rhonda North: Commissioner Hersh.

Carolyn Hersh: I've had no such meetings.

Rhonda North: Commissioner McMahon.

Drew McMahon: No such meetings.

Rhonda North: Commissioner Rocconi.

Mike Rocconi: I've had no meetings with applicants.

Rhonda North: Council Member Hersh.

Chris Hersh: I've had no such meetings.

Bud Jacobs: Thank you very much. I'm going to open the public comment period to remind commenters you have three minutes. Please open with your name and address and limit your comments or let me put that differently. If you have comments on the two proposed zoning text amendments, don't give them now hold those off for the time when we consider our amendments. Do we have anybody Rhonda?

Rhonda North: Scott Little.

Bud Jacobs: Mr. Little.

Scott Little: Good evening, Mr. Chairman and Commissioners. Just I come bearing compliments tonight just appreciate the hard work of the staff striking a balance on these two text amendments that you'll visit with later hard work in there and just much appreciated. I realize what that is like, and also something just echoing something you said, Mr. Chairman. The number of Salamander is actually quite low. Yeah. Impressive numbers from 27% to 60% that's fantastic. And also with Jennifer Bell, I just wanted to make a remark just what a capable and adept person we've had the opportunity to visit since she's been on board. And we are also on the Visit Loudoun Board together. There's a tremendous amount of regionalized data that comes out of Visit Loudoun that that you all might find helpful to those economy numbers that you were interested in. And then just the last word on the Comp Plan, again, tricky work long lasting important work. You know, the public is there opportunity to get involved is right now in these meetings I find it all interesting and engaging and I would say earlier, the better to get them all together when the work starts getting cast, that's when it all starts to meet the road. So that's all I have. Thank you.

Bud Jacobs: Thank you. Thank you very much. Are there any other public commenters? All right. I'm going to close the public comment section of the meeting and ask my colleagues for a motion to approve the minutes from the July 27th meeting.

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

Bud Jacobs: Second.

Chris Hersh: Second.

Bud Jacobs: All those in favor, say aye. Aye. Opposed? I believe we have approved the minutes. I am now going to open the public hearings for two zoning text amendments we have on the agenda this evening. The first one, ZTA 26-01, pertains to definitions in terms associated with parking lots. And I would ask Will or Amy to start that discussion for us. We will then entertain any public comment after we've closed public comment on that ZTA, I believe it'll probably be best just to move to the second one, Will, rather than hold discussion on the first.

Will Moore: Typically, you would go ahead and discuss the first and take action.

Bud Jacobs: Okay.

Will Moore: Yeah.

Bud Jacobs: Mr. Moore.

Will Moore: Thank you, Mr. Chairman. Just a quick recap on this proposed amendment. It was brought to your attention a couple of months ago by representatives of the Middleburg Methodist Church, that there were some issues with the way parking lots and in particular a parking lot facility was defined in the ordinance. And again, the quick background for the longest time, the Town leased that lot from the Methodist Church. We ended that relationship of being a lessee of that lot at the end of June of this year. They expressed interest in establishing paid public parking whether that's metered or, you know, a central pay station or something like that, so that they could potentially monetize that lot when it's not in use by the food pantry or in use for church services. And although a municipal lot was allowed by zoning in that zoning district C-2 by them changing that use it would then be defined as currently defined as a parking lot facility, which is not permitted to be established in that district. Another way to say it is the way a parking lot facility is worded now, if you took a very draconian enforcement position, I would have to say that except for customers or employees of a certain business, nobody's ever allowed to use the parking lot. It's really written in that manner. And that was never the intent. The intent of establishing that definition of parking lot facility was in the early 2000 or so. There was interest by one particular business of building a parking lot on the south side of Federal Street for the purpose of just providing parking in general. So, a kind of what we're now proposing would be defined as a free-standing parking lot. But something happened during that process, and we ended up with the definition we currently have. So, what we're proposing to do is to add some definitions to the ordinance for a municipal parking lot, an accessory parking lot, and a freestanding parking lot. The municipal lot would be a lot that would be run by the Town, whether it's owned or leased by the Town. An accessory parking lot would be the situation like the Methodist Church has, or Safeway or any business that has, whether out of the requirement from the ordinance or just something they put in place there's a parking lot that goes along with a use on the site. And that parking lot is to serve that use, but this definition would specifically allow it to be used for other purposes by the public with or without compensation when it's not in use by the business. So, they could not completely convert it to that type of use where they took away parking that's provided for their business but in off hours or when it's not in demand, they can use it that way. And then we would add a definition for a freestanding parking lot, which was what was really envisioned by the parking lot facility. We would continue to only allow that in C-3 by special use. And that's again, if somebody a private individual, not a municipal lot, a private individual or business wanted to just create a parking lot just to have parking and not directly serving an on-site use. So, we think this will help clean up the uses. It will make a clear path forward for the Methodist church that they can use that lot in the way that they want to, but it could also open up that possibility for others. We don't necessarily see a demand for that, but we certainly want to that one particular user. And we think it's a good thing just in general for the Town to make it clear that you are allowed to let others use your parking lot when you're not using it for your business.

Bud Jacobs: With or without compensation.

Will Moore: Correct. With or without. Yes, sir.

Bud Jacobs: Are there any public comments about this CTA? Does anyone have any thoughts? It appears not. So, let's have a quick discussion among the Commission here. Don.

Don Woodruff: Thank you. Well, you mentioned Seven Loaves. Is that still going to be protected, that those people are allowed to be parked there while they are using that facility or running it?

Will Moore: That's my understanding. Of course, there's a landlord tenant relationship there that comes into play. But my understanding is the church wants to continue to allow that to be open to them.

Don Woodruff: Thank you.

Will Moore: Yes.

Bud Jacobs: Any other discussion questions? Please.

Chris Hersh: Yeah. Will, just so everybody's on the same page in terms of enforcement of parking in the lot, that would be on whom?

Will Moore: So that that would have to be done privately that would not involve local law enforcement. If you're going to have a provision that allows for towing or disabling, like with a boot, you have to have certain signage by law that explains who to call to remedy that situation. And the church in this particular instance is already aware of that and has prepared some at least temporary signage for now until this amendment goes through.

Bud Jacobs: Anyone else?

Mike Rocconi: So, thank you. The Town has, I guess, no control over how much of the time the lot is used for money making parking, as opposed to any other uses.

Will Moore: We would have control in as much as if it were obvious that they were using it for hourly parking, for example, while on site uses were in operation that would be in violation.

Mike Rocconi: Okay. And the freestanding lot, freestanding parking lot still require Special Use Permit.

Will Moore: Correct.

Mike Rocconi: Okay.

Will Moore: And only in the C-3 district, which is south of Federal south side of and south of Federal Street.

Mike Ricconi: Thank you.

Bud Jacobs: Please. Oh. Go ahead.

Drew McMahon: Yeah. Will, just a quick question. How long did the Town lease that lot?

Will Moore: I don't have the full history. It's been at least for 20, 25 years at least.

Drew McMahon: And is that a closed door?

Will Moore: The previous Town Manager engaged in very long-drawn-out negotiations to try to keep that. And we were just unable to come to mutually acceptable terms.

Drew McMahon: Fair enough. Thank you.

Bud Jacobs: Anyone prepared to make a recommendation to forward to Council, please?

Kim Basinger: I would like to move that the commission forward ZTA 26-01 to Council recommending approval as contained in draft one dated 7/24/26.

Bud Jacobs: Seconds?

Don Woodruff: Second.

Bud Jacobs: All those in favor say aye.

All of the Committee: Aye.

Bud Jacobs: Opposed? The recommendation carries. Will, thank you.

Will Moore: Thank you, sir.

Bud Jacobs: The next ZTA 26-02 is an amendment to deal with the question of rooftop dining in Middleburg and more broadly, outdoor dining in Middleburg. There's been a lot of conversation about this. And I would ask Will if you would please take a moment and walk us through the background and where we are before we go to public comment.

Amy Rogers: Chairman, Members of the Commission. The Town Council initiated an amendment to the zoning ordinance as part of their strategic plan earlier this year. The issue was brought up due to the new ownership at the former Fun Shop building. When the HDRC was reviewing the application, it became apparent there was going to be a rooftop dining component on the building, and the HDRC does not, of course, deal with uses. They deal with aesthetics. So, this came about as a text amendment. Currently dining outside is associated with a restaurant and is allowed as service or consumption outside of fully enclosed structure. Therefore, currently outdoor dining and rooftop dining is permitted in the ordinance. In July, staff brought forth to you two options for rooftop dining and outdoor dining ordinance. Option one allowed outdoor dining to continue as a permitted use and gave it some standards. But the rooftop dining component is a special exception, and the section option was the same that it would be permitted by right for outdoor but prohibited for rooftop dining. The Commission, after much deliberation, decided to go forth with option one to allow rooftop dining as a special exception and outdoor dining as a permitted use. During those discussions there were talks about hours of operation, noise, and lighting. So, staff prepared a draft two which is attached to this document. Just to briefly go through some of the changes between the draft you saw in July and in August, the basic definitions for outdoor dining, restaurant and rooftop dining did not change. Of course, rooftop dining is a special exception. And outdoor dining is permitted by right. And again, I should clarify that that's in the C-2 and the C-3 districts only. C-1 does not permit any restaurant use. The outdoor dining standards that we provided just to briefly go over them; they have to be on the property on a

hard surface that they cannot be within any required parking or extended to public right of ways or sidewalks. That they must be the same hours of operation as the restaurants. They can't be in use when the restaurant's not in use. Outdoor kitchen service areas were added in this that they cannot be outside for outdoor dining. And then you can have music or vocals or performances outdoor with outdoor dining at street level. But we changed the hours that they could operate previously it was until 11 p.m. and during the weekdays, sorry, weekends we changed that to 10 p.m. and on Sunday through Thursday, changed it to 9 p.m.. Rooftop dining, so no part of the operation shall be allowed to exceed the maximum height in the district. This is so that any use on the rooftop, if approved by special exception, could not exceed 30ft in height, which is our maximum height in the district. The second one we changed considerably. We changed it such that you could not be on the roof when the restaurant was not open and in operation. So, meaning people couldn't be up on the rooftop after hours and then further limited the hours that it could be there, not before seven or after ten. So, there's limitations on the hours on the roof. The same prohibitions on outdoor dining are on rooftop dining, no kitchens, bars, service area, food prep areas, television screens, or electronic displays so that it is as if people dining on the roof that there's no other activities going on. The fourth standard, again, we worked on this one a little bit word smithed it such that there is no live entertainment on the rooftop, no music, no speakers, no address systems, no activity that would generate amplified sound on the rooftop to help with the noise issues. Then the fifth one is no events, no weddings, no receptions, no birthday parties, no viewings. That this is simply a dining area on the rooftop for people to enjoy. And the sixth and final standard that we provided was related to lights. We actually reduced the height of the lighting. Previously it said ten feet, we changed it to eight and also added that the lighting shall be off when the restaurant is not in operation, so it cannot be on when the restaurant is not in operation and help with all of those things. Staff has provided you three different recommendations for this text amendment. If you choose you like how it is as drafted, you can choose to approve it as is and move it forward to the Town Council. If you feel it needs to be worked upon, it can be tabled until September and we can make whatever changes you think are necessary. And then we also had an option here to reconsider because there was a lot of angst at the last meeting about this. And so, after public hearing or listening to this, if you feel that this really isn't the correct option, that you really think it should be prohibited. There's an option in here to reverse what happened and come back next month with a motion on the prohibited amendment. So, at this time, of course, conduct the public hearing and hear what the public has to say. And then we can further discuss after the comments.

Bud Jacobs: Thank you, Amy. I'm going to open the public comment section of the hearing. Please remember you have three minutes and please identify yourselves and your place of residence.

Rhonda North: Mr. Chair, I do have a speaker signed up for this public hearing.

Bud Jacobs: Who is that?

Rhonda North: Megan Gallagher.

Bud Jacobs: I'll be darned.

Megan Gallagher: Hi, my name is Megan Gallagher. I live at 214 East Marshall Street. And it will be no surprise that I come before you to ask for re-initiation to send and develop option number two to go to the Town Council. That would mean a prohibition against any other outside dining on the rooftop proposal going through local government after this one that seems to have found its way through the loophole. The reason for that is I don't think there’s even remotely enough time to think about the impact of rooftop dining, and that it could be a tremendous waste of all of our time if you're going through SUPs without thinking carefully. Two I strongly, strongly support the standards that are in these packages for the one outdoor dining, the loophole project, the Fun Shop project, because I think they're good and strong and appropriate,

but that doesn't mean you have to permit the by-right use with a SUP. I really like the way you've written about the street and porch dining and the standards that you're applying to it and putting it all together. As I've said before, the Red Horse, Common Grounds, all of the rest of our outdoor dining on the street is a cherished community commons of great value both to visitors and to residents. And I can't imagine Middleburg without it. It's so distinctive. I believe outdoor dining is not. It's an intrusion into the public commons. But we won't be up there. It's very limited operation. It's, you know, right now for that one. So how we got there is one of the reasons I think you say no. And don't put it in the code now. And here's how we got there. No one dreamed when the code was written that we would have this wonderful outdoor dining on the street, and then all of a sudden, it morphed to the third floor 30ft up. And the only reason it's here is because someone in Leesburg who has a car on the top of his outdoor dining space thinks it's a great idea. And I've got to say, Mike Morency nailed it when he said that the Planning Commission was willing to go, oh well, since that guy has it, let's go through the SUP for everyone else. It's fair. Actually, no, because it was a loophole I wish we'd foreseen and closed beforehand. Fairness doesn't come into this without rigorous look at what it is. And so, for that reason, I kind of come back Will just left a chunk of the Comp Plan up on the board, and I wrote down one of the things it said that visitors the visitor study of 2017 said they come to Middleburg for its small-size beauty, quaint character, atmosphere, and historic character. These are qualities that we must protect. I ask you to do so. Thank you.

Bud Jacobs: Thank you, Megan. Other comments?

Wendy Osbourne: Good evening, everybody. My name is Wendy Osbourne and I'm a business owner in Middleburg. I own Chloe's of Middleburg at 12 East Washington Street. I've come here just to express that I really do hope the rooftop dining will be prohibited. This is just such a small. This is such just such a charming town, quaint, historic. And I don't really believe that rooftop dining, you know, this urban feel really fits right for our community. In addition, I know that my end being East Washington Street, I know at one point I thought that there had been discussion trying to have a roof on top of where the Mexican restaurant was before it became a Mexican restaurant. And I know the impact it would have had for the Red Fox Inn. And somehow, I don't know how it all was a no or went away. But I know as a business owner the impact I feel that I would feel with my lovely historic building with several of the buildings that do have flat roofs and who knows what time might say one day new owner, and we want to do a restaurant. We want our deli to serve up there. And I just really hope that It will be a no. I don't know how to explain it. I feel I can't go on and on and I'm not going to, but I strongly believe that this is not right for the town, and I hope that you'll be able to see that too. Thank you.

Bud Jacobs: Thank you, Wendy. Any other comments please?

Nancy Gardner: Hello, I'm Nancy Gardner. I reside at 11 North Hamilton Street. I really oppose the rooftop dining even by special exception. You open the door for by special exception; you're going to have a terrible time closing it. Because once you open that, the people coming in that want to do that have the ability to fight the town, and the town doesn't have the time to fight it, nor the resources. And you don't have; we don't have the resources to monitor what goes on and who's doing what. And is it within what the norms you've created? Just say no. Thanks.

Bud Jacobs: Thank you very much.

John Ross: Mr. Chairman, my name is John Ross. I live at One Orange Drive in Middleburg and back in the Dark Ages back in the glacial ages, I lived next to the building, the car house that became Hunter's Head. And we fought it tooth and nail. And we lost. And as soon as they opened with outdoor dining, all summer long, there was a garden party next door to which we weren't invited. So, we had to keep our windows closed. The other question I have is this. I wonder, given these some of the construction projects that are

going on in Washington, how much of the notion that if we build it, it will be approved factors into this decision? I wonder what kind of conversations occurred before the construction permit was issued. And I wonder what sort of liability the Town might face if we were to deny outdoor dining rooftop dining. Thank you very much.

Bud Jacobs: Thank you, John. Anyone else? Anybody on the phone? Martha? Mr. Little?

Scott Little: Hi again. Just, I just wanted to say striking that balance I think with option one, they work very hard on those standards and they're comprehensive. And the Town has a number of zoning ordinances and laws that it is very good at enforcing. I don't exaggerate when I say that. Yeah. To the delight of the quiet enjoyment of the community. So, I just wanted to say, I appreciated the balance that's been struck there. Thank you.

Bud Jacobs: Thank you, Mr. Little. Let's open this for discussion. I'd be very interested to hear what you guys have to say about all of this. And I have some questions of my own I'll save for the end. Does anyone want to start? Please?

Kim Basinger: I just wanted to say that the months that I've been on the Planning Commission, it was last month's meeting was the first time that when I walked out, I was like, wait. And I wanted more time, especially when after reading a letter that that came to all of us about it. I think hearing what Mrs. Gallagher said, that does strike a chord. And I actually was one of the people that did say that particularly that, you know, gosh, it's not fair to everyone else if this person has one and nobody else can have one. I definitely have lived here for 30 years and treasure the smallness of the Town. And so, my instinct is to actually reverse what I was saying last month. That's me. Okay.

Bud Jacobs: Thank you.

Don Woodruff: Yeah. Will, what's the status of the private club that they have talked about? I mean, does that have that fall under the same specifications or can they have a birthday party?

Will Moore: No, it is part of the restaurant use. Whether there's a private access to certain portions of the building or not. It still would fall under the restaurant use. So, any use standards that would go into effect if one of these options were to eventually be adopted by Council, they would then apply to the rooftop space.

Don Woodruff: Thank you. Does this have any imposition on parking, or do they have to provide parking?

Will Moore: There's no current requirement to park for it.

Don Woodruff: There's no expansion for parking because they're expanding the premise.

Will Moore: Yeah. And that might be something we have to look at in the future as to account for that as well for the outdoor spaces.

Don Woodruff: Thank you.

Bud Jacobs: Please Mike.

Mike Ricconi: Yeah, just a couple of things. After hearing the input tonight, I think I would also be willing to reconsider my earlier stance. The other thing I want to say is thank you to Will and Amy for the standards

that you came up with. There are a couple here that I think are going to be difficult to enforce but at least having them in the code I think is going to be helpful. Thank you.

Bud Jacobs: Please.

Carolyn Hersh: I hear both sides. And for me, I'm still believing that our system can manage what comes before it through the Special Use for the HDRC and with the really concrete guidelines. I'm still comfortable with option one. We didn't have a choice on how the current one being built was managed that got through. So, for me giving the option with all of the criteria put in place gives us choices into, it lets us bring in something unique, if that's what's offered and what can fit within HDRC and our guidelines.

Bud Jacobs: Thank you. Mr. McMahon.

Drew McMahon: I believe I was against it last month. I'm still against it today. The public outcry feedback is pretty consistent as well. So, my opinion is to revisit what Amy mentioned if there's an option to prohibit. Thanks.

Bud Jacobs: Have we covered everybody? Any others? Council Member.

Chris Hersh: So, after the last meeting, I ended up in a meeting with Will, the Mayor, and the Town Attorney kind of looking at options. So, in terms of the one that got through, there is no recourse other than standards to forbid a rooftop dining outright. I think in terms of the community, the voices that I've heard strong and loud, are the fact that the forbidding outdoor rooftop dining, the question that I have is in terms of rooftop dining standards, the hours 7 a.m. to beyond 10 p.m. first, I would I would think it would go off the same standards as a restaurant or even meaning 9 p.m. through on Sunday through Thursday and 10 p.m. on Fridays through Saturday. And wondered if there should be a limit in the hours because even if we forbid outdoor dining for going forward, there's still one in existence. So, the standards become important. So, thinking about the things that I've heard, concern about the noise that might ramp back the noise issue some even further, and enforcement becomes really important in terms of making sure that the rules are followed by everybody.

Will Moore: If I may just ask for clarification. So, would you suggest for the rooftop dining? It in no case would extend past 9 p.m. Is that is that kind of the idea rather than ten as currently drafted? Yeah.

Bud Jacobs: What does the rest of the Commission think about that? Just nod your head if 9 p.m. is the number.

Chris Hersh: We all agree.

Bud Jacobs: Okay, good. Thank you. Just to be clear on some things, Will, the standards that we are discussing will be applied to the current applicants enterprise.

Will Moore: Most likely, yes. I say most likely. Assuming that these get adopted before he is actually in operation. And I think that's probably going to happen. Because there's still a significant build out time, health department, everything that goes along with establishing a restaurant. So yeah.

Bud Jacobs: Do you think we're in a position to vote on a recommendation to Council tonight and have Council look at it at its meeting on Thursday?

Will Moore: No. So, the soonest. So let me backtrack. If you proceed with option one, which is to allow rooftop by special exception you could forward that recommendation this evening. That would be looked at the first time by Council at their first meeting in September. And they could potentially take action at their second meeting in September. If you instead wanted to change course and prohibit the rooftop use, that's going to extend the process by a month because you specifically initiated option one, that's what was scheduled for public hearing. We would have to re-advertise option two for hearing by you in September. And then Council very earliest adoption would be late October. So those are the two different paths.

Chris Hersh: Mr. Chair.

Bud Jacobs: Please.

Chris Hersh: Is there any ability to call a Planning Commission meeting outside the usual scheduled time to reconsider and be able to forward it sooner?

Will Moore: You do have the ability to call a special meeting. However, public hearings will require certain amount of notice, which makes it difficult to really speed things along too quickly.

Drew McMahon: What's the restaurant current projected opening date?

Will Moore: We don't have one. Nothing has been provided to us on that.

Bud Jacobs: Please.

Chris Hersh: One other one in terms of the light height be going from 10ft to 8ft, does that affect anything currently planned that went before HDRC?

Amy Rogers: I don't believe so. The, I believe the lights that I remember from his building are right at the top of the doorway. So, they probably are below eight feet or at eight feet. Again, we're just trying to have them lower, as low as we could on the building and still meet the need for safety, lighting, and types of lighting.

Mike Ricconi: Mr. Chair.

Bud Jacobs: Please.

Mike Ricconi: Do we know at this point whether they're going to meet the height requirement restriction?

Will Moore: Yes.

Mike Ricconi: They are.

Will Moore: Yeah. Unless something changes during construction, that.

Mike Ricconi: But that would if some if they do change something, do we get another?

Will Moore: He is building to within a couple inches of the maximum height as it is, so.

Bud Jacobs: My turn. I think I made it clear in our last meeting that I'm opposed to any sort of rooftop dining for Middleburg. I don't think it's good for the Town. I don't think it fits the Town. That horse is out of

the barn, apparently. And we are left with one establishment that has approval to move forward with some sort of rooftop dining. I would say that with respect to some of the really important issues, such as noise and music, it's going to be really important to nail down what the standards may be. We've been very fortunate with the resort when we've had issues with noise coming from events at the resort. The folks there have been instantly responsive to the visit from our local police department, and that kind of partnership and cooperation is vital if this is going to turn out to be the best possible thing we can do under the circumstances for the Town. Since we can't always count on getting that kind of cooperation and partnership, we need to be very careful and exact in how we define our standards and how we apply them. In that regard, Will, I think parking is something you're going to have to grapple with as part of the discussion of standards. I don't have any suggestions for what that might look like, but I think it's an important delta in what you've presented. If we go with option one in the interest of expediency and refrain from banning rooftop dining anywhere else in Town, the standards that you've developed will apply. Is that correct?

Will Moore: Yes.

Bud Jacobs: As long as we've promulgated them and put them in place before completion of what? Permitting construction?

Will Moore: Operation of the.

Bud Jacobs: Before the operation, is that defined as a certificate of occupancy issuance?

Will Moore: It would not be.

Bud Jacobs: Would not be. Okay.

Will Moore: Even with a physical occupancy issue. And sometimes a business is not operating immediately after that. So, it would need to actually be up and running in operation.

Bud Jacobs: Like others on this panel, initially I considered the question of equity and how the law is applied to be one that was pretty important. Having heard the discussion this evening I no longer hold that position. And I am going to frame this in terms of the tradeoffs that we frequently encounter and the kind of work that we're doing, which is balancing individual property interests with the good of the community. And it seems to me the good of the community in this case would indicate an outright ban on any new or other rooftop dining proposals, since that would gum up the works, I guess, in getting something reasonable on the books in terms of our ordinance. I guess I would be prepared to go ahead with option one, as long as everybody on the commission agrees. Did that make sense? Did I?

Mike Ricconi: Mr. Chairman. So, you're just so I'm clear, you're suggesting option one in the interest of speed so that we might get the standards in place in time? Is that what you're saying?

Bud Jacobs: Well, I don't like it, but. Yeah, that's what I'm saying. My inclination would be to ban any additional or proposals for rooftop dining in the Town of Middleburg. It appears that that would put at risk our ability to apply our standards, or as they've currently developed to the establishment that's going to be built or opened. Will. Amy.

Will Moore: Yeah. So, I was going to say great minds think alike. Staff minds think alike. We were just sitting here. If you do feel a need for expediency one option would be to prefer to proceed with option one. And look, another amendment process could be initiated a month later if you felt strongly to prohibit the use. So, the special exception plus the design standards get in place. And then that's followed a month or 2 or 3

later by another amendment that then removes the special exception use. I don't think that it seems a little disingenuous to go about it that way. But it is an option to consider. One other one would be we know that this is something that takes up a good deal of planning. We, we think as best as we can tell right now that it's probably going to have very limited application in, in Town. We don't see we don't see a flood of applications coming forward. If that were the case, they would have come forward by now because it's a by right use. Another option if you really want to get those design standards in place sooner, proceed with option one and then give it a year. Get this operation up and running. See if there are actual issues manifesting that are assumed that they're going to manifest. We don't necessarily know. And then maybe a subsequent amendment to remove it as a special exception, use and prohibit it would happen a year down the line. So those are some different options for you to consider.

Bud Jacobs: Please.

Chris Hersh: Yeah. Quick question. Is it possible to separate the performance standards? And we recommend for those to be go forward from this public hearing. And that we wait on the actual rooftop and dining aspect of it.

Will Moore: I don't see that as really possible with everything else that gets rolled in in here with the, they're all interrelated, you know, establishing the use along with the use standards and the definitions are all interrelated. I don't see us making that change on the fly. I hear you, I do. Yes, sir.

Kim Basinger: So really quickly. So how long are we talking? If we voted to reverse, if that was a choice tonight and we voted to reverse. How much time would it take estimated?

Will Moore: It's a one-month delay.

Kim Basinger: Okay.

Will Moore: It puts your recommendation to Council behind by one month.

Kim Basinger: Okay. And then two months. Okay.

Bud Jacobs: Anybody have any thoughts?

Kim Basinger: So, is two months enough time? I guess that's the question. Is that enough time to do what we're talking about doing here? Is that going to save it from any further people putting in for applicants like was said the, you know, the horses out of the barn. The barn's on fire, right? So, we can't pull back the horse. But what's the solution here?

Will Moore: I'm not sure how to respond to the question. I mean, it is what it is at this point. We either proceed with option one that would allow it as a special exception use that gets it to Council next month. If you feel strongly about the prohibition, it delays it by one month. You act next month and then Council sees it in October.

Bud Jacobs: What if Council decides it wants to modify the recommendation we make?

Will Moore: It depends on what that modification is. Generally, if it becomes more prohibitive stricter than it would require reconsideration by the Commission if they were to. Yeah.

Bud Jacobs: Yeah. Okay.

Will Moore: Yeah.

Bud Jacobs: Well, I think we're probably not going to reach consensus, but could I go around and ask people just for a straw vote indication about how you feel about this before we take a formal vote, if we take a formal vote? Vice Chair Woodruff.

Don Woodruff: I will say that along with others, I have changed my mind on this issue, and I see it as a potential problem for the Town in the future.

Kim Basinger: Yeah. I mean, my instinct is to forbid it. I know that holds us back a month. My fear is if we put it, if we go with option one, knowing that down the road we want to forbid it, what can slide through in the meantime? That's my fear.

Mike Ricconi: Mr. Chairman.

Bud Jacobs: Go ahead, Mike. I'm sorry.

Mike Ricconi: I mean, my gut feeling is that if we want to prohibit this, we should go ahead and vote for option two instead of trying to get too creative here and speed up the timetable with option one. That's just my opinion.

Bud Jacobs: Yeah. Mr. McMahon.

Drew McMahon: I like option two, specifically. Bullet or number one bullet first bullet prohibit rooftop dining is where I still stand.

Bud Jacobs: Miss Hersh.

Carolyn Hersh: I'm still going with option one.

Bud Jacobs: I think I'm prepared to assume the risk of delay and vote for option two as well.

Chris Hersh: So, I would go for option two as well.

Bud Jacobs: I believe it's everybody except one, correct? Yeah. Are you comfortable taking a vote, colleagues for?

Amy Rogers: If I may, so we did do a pattern motion use, you're going to have to repeal the first vote and then initiate the second. So, we did do a pattern motion for your use.

Bud Jacobs: What would a motion of repeal look like for option one?

Will Moore: So, in the recommendation section of the memorandum, there is a section that says reconsider initiation. And there are two separate motions. Those are shown on your screen on the dais right now at the bottom. So, you would want; if you wanted to proceed with that, you would make the first motion, take a vote, and then make the second motion and take a vote as well.

Chris Hersh: I have a procedural question.

Bud Jacobs: Go ahead.

Chris Hersh: On the performance standards, is it possible that those can be initiated at the Council level?

Amy Rogers: We're going to add them in. As we discussed last month when we were talking about option two, we were going to add in the performance standards for the rooftop dining into option two. So that they would be in there because we will have an existing rooftop dining operation.

Chris Hersh: That's great. My question was also is it possible to initiate from the Council level the performance standards at Council so that public hearings in two weeks on that if the Mayor is on board and then that can move forward? No.

Will Moore: No.

Chris Hersh: I tried again.

Bud Jacobs: I'm not commenting. I take it the sense is then that we will vote to withdraw the request for option one under ZTA 26-02. Is that correct? Could I have a motion?

Kim Basinger: I would like to move that the Commission withdraw the request for consideration of ZTA 26-02. Option one.

Chris Hersh: Second.

Bud Jacobs: All those in favor, say aye, or do we need a roll call for this Rhonda? Please call the roll.

Rhonda North: Vice Chair Woodruff.

Don Woodruff: Yes.

Rhonda North: Commissioner Basinger.

Kim Basinger: Yes.

Rhonda North: Commissioner Hersh.

Carolyn Hersh: No.

Rhonda North: Commissioner McMahon.

Drew McMahon: Yes.

Rhonda North: Commissioner Rocconi.

Mike Ricconi: Yes.

Rhonda North: Council Member Hersh.

Chris Hersh: Yes.

Bud Jacobs: Could I get a motion, please, for initiating ZTA 26-02 Option two and advertise for a public hearing? Please.

Kim Basinger: I would like to move that the Commission initiate ZTA 26-02 Option two and advertise for public hearing.

Don Woodruff: Second.

Bud Jacobs: Rhonda, if you'd call the roll.

Rhonda North: Vice Chair Woodruff.

Don Woodruff: Yes.

Rhonda North: Commissioner Basinger.

Kim Basinger: Yes.

Rhonda North: Commissioner Hersh.

Carolyn Hersh: No.

Rhonda North: Commissioner McMahon.

Drew McMahon: Yes.

Rhonda North: Commissioner Rocconi.

Mike Ricconi: Yes.

Rhonda North: Council Member Hersh.

Chris Hersh: Yes.

Bud Jacobs: Behave. All right Will, what is the next motion we make in order to pursue option two?

Will Moore: You have done all you need to at this point. We will have this on for public hearing at your September meeting.

Bud Jacobs: All right. And we will go from there. You can continue to move forward on the standards piece of this, correct? I guess by move forward, I mean edit, add, change, subtract.

Will Moore: Yes, we will be editing those standards to mirror what was in option one for the rooftop. And so, we'll clean that up so that it's published in time for the hearing notice.

Bud Jacobs: I understand that HDRC either is doing or will be doing a fair amount of work on these questions with respect to their authorities. Is there a way short of attending HDRC meetings, that we could be kept apprised of what their thinking is and what kinds of requirements they're going to impose?

Will Moore: Sure. This is actually they have finished their work on that, and they have prepared a recommendation for Council that Council will be considering adopting as an amendment to the existing historic District design guidelines. At their meeting later this week.

Bud Jacobs: On Thursday.

Will Moore: On Thursday.

Bud Jacobs: Oh, good, excellent.

Will Moore: Yeah. So essentially what it says is that none of the elements of the rooftop dining area can be seen from a public way, which is what is in their purview. So, it's kind of like it's recognizing that they don't have any jurisdiction over the use. But they're saying, and it's, I equated it to this a similar way that they treat solar panels in the Historic District is they're like, if we can't see it, fine by us because it doesn't affect the aesthetics. So that's aesthetics being their world that's their position.

Bud Jacobs: Good.

Chris Hersh: Mr. Chair.

Bud Jacobs: Please.

Chris Hersh: I called up the agenda for the Thursday night meeting and the guidelines in terms of the dining area, they address tables and chairs, umbrellas, planters, fences, trash containers, lighting, and then specific rooftop dining may be permitted where the elements are not visible, as Will just said, pergolas, tents and umbrellas, sails or other similar coverings shall not be permitted. And awnings shall be evaluated based on the criteria that they have.

Bud Jacobs: Well, that's great. Thank you very much. Are we done with this discussion? As you said, Will, it is what it is. If we're done, I'd like to ask our Councilmember to provide his report.

Chris Hersh: In terms of the report, the main thing that we are involved in getting the Town Manager, the interim is still in place, some activity had moved forward. But we're back at it again on this coming Thursday, that's really the main highlight. So, it'll be short.

Bud Jacobs: You, as I understand, identified a candidate who then was no longer available. Is that what happened? Yeah. Fair enough. Any other discussion items? I have none.

Rhonda North: Mr. Chair.

Bud Jacobs: Please.

Rhonda North: Just like to remind the commission that the Virginia FOIA Council will be here next Monday to give training on the Virginia FOIA and in particular, any changes that have recently taken effect. So, if you're available, it'll be 6:00 here in the Council Chambers Monday on the 31st.

Bud Jacobs: I'm going to miss that. I don't know if Martin would be comfortable giving me a discussion later on, a briefing later on. You're going to miss it, too. Anyone else going to miss it? I guess it's not required, is it for us?

Rhonda North: It is not required for the Planning Commission. This is the year that the Council is required to have FOIA training.

Bud Jacobs: Well, you can tell us how it went. [laughter] Thank you, Rhonda. All right. Our next meeting is tentatively proposed for September 28th. Any problems with people making that date as far as we know now? Good. Okay. Will I guess we're good for September 28th? And with that, I adjourn us.