



**TOWN OF MIDDLEBURG
PLANNING COMMISSION
REGULAR MEETING MINUTES**



**MONDAY, JANUARY 25, 2021
PENDING APPROVAL**

PRESENT: Terence S. Cooke, Chair
Donald Woodruff, Vice Chair
Edward R. Fleischman, Member
Rachel Minchew, Member
H. H. "Dev" Roszel, Member
Mimi Dale Stein, Member
Morris "Bud" Jacobs, Councilmember

STAFF: William M. Moore, Deputy Town Manager/Town Planner
Rhonda S. North, MMC, Town Clerk
Estee LaClare, Planning & Project Associate

The Middleburg Planning Commission held their work session and regular meeting on Monday, January 25, 2021. Due to Governor Northam's executive order requiring that people social distance, the meeting was held remotely with most members of the Commission participating from their respective homes/offices.

Chair Cooke explained for the viewing audience that it was the Commission's responsibility to conduct essential public business despite the COVID-19 pandemic; however, it recognized the need to do so safely, not only for its members but also for the Town staff and members of the public. He further explained that to that end, in accordance with the Council's resolution declaring a local emergency and ordinance implementing emergency procedures and effectuating temporary changes to address the continuity of governmental operations, the Commission would hold its meetings via remote access until such time as the Governor rescinded his executive orders. Mr. Cooke advised the viewing audience that copies of the agendas were available on the Town's website and that the meetings would be livestreamed and recorded for viewing on the website. He explained that anyone wishing to participate in the meetings during the public comment periods or the public hearings, if applicable, could do so by dialing (540) 339-6355. Mr. Cooke reviewed the process that would be utilized for the remote meetings. He called the work session to order.

Town Clerk North called the roll at 6:36 p.m.

Discussion Item

Status of The Residences at Salamander construction plans

Deputy Town Manager Moore reminded the members that they received the agency review comments. He noted that the Streetscape Committee reviewed the planting plans, mainly the street trees that were proposed. Mr. Moore opined that the plans had advanced substantially since the first two iterations; although, he acknowledged there were still issues that needed to be resolved, most of which were utility related. He advised that the plans were close to being in an approvable format.

Councilmember Jacobs requested a paper version of the construction plans. He opined that the back-and-forth discussions between the Town and Salamander have been positive.

Deputy Town Manager Moore confirmed they had been. He noted that while Salamander's engineer had not yet absorbed all the comments, he had no objections based on a cursory review. In response to an inquiry from the Commission, Mr. Moore opined that Salamander had done a good job of attempting to address the previous review agency comments even if they were not totally successful. He noted that the Fire Marshall did not review the second iteration of the plans; therefore, this was essentially a new plan for him.

In response to an inquiry from the Commission, Deputy Town Manager Moore confirmed that Salamander must follow the Town's zoning ordinance, as well as any proffers associated with the project. He advised that there were no maximum building footprint requirements for any of the Town's residential districts; although, this was something that would be discussed later in the meeting. Mr. Moore explained that while the zoning ordinance allowed for large lots, with large building footprints, Salamander was limited to 2,500 square feet in the R-3 District and 3,500 square feet in the R-1 District as the maximum building footprint due to their zoning proffers.

The Commission suggested the medium density development would be more appropriate with a R-2 zoning designation, as opposed to the existing R-3 one.

Deputy Town Manager Moore confirmed this was a curious designation and noted the R-3 District had a smaller lot size requirement for single-family residential uses and allowed for two-family duplexes. He advised the Commission that under Salamander's zoning proffers, only single-family uses were allowed; therefore, the development would be similar to what would occur under the R-2 designation. In response to an inquiry from the Commission, he noted that when Salamander's property was brought into the R-3 District, the height limitations in the R-2 and R-3 Districts were both thirty-five feet; however, they were subsequently reduced to thirty feet in the R-2 District.

In response to an inquiry from the Commission, Deputy Town Manager Moore reported that the Board of Zoning Appeals (BZA) acted on variance requests. He confirmed there had been no variances heard for any of the infill development that had occurred in town. Mr. Moore reported that the infill development mostly conformed to the zoning ordinance; although, he opined that there were two instances in which it did not. He advised that in the first case, he believed the previous zoning administrator was mistaken in his interpretation of the zoning ordinance regarding corner lot requirements. Mr. Moore advised that in the other case, a legally non-conforming lot was redeveloped and remained non-conforming. He suggested there was an opportunity to tighten the zoning ordinance with regard to the rehabilitation of non-conforming properties.

In response to an inquiry from the Commission, Deputy Town Manager Moore reported that he met with representatives from Salamander last week to discuss some proffer amendments they would like to request. He explained that the first one involved the existing proffer that required all construction traffic to enter through Foxcroft Road and advised that Salamander was likely to request this be moved to Pendleton Street. Mr. Moore explained that the second proffer amendment would require pedestrian facilities only on one side of the street, as opposed to both sides. He noted that this was the one where he had the biggest objection and reminded the Commission that the Comprehensive Plan encouraged pedestrian access be established throughout the town. Mr. Moore advised that they may also request an amendment to remove the requirement to extend Reed Street due to the tight right-of-way and the high cost to relocate the existing utilities, which would require the acquisition of easements across the rear of the private properties in this area. He opined that Salamander may propose the Reed Street extension only be used for pedestrian access purposes. Mr. Moore suggested the Commission could expect a proffer amendment application to be forthcoming.

The Commission expressed concern that eliminating the extension of Reed Street could result in increased traffic volumes elsewhere. They questioned the impact of moving the construction traffic and which routes would result in the least impact. The Commission inquired as to the affects of the construction traffic when the Salamander Resort was built.

Deputy Town Manager Moore opined that changing the construction traffic to Pendleton Street would likely have little impact on the traffic in the core downtown area and advised that it would be somewhat disruptive at either location. He suggested there may be an argument for not having construction traffic going past the charter school.

Town Clerk North advised that when the resort was constructed, the use of Foxcroft Road by construction traffic appeared to go smoothly. She noted that issues only occurred when large construction vehicles entered/exited the site. Ms. North advised that the contractor was very good about letting the Town know of these in advance so the public parking spaces could be blocked off to provide extra room for the vehicles making the turns onto Foxcroft Road. It was noted that the Police Department also assisted with traffic control when needed and suggested this continue during the residential construction.

In response to an inquiry from the Commission, Deputy Town Manager Moore advised that applications for variances to the zoning ordinance would go to the BZA. He reiterated that none had been heard within the past twelve years. Mr. Moore opined that this was because zoning administrators were careful in making frivolous determinations that could be appealed and because the bar to demonstrate a hardship to qualify for a variance was high. He advised that there were a number of items in the zoning ordinance from which an applicant could seek relief through a special use permit. Mr. Moore reminded the Commission that Commissioner Roszel also served on the BZA.

In response to an inquiry from the Commission, Deputy Town Manager Moore noted that some of VDOT's review comments were new, which was why Salamander had not yet responded to them.

Chair Cooke adjourned the work session and called the regular meeting to order. Town Clerk North called the roll at 7:21 p.m.

Nomination and Election of Officers – 2021

Councilmember Jacobs moved, seconded by Commissioner Stein, to nominate Terry Cooke to continue in the role of Chair for another term.

Vote: Yes – Commissioners Fleischman, Minchew, Roszel, Stein and Woodruff and Councilmember Jacobs

No – N/A

Abstain – N/A

Absent – N/A

(Chair Cooke only votes in the case of a tie.) (by roll call vote)

Commissioner Roszel moved, seconded by Councilmember Jacobs, to nominate Don Woodruff to continue as Vice Chair.

Vote: Yes – Commissioners Fleischman, Minchew, Roszel, Stein and Woodruff and Councilmember Jacobs

No – N/A

Abstain – N/A

Absent – N/A

(Chair Cooke only votes in the case of a tie.) (by roll call vote)

Disclosure of Meetings with Applicants

The members reported that they had no meetings with applicants.

Approval of Meeting Minutes

Vice Chair Woodruff moved, seconded by Commissioner Fleischman, that the minutes of the last meeting be approved as presented.

Vote: Yes – Commissioners Fleischman, Minchew, Roszel, Stein and Woodruff and Councilmember Jacobs

No – N/A

Abstain – N/A

Absent – N/A

(Chair Cooke only votes in the case of a tie.) (by roll call vote)

Council Representative Report

Councilmember Jacobs noted the land swap under consideration by the Loudoun County Board of Supervisors related to property that was proposed for development in St. Louis for property the County owned in Aldie. He advised that he was pleased with the range of issues the Board covered in their recent discussion of this item and opined that they were very serious in their handling of possible repercussions. Mr. Jacobs reported that Supervisor Buffington, who was initially supportive of the swap, changed his mind after hearing from his constituents. He advised that the Council sent the County a letter asking the Board to sever their discussions with the developer and to either purchase the St. Louis property or acquire it through eminent domain. Mr. Jacobs noted that another resident submitted an offer to purchase the Aldie property, which the County Board would soon discuss.

Councilmember Jacobs reported that the Town received four responses to the Request For Proposals (RFP) related to the Asbury Church. He further reported that it was negotiating with one of the offerors. Mr. Jacobs opined that the Commission may be involved in this transaction in the future and inquired as to the property's zoning.

Deputy Town Manager Moore reported it was zoned R-2 Residential; however, the RFP recognized the zoning limitations and indicated the Council was willing to entertain a rezoning or modifying the zoning requirements associated with the property, depending on the nature of the proposals received. He advised that if the negotiations with the offeror were successful, he anticipated a rezoning application would be presented to the Commission.

Councilmember Jacobs reported that the Police Department was vigorously enforcing the new hands-free driving law. He noted that the Council would receive a mid-year financial report during its next meeting.

In response to an inquiry from the Commission regarding the Asbury Church bell, Deputy Town Manager Moore advised that while there was no indication the offeror expected the bell to convey with the church, this was something that needed to be addressed. Councilmember Jacobs opined that the sentiment was that the bell belonged in the Middleburg Museum.

Discussion Items

Request to Allow Animal Hospital as Special Exception Use in C-2 District – Dr. Margaret Fortier

Deputy Town Manager Moore noted that the applicant was unable to attend the meeting; therefore, detailed discussion of this item would be delayed. He reminded the members that the zoning ordinance allowed for animal hospitals in the C-3 Commercial and AC Agricultural Districts under a special use permit and noted that there were no by-right uses for animal hospitals. Mr. Moore reported that Dr. Fortier was interested in property at 11 South Madison Street, located in the C-2 Commercial District, which she planned to use for both retail and animal hospital uses. He noted that she would appear next month to present her case and to ask whether the Commission was willing to initiate a zoning text amendment to allow animal hospitals as a special exception use in the C-2 District.

The Commission noted that the upper floor of the building was currently used for residential purposes. They questioned whether sound abatement could be required to protect the residents.

Deputy Town Manager Moore noted that Dr. Fortier planned to purchase the building; however, he was unsure whether she would continue to have residences on the upper floor. He noted that if she did, she would have to deal with the noise issues with her tenants.

The Commission expressed concern that the applicant would not be able to meet the off-street parking requirements.

Deputy Town Manager Moore noted that the property contained some off-street parking in the rear. He reported that Dr. Fortier discussed requiring her patients to enter through the rear; however, those details needed to be worked out. It was noted that this property was also located adjacent to the Town's public parking lot.

Potential Amendments to R-2 Zoning District Ordinance

Deputy Town Manager Moore reminded the Commission that the Council had expressed a desire that they advance any zoning text and subdivision ordinance amendments that were necessary to implement the Comprehensive Plan, which the Commission initiated last month. He noted that the staff was in the process of analyzing and identifying opportunities to amend or add to the ordinances. Mr. Moore reported that during its January 14th meeting, the Council directed that the Planning Commission bring amendments to them related to infill/redevelopment in the Ridgeview area as they related to scale and the removal and building of new structures sooner rather than later. He noted that they asked the Commission to segregate and prioritize this request. Mr. Moore advised that he had no amendments to propose at this time; however, he would like to bring some next month related to setback, yard, height, and lot size, including maximum lot size, requirements.

Deputy Town Manager Moore reminded the Commission that there were currently no maximum lot size requirements, which allowed for massive homes on large lots. He cited the example of the house that was under construction at the intersection of Martin/Walnut Streets after the property owner combined two smaller lots. Mr. Moore noted that a maximum lot size requirement would prevent that from occurring in the future. He reminded the Commission that most of the lots in the Ridgeview area were non-conforming. Mr. Moore advised that the goal was to assure the ordinances allowed for new homes that maintained the scale and character of the neighborhood.

The Commission held some discussion of the request and noted that this was the third time it had been raised. They acknowledged the concerns; however, they suggested the need to proceed with caution. The members noted that the zoning ordinance for the R-2 District already contained a lot of restrictions. They agreed it would be good to consider regulations regarding the combination of lots. The Commission noted the two houses that were planned for construction on Blue Ridge Avenue and questioned whether the Town Code allowed for a shared driveway.

Deputy Town Manager Moore confirmed this was permissible. He noted that the properties must still meet the parking requirements. Mr. Moore opined that while they would not exactly be like the ones constructed on Reed Street, the proposed homes would be similar in terms of height, footprint, and massing. He further opined that they would be constructed to the maximum requirements.

Commissioner Fleischman advised that he lived in Ridgeview and expressed a preference for the different styles of homes. He opined, however, that some of them were obsolete and sub-standard. Mr. Fleischman noted that it was costly to bring a small home up to code. He suggested the Town not adopt ordinances that would stop renovations.

The Commission noted the need to bear in mind that the topography in this area varied. They acknowledged that a thirty-foot home that was constructed next to a twenty-foot tall one would look massive. The Commission noted that attached garages were an issue and suggested there were ways to reduce the massing and scale of a building. The members acknowledged that there were many things to consider; however, they advised that they did not want to let concerns about one property influence what was decided for an entire zoning district. The Commission noted the need to be deliberate; otherwise, the result could be homes that looked like cookie-cutter style houses that did not serve the town well. They opined that any limits must be well reasoned. The Commission asked that, as a starting point, the Deputy Town Manager identify a list of items that could be addressed for their discussion. They also asked that examples be provided for each of the items.

Deputy Town Manager Moore advised the Commission that he and Councilmember Jacobs would communicate to the Council that they would prioritize this item; however, they wanted to study it carefully.

Quorum of February Meeting

The members reported that they would be present during the February 22nd meeting.

There being no further business, Chair Cooke adjourned the meeting at 8:10 p.m.

RESPECTFULLY SUBMITTED:

Rhonda S. North, MMC, Town Clerk

Middleburg Planning Commission Transcript
January 25, 2021

(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: Everyone on board now.

Terry Cooke: We'll now call to order the Planning Commission Work Session for today, January 25, 2021. Thank you all for making the effort to be with us this evening. It is the planning commission's responsibility to conduct essential public business despite the COVID-19 pandemic. However, it recognizes the need to do so safely for not only its membership, but also for the town staff and members of the public. To that end, in accordance with the resolution confirming the declaration of a local emergency and the ordinance to implement emergency procedures and effective temporary changes to address continuity of governmental operations during COVID-19 as adopted by the Middleburg Town Council, the Planning Commission will hold its meetings via a hybrid system of in-person for those commissioners who feel safe doing so and remote access participation for the public and those commissioners who prefer remote access until such time as the governor rescinds his emergency order mandating social distancing. To ensure adequate social distancing, a maximum of 10 individuals will be allowed in the council chambers at any given time. Copies of the previously referenced documents are available on the town's website. For those who wish to view them, the town will continue to live stream and record its public meetings, which are available for viewing along with the meeting agenda packet on our website at www.middleburgva.gov. Members of the public who wish to participate in the Planning Commission meeting during the public comment period and or public hearings if applicable, and or applicants who are speaking on behalf of their application may do so by dialing 540-339-6355. You will be placed on mute until such time as the public comment or public hearing is open or your application is heard. I will ask each member by name if they have any comments or questions related to each item as we proceed. When anyone speaks, he or she is asked to first state his or her name for the benefit of the viewing audience. All votes of the planning commission will be taken by roll call, the town clerk will announce the member's name with the individual then saying how they are voting. Rhonda, I guess we're at the point where we do our roll call.

Rhonda North: Yes, sir. Chair Cook.

Terry Cooke: Present.

Rhonda North: Vice Chair Woodruff.

Don Woodruff: Present.

Rhonda North: Commissioner Fleischman.

Ed Fleischman: Present.

Rhonda North: Commissioner Minchew.

Rachel Minchew: Present.

Rhonda North: Commissioner Roszel.

Dev Roszel: Present.

Rhonda North: Commissioner Stein.

Mimi Stein: Here.

Rhonda North: Council Member Jacobs.

Bud Jacobs: Present.

Terry Cooke: Thank you all. We have an item for discussion on the work session agenda this evening. It involves the status of The Residences at Salamander Construction plans, consolidated review comments and full plans that were provided separately on USB drive. Will, would you like to introduce a discussion on this one?

Will Moore: Certainly, Mr. Chairman. And thank you. Happy New Year to everyone.

Terry Cooke: Feels a lot like 2020 though.[Multiple Speakers]

Will Moore: Right. It does. It does. So I think I alerted you at the December meeting that we had been in receipt of the latest round of construction plans. We attempted to deliver the full plan set to you via the hyperlink in your agenda packet last month. And there was some difficulty with that. I think it's a very large file size. So what we did is Estee put those plans along with now the different agency review comments. Those came in last week, essentially. So as we were leading up to the distribution of the materials. So we put those on a USB drive and had those dropped off for you. So hopefully that would work a little better. Mr. Fleischman actually received a paper copy as well, so we delivered those to him earlier. Have a couple more paper copies if anybody is interested. I have wanted my home as well. So it's interesting material sometimes if you're feeling a little kind of like an insomniac. So I dug into it late at night a couple of times. [laughter] But I think the main thing that we wanted to bring up here is that we have received those agency review comments. And in particular, those are our consulting engineer. It is the Fire Marshal's Office from Loudoun County. It is the Department of Transportation. And then additionally, there were some staff comments. We did present the plans to our Streetscape Committee. So they generally are reviewing the landscaping plans. In particular with this application it's mostly street trees. There are some other plantings around our water treatment plant, that is on Stonewall Avenue. So buffering around that which is required between residential and nonresidential uses, essentially, but mainly it's street trees. So they reviewed that and offered some comments as well. Without delving into any of the specific comments at this moment, I would just say that the plans have advanced substantially from the first review, which was back in 2015, the second review, which was submitted early last year. So with this iteration of plan review, the plans have advanced substantially. There are still some issues that need to be worked out, clearly some utility related things in particular that need to be worked out. But they're getting close to being in an approvable format. I just wanted to open it up to the commission. If anyone saw any comments that you wanted to delve into further, maybe ask questions of if I'm not able to answer now, I can certainly research and get back with you. Any of those of you who have actually maybe been looking at the plan sets themselves and might have your own comments to add, I'd be happy to make note of those and then pass them on to the engineer as well. But it's a lot to absorb. But we have the appropriate professionals in all the different agencies doing these reviews. And again, I'm happy with the progress that's been made, but there's still some work to do.

Bud Jacobs: [Off mic]

Will Moore: Yes sir.

Bud Jacobs: [Off mic] Commissioners [Off mic] I don't have any questions or comments on the technical issues. I want to thank you, Mr. Moore, for providing those documents. And of course, I would really like to have a set of paper copies to put on my nightstand right next to the comprehensive plan, where I will store it. [laughter] [Off mic] I was going through the documents. I gained the impression, I guess, is how I would put it, that the tenor or the tone of the back and forth between the various authorities, including the town and Salamander's people, has basically, at least with this iteration, been fairly positive. Is that a fair characterization?

Will Moore: Yeah, absolutely. Absolutely. And the the engineers on their end have not yet had a chance to absorb all of the comments that are included here and were just issued. But I received a note back within 24 hours that they had done at least a cursory glance through and saw nothing that they would object to and thought that everything could be addressed. But they have to drill down a little further into that yet.

Bud Jacobs: The only other [inaudible] remark I would make is to commend the Streetscape Committee, particularly for the obvious diligence that they applied to the task. It was far more than I would have expected. And the fact that they're all volunteers, I think speaks well of the town and the way that it engages on some of these issues.

Will Moore: Yes, and I will certainly pass that on to the committee. That committee is comprised of some extremely knowledgeable folks when it comes to the landscaping, and landscape architecture.

Bud Jacobs: Well that comes through. That's all I have Mr. Chair.

Terry Cooke: Thank you Bud. Any other commissioners, have any thoughts or comments at this time?

Don Woodruff: Yes, Mr. Chair.

Terry Cooke: All right Don. Go ahead, please.

Don Woodruff: Thank you. As I went through that compendious document of the review, I was struck by the number of technical considerations that had not been addressed at that point. My question to Will would be, excuse me, Mr. Moore would be how many of these pages of VDOT and fire marshal concerns have already been addressed and when will the remainder be addressed?

Will Moore: So, good question. I will have to spend a little more time delving into that as well. I think they have done a very good job of at least attempting to address all comments that were previously issued, whether they were addressed fully or successfully or not. So I don't want to give anyone the impression that they are simply glossing over comments that have been issued and not attempting to address them. I will tell you that the the fire marshal did not review the previous which was the second iteration of the plan. So the comments that are issued from the fire marshal are issued essentially new. They looked at it five years ago, but it's essentially a new plan to them at this point.

Don Woodruff: Thank you Will. That makes very clear a lot of those issues that I had in reading over the review. I hope that before we have to go any further on this, you will have a clearer idea from them as to what has been done and what remains to be done in order to meet standards for this building project.

Will Moore: Absolutely, yes, sir.

Don Woodruff: Thank you.

Terry Cooke: Commissioner Fleischman [Off mic] recognized.

Ed Fleischman: Yeah, thank you, Mr. Chairman. I reviewed the hard copy of the documents and I thought they were pretty complete. They were comments, of course, and I think that's 135 sheets, you're going to have comments by various technical people and they're going to be addressed and I'm sure they'll move ahead. I guess I had a couple of questions not really related to the documents that were presented, but more or less regarding zoning and the actual buildings that might be put on these locations. And maybe it's more of a history of what's gone on. But I believe that the larger houses are in the R3 zone.

Will Moore: R1.

Ed Fleischman: Or R1. And then the medium sized houses are in R2.

Will Moore: Three, R3.

Ed Fleischman: Or three. Yeah, so we're missing the R2.

Will Moore: We are.

Ed Fleischman: I saw that. I didn't quite understand that. I saw something where I missed that but more of the question is, I reviewed the zoning ordinance that we have for the town of Middleburg and there are all sorts of requirements. And this isn't regarding the site plan, it's regarding the actual construction plans for the buildings. So does the Salamander Group and these houses have to follow everything in the zoning ordinance? In the history did the town grant them any exemptions from it or is the zoning ordinance to be followed?

Will Moore: Very good question and thank you for asking that. This was actually a point of confusion with some of the representatives of Salamander earlier on. But the short answer is yes, they must comply with the requirements in the zoning ordinance in all cases. In some cases, they may be further limited or further restricted in the nature of the development based on proffers that are included. So to that end, one of the things we might discuss later on in our agenda regarding a different zoning district R2 is that there is, and it applies to all of the residential districts. There is no maximum footprint that is dictated in any of our residential districts. There is a maximum lot coverage requirement which applies to all areas under roof. And depending on what district you are in, the percentage of lot that you can cover may vary a little bit, but these districts have no maximum lot sizes. So you could theoretically have an extremely large lot and an extremely large footprint, regardless of the zoning district that you were in, as long as you complied with that maximum lot coverage requirement. In this particular case with Salamander, when this land was brought into the town and was rezoned to these different classifications, there were proffers included that put a maximum footprint for any principal structure. So that's the main house. It would not include any detached structures, but of 2500 square feet and the smaller of the lots, which are the R3 district and a maximum footprint of 3500 square feet in the larger lots the R1. So, again, those are requirements that are above and beyond what is in the zoning ordinance for those districts. But in all cases, they still have to comply with the requirements in the zoning ordinance.

Ed Fleischman: So, Will, about this R1 or R2 or R3. So Ridgeview is zoned R2 and I looked at the site plans for the area of the medium density housing and it looked like it would be an R2 Zone rather than R3. R2 would have a maximum height of 30 feet, but if it went to the R3, am I going in the right direction? Then it would be 35 feet. So when did we zone it R2 rather than or when did we zone it R3 rather than a medium density?

Will Moore: Right, so this was in 2007 when the land came into the town via a boundary line adjustment. Any land that comes into town via that process is automatically zoned our Agricultural Conservancy District, and then it has to go through a rezoning process if you want to do something different on that land. And the process that was gone through at that time designated the R1 and the R3 zones. I agree with you, it's an extremely curious designation for those lots to call them R3 generally R3, has a smaller lot

size requirement for single family residential use, and it even opens up into the possibility of two-family use duplex. Now, in this case, only single-family use is permitted because that is what is proffered on those lots. So it's a very curious designation. I would not have encouraged it at that time. I would have encouraged them to seek the R2 zone. In the end, the way the proffers are structured, it still has to be single family use. They are larger lots than you would typically see in an R3 zone. Again, it was a curious decision, but in the end, it will be more probably similar to a development you would see in our R2 Zone and R3 Zone otherwise.

Ed Fleischman: The interesting thing about it, by having it as R3 it allows them to get higher than the R2 Zone.

Will Moore: It does, yes so.

Ed Fleischman: [inaudible] did that on purpose?

Will Moore: I don't. So at the time that it was brought in, I can tell you for sure they didn't. At the time that it was brought into the town the R2 Zone also had the 35-foot requirement, maximum requirement. That was amended, well subsequent to them coming in somewhere around the 2012 or 13, I believe time frame was when that amendment took place. And it took what was then a 35-foot maximum height and lowered it to a 30-foot maximum height in R2.

Ed Fleischman: Mr. Chairman, if I might expand my discussion a little bit.

Terry Cooke: Please.

Ed Fleischman: There's been some discussion, I noticed in the city council minutes about the zoning in R2 in Ridgeview and that may be something that you mentioned that we would consider as a planning group. And I wanted to find out what the recent history of the zoning is as far as variances from the zoning and who grants those and have the houses, you know, there's been a number of newer houses in the last five years, 10 years that have been built in Ridgeview. Are they all within the zoning ordinance? Did some of the builders ask for variances and who would grant the variance and have variances been granted?

Will Moore: Very good questions as well. So in short, variances have neither been requested nor granted for any of that development. If a variance were to be requested, we have a board of zoning appeals that would hear the variance requests.

Ed Fleischman: That's a town group?

Will Moore: Correct. All of the infill development that has happened is mostly in conformance with our zoning ordinance. I say that because of two particular instances, one in which there was an infill home developed prior to my coming here. It was one of the the first in the series again it was prior to my coming here. In my review of that, the home should not have been permitted to have been constructed in the manner in which it was. And to that end, I believe that there was a mistake made in interpreting lot requirements. It was a corner lot. So when you have a corner lot, one corner is treated as your front yard. One is treated as a side yard adjacent to a street. And I believe there was a mistake made in interpretation that allowed the home to be constructed with a larger footprint than it otherwise should have been.

Ed Fleischman: So which home was this, so I could take a look at it?

Will Moore: I don't know the address off of the top of my head. It is on Stonewall Avenue in front on Stonewall Avenue and it's at the southeast corner of Stonewall and Walnut. [Multiple Speakers] So that's

a home that was constructed. I believe my interpretation is that it was mistakenly permitted. Another [multiple speakers].

Ed Fleischman: Well, I mean, sometimes something can be off by six inches. And, you know, it doesn't really matter in the big scheme of things. Is it significantly off?

Will Moore: It was significantly off. In another case and it's one that, Mr. Fleischman, you, and I have discussed in commission meetings was the what essentially became a tear down and rebuild, although it only went down to the foundation, the home at the corner of Stonewall and Reed. So that was a different situation. It was a legally nonconforming structure. It remains that way. It was properly permitted. It does expose that we might have an opportunity to tighten up our ordinance requirements as it comes to the ability to rehabilitate nonconforming properties. And that's something we'll talk about at a later time. But so the roundabout answer is most everything has been constructed in conformance with the zoning ordinance or are nonconforming provisions that are within it.

Ed Fleischman: Okay, thanks very much.

Will Moore: Yes sir.

Terry Cooke: Any other commissioners have anything they'd like to share or discuss regarding this discussion item [Off mic] The Residents at Salamander's construction plans?

Bud Jacobs: I have in connection with round three here, has Salamander come in with any proffer amendments that they'd like to see? Bud.

Will Moore: Very good question. I had a meeting just this past Friday with representatives of Salamander, South Street Partners, who is their development partner, and their civil engineer was in on those discussions as well. It is likely in the coming months that you will see a request filed for a proffer amendment by Salamander. They're looking at a couple of different items. One is related to an existing proffer requirement that all construction traffic would have to enter the property from Foxcroft Road, which is the service entrance of Foxcroft, but then takes you directly past the front door of the resort. And then you would have to come down North Pendleton to access the property. They are likely going to request reconsideration of that. And what they will likely request is that Pendleton Street would be made available for construction traffic. They will not request, according to them, that any of the possible street extensions of Reed Street or Chestnut Street or any other areas that would affect the residential development west of Pendleton. They will not request any access of construction traffic on those areas. So that's something you'll likely see coming forward. A second request that they are debating is whether to request a revision to the proffered plan that currently would require pedestrian facilities to be located on both sides of all streets within the residential development. They would prefer to only provide sidewalk on one side of the street. That's probably from a staff perspective my biggest objection possibly to what I've heard to this point. I think pedestrian accommodation is extremely important. It's something that we're pushing for. We're pushing for it in the Comp Plan. The argument is that if they did it on both sides of the street, it wouldn't really match what is present throughout the remainder of town, particularly in our residential areas. My argument back would be that we would like to see that remedied in some of those other areas. So and that new development, we would expect to see pedestrian facilities fully accommodated. But they have their other reasons for requesting that. So you may see that requested of you for your consideration. And then finally, one that is of interest. And I've talked a good bit about this with the town manager as well is they may request to remove the street extension of Reed Street, north of Stonewall, that connects in kind of bisects the southern side of the the R3 development. It is a tight right of way to work in. There are some existing utilities that would be very cumbersome to relocate, very expensive to relocate, but more so than just the expense. If this very large utility pole was to come down, all of these utilities would have to be relocated and it might require acquisition of easements to put those across some private properties that flank that right of way extension. What they are considering is

bringing back a proposal that, despite what we just talked about, about pedestrian facilities, they would propose potentially a pedestrian only connection at that location. So utilizing that right of way but making it a pedestrian only doing some enhanced landscaping, having less effect on the residential properties on either side of that right of way, the existing residential properties on Stonewall Avenue. So it's a lot to consider just glancing back at the traffic studies that were done previously, it was projected to be a very low volume connection. If there was a connection to go away, that would be the one to go away, I think. But it's something that we'll certainly have to consider if they do apply for that. But we do anticipate that those three things, construction traffic entrance, pedestrian facilities on only one side. And replacing the Reed Street, Street extension with a pedestrian only connection will be forthcoming sometime soon.

Terry Cooke: Commissioner Fleischman.

Ed Fleischman: Let me just give you an early opinion, I know you didn't ask for any opinions on that.

Will Moore: I love opinions at this point.

Ed Fleischman: I think if they close off one access point on Reed, they force people on Chestnut. That means that Chestnut Street will have double the traffic that was proposed originally. And I think that's problematic. I think also that you have to look at where that traffic goes. It's a shortcut into the hotel and when they have conventions, the film festival, and other things, it's not going to be the small amount of traffic that you would see in the dead of winter here. So I think that there are a number of things that should be considered before we make any quick decisions. And I'm sure you are saying that, too, so I agree with you.

Will Moore: Yes, sir, and just for those who have not been through a proffer amendment process, it is exactly the same as a rezoning process. It essentially is a rezoning. So they have to file an application. You have to consider it. You have to schedule a public hearing, hold that hearing, forward a recommendation to the council, and then the council has to turn around and repeat that procedure with their own public hearing and then their own action finally on any proposed amendment. So it is intentionally structured that way in the state code to ensure that it is a deliberative process and not one that can be rushed through quickly so.

Don Woodruff: Don, here. Thank you, Ed. I agree with you 100 percent on your evaluation. But my question goes back to construction access. If they are going to use the Foxcroft Road for their construction access, what impact is that going to have on the internal traffic of the town? And is that the safest and best way in which to accomplish this? Thank you.

Will Moore: Yes. So I mean that. Thank you, Mr. Woodruff. That is something we would have to delve into quickly. I'm wondering if you meant to say if they were to use the Pendleton Street entrance rather than, you said, the Foxcroft Road entrance.

Don Woodruff: Well, my concern is, which in your mind is going to cause the least impact on the town and the traffic that it normally goes through those particular areas?

Will Moore: Right.

Don Woodruff: You know much more about that than I do. But that is certainly a consideration as we look at what traffic is going to be coming through the town during the course of the construction.

Will Moore: Yeah, absolutely. So in my view, the majority of any construction traffic that is coming to the site is going to be arriving via Route 50, either from companies that are based to the west or based to the east. And they're going to come into town. And it's a question of whether they turn on to North Madison Street to head out Foxcroft Road or they go one block shorter or one block longer, depending on

where they're coming from and use the Pendleton Street access. So changing that would likely have little effect one way or the other on traffic internal to our core downtown. It will be somewhat disruptive either way. So, yeah, but again, it's a very good question. An argument could be made that it would be better to not have that construction traffic going right past the charter school, depending on what the situation is with in-person attendance at that time, time of day. So it might actually be preferable that it uses Pendleton Street from that standpoint. All things that we'll have to consider if and when that request comes forward. I can certainly pass that onto the folks, though, just so they know that, that is something that they would want to address with you if they do make that request.

Don Woodruff: Yes, it's obvious that's going to have a great impact on the traffic in the town, no matter which intersection it's used. But I think what I would add is that the town look at it carefully and as much as Commissioner Fleischman has said, take the route that would provide the least excuse me, impact on what happens in Middleburg.

Will Moore: Yes, sir. Understood.

Don Woodruff: Thank you.

Terry Cooke: Well, this is a [Off mic] I was not here when the Salamander Resort itself was constructed. Were you at that time?

Will Moore: I was not, no sir.

Terry Cooke: The question was going to be, what was your observation of the impact of construction [Off mic] town [Off mic] going on. [off mic] one or two structures. It's a big building.

Will Moore: I might add. Rhonda was here during this portion of that time. Maybe she could go weigh in.

Rhonda North: I think for the most part, it did go smoothly. There were a few times when there were some larger pieces of equipment that came through that maybe caused a few issues. But Salamander was during that time, very good at letting us know what was coming through and when. And there were a lot of times when we would have to block off the parking spaces just to make sure the larger vehicles were accommodated. But by and large, it did seem to go pretty smoothly.

Terry Cooke: It's interesting.

Don Woodruff: Having been present during the entire process of the Salamander Resort being constructed, I agree with Rhonda 100 percent. And what seemed to me was provided was personnel were present at whichever entrance it was going to be to make sure that it alleviated any traffic concerns by citizens or anyone else coming through town. And that's what I would like to see when this occurs. The least impact that Will and his team feel can be expected and anticipated for whatever they need to do. Thank you.

Terry Cooke: Will, Chairman Cooke again. I just want to, I may have misheard or [Off mic] misunderstood a comment you made when you were answering one of Ed's questions about the variance procedure. And I thought I heard you say that that would begin with an application to the Board of Zoning Appeals. Is that correct? Doesn't it coming to the Planning Commission first and then depending on what the PC decides, [Off mic] taken [Off mic] Board of Zoning Appeals.

Will Moore: It does not. It does not. So variance requests are filed directly with the Board of Zoning Appeals. [Off mic] Correct? We have not had a variance request, both filed and heard in, I believe, about 12 years. We've had one filed one during my tenure here, and it was subsequently withdrawn prior to it

having been heard. A few reasons for that is zoning administrators are much more careful than they used to be, including my predecessor, about making kind of frivolous determinations that would be subject to appeals of determinations. In terms of variances, State requirements have evolved over the last 15 to 20 years that have raised the bar extremely high on being able to demonstrate a hardship that would qualify for a variance. It used to be you could just come in and say, I know the building heights 30 foot, but I'd really like to have this feature on it. And that makes it go to 33 feet and you could get a variance. Well you can't do that. There are some very strict requirements. So you see less variances requested because of that change and you see less variances because we have a number of things within our zoning ordinance that allow for not really a waiver or exception, but a standard to potentially be relieved by a special use permit application. So if I think fence height is one that, you know, we have some very specific requirements for maximum height of fences and it depends on what yard it's in, are you located adjacent to a commercial use or residential use. But there's kind of an overarching you can apply for a special use permit, which has to go through that hearing process with the commission and council to potentially be allowed to build a larger or a higher fence. So it's similar to a variance, but it's different. It's saying we're willing to our ordinance says we're willing to reconsider on a case-by-case basis, your fence height. So because of that, you don't get the variance requests for higher fences that you see in maybe other jurisdictions, for example.

Terry Cooke: Yeah, I recall for a year I had the great honor of chairing the Board of Zoning Appeals.

Will Moore: You did.

Terry Cooke: And it was it was very quiet. [laughter]

Will Moore: It was. For those who don't know, our own commissioner, Dev Roszel is a member of the Board of Zoning Appeals. You're allowed to have one person who is both on the Planning Commission and Board of Zoning Appeals. That used to be Chairman Cooke, but when Dev was reappointed to Planning Commission, one of them had to step away. So Eric Combs, actually our former Planning Commission chair from a few years back took Chairman Cooke's place on the Board of Zoning Appeals.

Terry Cooke: One other question, I'd like to [Off mic] as I look at the comments, 10 pages of comments, I noticed that on page I think its page 8. There are comments with no responses, and I no disposition is that should come later, or have they been addressed somewhere else?

Will Moore: All these are the Department of Transportation comments, is that correct?

Terry Cooke: I'm looking at the chart.

Will Moore: Yes.

Terry Cooke: It's page 8 or 10 and 9 and 10 as well.

Will Moore: Yes. So these are and if you look at the previous page, page 7 of 10, it's not structured so well but at the very bottom you'll see a header, new comments dated 1-14-21. So those comments that appear without a response date or a final disposition those would be filled in later. Those comments beginning on page eight are newly issued comments that had not been previously issued and thus not address earlier.

Terry Cooke: Okay thank you. [Off mic] Any other commissioners [multiple speakers].

Don Woodruff: That's the same question I had originally.

Will Moore: Understood. [multiple speakers] Okay.

Terry Cooke: Any other commissioners want to join in on any discussion regarding the Salamander Plan?

Mimi Stein: No.

Terry Cooke: Go ahead. [multiple speakers] Who was that?

Mimi Stein: No, that's okay.

Rhonda North: That was Mimi who said no.

Terry Cooke: Bud, did you?

Bud Jacobs: No [Off mic]. No, thank you.

Terry Cooke: All right, I think that concludes our work session for this evening. [Off mic] And we will move into the regular meeting. And Rhonda, will you please, again, call the roll?

Rhonda North: Yes, sir. Chair Cooke.

Terry Cooke: Present.

Rhonda North: Vice Chair Woodruff.

Don Woodruff: Present.

Rhonda North: Commissioner Fleischman.

Ed Fleischman: Present.

Rhonda North: Commissioner Minchew.

Rachel Minchew: Present.

Rhonda North: Commissioner Roszel.

Dev Roszel: Present.

Rhonda North: Commissioner Stein.

Mimi Stein: I'm still here. It's too exciting not to be. [laughter]

Rhonda North: Council Member Jacobs.

Bud Jacobs: Present. [laughter] [Multiple speakers]

Don Woodruff: We can only hope.

Terry Cooke: Again, thank you all. First item for the regular meeting is of all things, nomination, and election of officers for 2021. So we shall be entertaining nominations and election for chairman and vice chairperson. Anyone have any nominations for chairman or chairperson, I should say? Bud.

Bud Jacobs: On behalf of my constituents in Steeplechase [inaudible], I would nominate you, esteemed Mr. Chairman, to continue in the role for another term.

Mimi Stein: Yeah, I would second that. [multiple speakers]

Terry Cooke: I really believe in sharing. [laughter]

Will Moore: Okay we have a nomination by Mr. Jacobs, a second by Commissioner Stein. Are there any further nominations for chairman? Hearing none, if the town clerk would call the roll on Mr. Cooke's nomination, please?

Rhonda North: Vice Chair Woodruff.

Don Woodruff: Yes.

Rhonda North: Commissioner Fleischman.

Ed Fleischman: I vote yes.

Rhonda North: Commissioner Minchew.

Mimi Stein: Yes.

Rhonda North: Commissioner Roszel.

Dev Roszel: Yes.

Rhonda North: Commissioner Stein.

Mimi Stein: Yes.

Rhonda North: Council Member Jacobs.

Bud Jacobs: Yes.

Will Moore: Congratulations, Mr. Chair.

Terry Cooke: Thank you all. I think. [laughter]. [Multiple Speakers] Any nominations? [Off mic]

Dev Roszel: This is Commissioner Roszel, I would nominate Don Woodruff to continue as Vice Chair.

Bud Jacobs: Second.

Terry Cooke: Any other nominations for Vice Chair? Hearing none Rhonda please call the roll.

Rhonda North: Vice Chair Woodruff.

Terry Cooke: Votes for himself?

Rhonda North: He can.

Don Woodruff: Yes.

Rhonda North: Commissioner Fleischman.

Ed Fleischman: Yes.

Rhonda North: Commissioner Minchew.

Rachel Minchew: Yes.

Rhonda North: Commissioner Roszel.

Dev Roszel: Yes.

Rhonda North: Commissioner Stein.

Mimi Stein: Yes.

Rhonda North: Council Member Jacobs.

Bud Jacobs: Yes.

Terry Cooke: Thank you all. [multiple speakers] Don you have my sympathy. [applause]

Don Woodruff: Terry I'm just counting on you to be there every step. [laughter]

Terry Cooke: All right, we will now ask all members of the commission for any disclosures of meetings with applicants. Rhonda once again.

Rhonda North: Oh where did the sheet go. There it is. Chair Cooke.

Terry Cooke: I have had no [Off mic].

Rhonda North: Vice Chair Woodruff.

Don Woodruff: I have had no meetings. Thank you.

Rhonda North: Commissioner Fleischman.

Ed Fleischman: I have had no meetings with applicants, although I did have a lovely evening at the wine bar at the Salamander. [laughter] But we had no discussions on [inaudible] or applications.

Rhonda North: Commissioner Minchew.

Rachel Minchew: [inaudible] no meetings.

Rhonda North: Commissioner Roszel.

Dev Roszel: No I've had no meetings.

Rhonda North: Commissioner Stein.

Mimi Stein: No, I have had no meetings with any applicants.

Rhonda North: Council Member Jacobs.

Bud Jacobs: I've had no meetings or discussions with any applicants. And sadly, I also haven't been to the wine bar at Salamander lately so. [laughter]

Don Woodruff: Dang maybe we should meet there next time.

Rachel Minchew: Yeah.

Terry Cooke: The next item is public comment [Off mic] anyone has phoned in and wishes to share any comments or observations or concerns with the planning commission now is your time to do so. Rhonda is anyone [Off mic].

Rhonda North: We have no one on the line Mr. Chairman.

Terry Cooke: That includes the public comment period and move on to approval of the minutes of our last meeting. Anyone have a motion?

Will Moore: Oh, Mr. Cooke.

Don Woodruff: I move that the minutes of the last meeting be approved as presented. Thank you.

Ed Fleischman: I second the motion.

Will Moore: I was going to say, Mr. Cooke, it appears that I neglected to attach the minutes. Is that correct? [multiple speakers]

Rhonda North: You did.

Will Moore: Okay.

Ed Fleischman: Came by email. [Multiple speakers]

Bud Jacobs: Yeah. Rhonda sent them. [Multiple speakers]

Rhonda North: I had previously emailed them to them.

Will Moore: Okay very good. Thank you.

Terry Cooke: Rhonda once again, would you call roll?

Rhonda North: Okay, Vice Chair Woodruff.

Don Woodruff: Yes.

Rhonda North: Commissioner Fleischman.

Ed Fleischman: Yes, I vote to approve.

Rhonda North: Commissioner Minchew.

Rachel Minchew: Yes, I vote to approve.

Rhonda North: Commissioner Roszel.

Dev Roszel: I approve.

Rhonda North: Commissioner Stein.

Mimi Stein: I approve, thank you.

Rhonda North: Council Member Jacobs.

Bud Jacobs: Aye.

Terry Cooke: Next item. Council Member Jacobs [Off mic] council representative [Off mic].

Bud Jacobs: Thank you, Mr. Chairman. I thought I would highlight a couple of things. I am sure you have all seen the local press coverage of the proposed land swap between St. Louis and Aldie. The discussion for the last couple of weeks has been pretty fast and furious. I attended the Board of Supervisors Public Hearing. And I have to say, speaking as an opponent of that development, I was very pleased that the pretty much the entire range of issues on both sides of the equation were covered in the Board of Supervisors hearing. The mayor spoke remotely. And each of the supervisors were very, very serious in the way they handled discussion of the repercussions for us who have to live with an already congested Route 50 to take one example. That was all aired, as I said, I think, quite adequately. Supervisor Buffington, who initially supported the development, his day job, as you probably know, is as a Capitol Hill Police Supervisor. So he was not able to attend the public hearing and subsequently he heard, according to his own statements, from a great number of constituents and stakeholders really criticizing him, I think, for his initial supportive stand. And he noted that not one of the people he heard from spoke in favor of the development and he therefore has changed his support and has asked the Board of Supervisors not to go through with the planned development with Mo Jax, the development company that's working with a couple of other partners on putting this together. I won't go into all the issues or all the concerns, you probably know as much or more than I do about it. But the town did send a letter to the Board of Supervisors asking that they sever discussion of whatever is going to go forward in St. Louis from whatever might be done in Aldie and urging the board to either purchase the St. Louis property outright or exercise its prerogatives under the rules of eminent domain. That's the position that we've taken. And I guess about the time all of these discussions were going on with Mo Jax another Aldie resident has come forward with an offer to buy the county's property in Aldie, including the old tavern, and I guess there are two or three other buildings in that cluster. And I understand that the Board of Supervisors will be holding a closed session to talk about that offer as well. So that's where it stands. And I didn't bring a copy of the letter or the map. You've probably all seen the map, but if you haven't, town has got copies and can get them to you. The map what I'm talking about is the scheme for the development in Aldie. The second issue, and it's one we've talked about briefly, is the future of Asbury Church. The town, you may know, solicited proposals, actually, the second time we've solicited proposals, we got four. One was dismissed for failing to gain enough points in the technical review of the proposals. The other three went forward. And a winner, if that's the word, has been selected. I don't think we're at the stage that we're talking about the outcome publicly, yet there's some discussions that have to go on, both with the failed bidders as well as the one successful one. But that's moving forward. And I know that some members of the planning commission have expressed concern that we haven't been involved very much in this process. And I'm guessing correct me if I'm wrong, Will, but as it now moves forward, we probably will be more involved in terms of, well, perhaps not as much as the Historic District Review Commission, but in terms of whatever the new owner wants to do. I had a question, by the way, Will, for you. What is the zoning of Asbury Church currently?

Will Moore: It is zoned R2.

Bud Jacobs: So it's R2.

Will Moore: So our request for proposals recognize that the current zoning may have some limitations that might otherwise limit the nature of the proposals that would come in. And the council committed to being willing to entertain rezoning or modification of zoning requirements, depending on the nature of the proposals that came in. We didn't want applicants to feel 100 percent limited by the current zoning. So if the negotiations that are moving forward with the one proposal at this point do become successful at some point in time, in the future, I would likely anticipate a rezoning application of some sort being presented.

Bud Jacobs: Thank you. The third point that I thought I'd mention is that the town's police, as I understand it, are going toward more vigorous enforcement of the cell phone restrictions while driving. We've had apparently a few instances where people driving slowly through town, texting or doing social media have had near misses with pedestrians. I'm not sure there have been any with automobiles. In any case, Chief Panebianco, once the Virginia statute was passed, immediately started working on figuring out how they're going to strictly enforce that law. And you may see a heightened security or police presence, especially on Route 50. I'm not sure it would go anywhere else in town. And hopefully we'll see some people being pulled over and being given citations for violating that statute. Other than that, I don't have much. I guess we're on short final for our next budget. No. That's going to be presented and discussed next month.

Rhonda North: You're going to receive at your next meeting, the mid-year report.

Bud Jacobs: Yeah. OK, good.

Mimi Stein: I have a quick question.

Terry Cooke: Please. [Multiple Speakers]

Mimi Stein: This is Mimi. On the, do you know if the bell is part of or will transfer or convey with the purchase of the Church? And I'm only asking as part of the museum because I guess the museum the Middleburg Museum, the little, tiny museum is trying to [laughter] The museum that could. Would like to really see to that as the centerpiece of the collection, and it's always been in sorta limbo.

Will Moore: Yeah, I think the short answer Mimi is I don't have an answer for you at this point. That the bell is not in the church currently, as I understand it.

Mimi Stein: No, we have it at the museum.

Will Moore: Yeah, there's been no implication that it would convey. But that is something we'll certainly have to figure out as the process moves forward. But we'll certainly look into that.

Mimi Stein: Well, I hope right and the owners of this building, whatever they're going to do, that they will understand that unless they really are going to put it on display as a piece of historical stuff that, you know, it's in a good place in the museum. At least people can see it and learn about it. Okay, thank you.

Bud Jacobs: Mimi, I'm this is Bud. I'm old and I occasionally misremember things if I don't outright hallucinate them. But I believe I have overheard discussions here in the town offices about the bell. And don't hold me to this, but I believe the sentiment is that it belongs in the museum. I wish I could dredge up more details, but I can't.

Mimi Stein: All right, well, that's encouraging.

Bud Jacobs: Well, don't hold me to it.

Mimi Stein: No, no, no. But if you hear any discussion, at least contact me or Suzanne, the director somebody so we could talk back and forth about it.

Bud Jacobs: Okay, good.

Mimi Stein: [Multiple speakers] a conversation with the future owners of the property. And I hope somebody is going to buy it and make, you know, better use of that building. Okay thanks.

Terry Cooke: Commissioner Fleischman did you have a question?

Ed Fleischman: I'm going to pass.

Terry Cooke: If there are no further questions of Bud, we'll move onto discussion items. There are two items up for discussion this evening. The first regards and interest in establishing an animal hospital as a special exception use under the C-2 Zoning. So Will can you help us out on that one.

Will Moore: Yeah. Thank you, Mr. Chairman. And I would probably encourage that we only just barely touched the surface with this. Dr. Fortier, who I mentioned in my brief memo to you, was planning on joining us this evening, but had to decline kind of last minute because of a family obligation. So she's not really here to present her discussion with you. But in short, as I stated in the memo, an animal hospital, which is the definition we use in our ordinance is currently provided for only in C 3, which is the south side of Federal Street, essentially, or the Agricultural Conservancy Districts. And in both of those districts, it requires a special use permit. So there's no by-right ability to do the use in town. Dr. Fortier is extremely interested in a C2 zoned property. And went into a good bit of detail and discussions with myself and Jamie Gaucher, our Business and Economic Development Director, about how it might be structured to still have a retail store front to only do the veterinary practice in either the rear of the main level or possibly limited to the lower level of the building. A number of things that might mitigate some of the concerns that might come along with the use. But again, I can't present her case for you. So she may be returning to you next month for this discussion. And essentially it would start with whether or not the commission, after discussing with her, would be willing to consider initiating an amendment that would allow the use to be identified as a special exception use in C2, which could still provide some protection, if you will. It would still mean that any application would have to be looked at on a case-by-case basis, which is the nature of the special exception. But again, in her absence, I don't want to delve very far into it unless there are some, you know, just initial reactions that might be helpful to pass on to her.

Terry Cooke: This is Commissioner Cooke. I took a look at the building and it looks like the upper floor. Is that residential space?

Will Moore: It is residential, correct. [Multiple speakers]. Yeah. And so one of the things which she was offering is our definition of animal hospital would allow for the overnight stay of animals, say if there were a surgery and the animal would be required to stay overnight. She said that that is not part of her practice and would be willing to have that be imposed as a condition, for example, on the special use permit and those kind of things so.

Terry Cooke: I recognize that would probably be a discussion we would have when the applicant meets with us, but the building itself is a [Off mic] structured, it's a stone building, so I don't think much concern about the noise of yapping dogs coming through the walls, but I just wonder what that residential space in front of the [Off mic] If it was a special exemption granted, it could include some measures for sound abatement?

Will Moore: Absolutely and that is the nature of the special use permit is conditions can be imposed that mitigate potential impacts. Now, she was considering this as a purchaser of the building. So whether or not she would continue the residential use above. I think she would. But those would then be her tenants.

Terry Cooke: And so she is considering purchasing the building, not just leasing that?

Will Moore: Correct. And that is correct. And I think that's an important aspect of her potential proposal.

Terry Cooke: Thank you. Anyone else?

Don Woodruff: Will, as a reminder, what is that address again?

Will Moore: The property she is looking at is 11 South Madison Street. It's currently occupied by Aliloo and Son Rug Gallery.

Terry Cooke: Might be across the street from the Old Ox Brewery, Don.

Don Woodruff: Well, that way you can get your dog done and have a beer while you're at it. [laughter]

Ed Fleischman: Yeah, this is Commissioner Fleischman. I took a quick look at the information provided, and I guess I just looked at it from the transportation side of things, something that, Will, you ought to consider and we'll consider it later on. But it's a very busy area there with the Old Ox Brewery and then the oyster bar. And right now, I guess temporarily they have outdoor dining set up on the curb space. I know that I looked at zoning ordinance and it requires parking for an animal hospital. So I didn't really see how parking fit in it. And I think that if it does not have any parking off street parking, it might be problematic from a transportation standpoint about people double parking and dropping off animals. And so I think that it would be problematic from the standpoint of parking.

Will Moore: Yeah, very good point. Was my initial reaction as well when Jamie shared this with me before I had a chance to meet with Dr. Fortier. I will share with you this building is a multilevel and there is lower-level access to the rear off of a public alleyway. There is some off-street parking that would convey I'm not sure exactly how many spaces go with the property, but that is something we would have to look into. One of the things that she was discussing was potentially having the clients that would come with their animals access from that rear end, and whereas the upper level along Madison Street would be a retail storefront and at least not the primary entry point for someone coming there with their animal to be seen. So those are great points. And those are things I think, that would have to be fleshed out in further discussion with her.

Ed Fleischman: Yeah, you always have to be careful about what the applicant would want for people to enter through the alley and then what people would actually do.

Will Moore: Yes, sir.

Ed Fleischman: Double parking and going through the front door.

Terry Cooke: I'll just note again, Chairman Cooke, there is, as Will said, there is parking directly behind the building, but then immediately adjacent to that parking, there's also a public parking lot [multiple speakers] next to that. So, I mean, that is another opportunity. [off mic]

Will Moore: It is. Yes. And she was already attuned to that. She had done some scouting out of the area. And, yes, it's a very good point.

Terry Cooke: All right. Well, presumably this will be brought back to us at some point for discussion [Off mic] The next item is potential R2 amendments. [Off mic]

Will Moore: Okay, so I feel like I should just punt this to Council Member Jacobs at this point, but I won't initially, I gave you some background. You, of course, are very familiar with the discussions that have gone back and forth with Council on a desire to move forward with some zoning ordinance, subdivision ordinance, amendments that could help us better implement the Comp Plan. And we started that process, I think, in earnest last month by having our initial refresher on the comp plan. The discussion of some of the strategies that are contained within different commissioners pointed out different strategies that seemed maybe of higher priority. And the intent was then to take that, and staff is going to, and we are doing this. We're starting to do some analysis. So where are some of those strategies currently supported, if at all, in our development ordinances? Where do we see opportunities to strengthen the ordinance requirements that may be associated? Where do we see opportunity to insert new ordinance requirements that may not exist now to help better support some of those strategies? But then at the January 14th meeting of council, as I mentioned in the memo, a citizen was addressing council about a completely unrelated matter, one that has to do with noise. And that citizen just happened to mention that it would be a good time to maybe amend our noise ordinance that would prevent construction on certain holidays. So there was an incident where two properties that are under construction in close proximity to that resident's property were both actively being active construction sites on Thanksgiving Day and very loud. So that's what brought the topic up of the citizen is making a request of council to consider. And Rhonda is working diligently on drafting some amendments to our noise ordinance at council's direction to address those concerns. The citizen implied that it would be a good time to maybe implement those changes with the pending development of the Salamander Residential Project. And also that there are two lots directly adjacent to that citizens that are about to be constructed upon. So these are two lots on Blue Ridge Avenue that are existing vacant lots that potentially will be constructed on in this coming year. So somebody has put those lots under contract and actually has closed on those lots now. While that wasn't a complaint of the citizen necessarily, it was just pointing out that it would be nice to pass some of these rules before people start building on the property directly adjacent to that citizen's. Council again, kind of had a visceral reaction as like and directed myself and through me you to bring them something sooner than later. Specifically on this topic of infill and or redevelopment in the Ridgeview area. So I know we've had a lengthy discussion about this previously, but that is I would say it's evolved into more of a directive that the council really wants to see something coming forward that might address the scale of those infill homes and or tear down and rebuilds. So they asked that that be segregated from any other potential ordinance updates and prioritized. So I offer that to you now. I don't have any proposed amendments for you to consider this month. I would like to bring some things to you next month for your consideration. And specifically looking at the existing set back requirements, yard requirements, front side rear with particular emphasis on the side yard requirements. I'll be asking you to consider our building height restriction that exist in R2. I'll be asking you to consider our lot size requirements and in particular the potential for imposing a maximum lot size requirement. So kind of back to what we were talking to earlier when Commissioner Fleischman brought up the R3 Zoned lots in the Salamander development. They're not typically what we would expect an R3 lot to look like in the town, but there is no maximum lot size requirement in any of our residential districts. So you could potentially have a three-acre lot zoned R3 and you could have a massive home on something like that as long as it met the maximum 30 percent lot coverage as we define it. So with the one home that kind of reinvigorated this discussion recently that is currently under construction at Walnut and Martin, that was an instance where somebody took to existing platted lots, did a vacation of the boundary line to create one double sized lot. And that, in turn allowed a much larger footprint of a home to be constructed than you would typically see in that neighborhood. So maybe the imposition of the maximum lot size requirement would prevent something quite as drastic, if that's an okay term to use, from happening in the future. What that number might be, I'm not sure. Right now it's a minimum lot size of 8000 square feet. The majority of lots throughout Ridgeview are already smaller than that because it was essentially platted as a 7500 square foot lots throughout. So most lots they are nonconforming as to the minimum lot size now, but we will be raising the question as to whether or not a maximum lot size in that district might be appropriate to

consider. With the goal of trying to somewhat maintain the scale and character of the development that seems and correct me if I'm wrong, Mr. Jacobs, that really seems to be the big impetus of this is, you know, try to protect somewhat as we can through our regulations, the scale and character of the existing older development that is in place.

Terry Cooke: [Off mic] This item has come up to us I think this is the 3rd meeting in a row that it's come up in some fashion or another. It's apparent to me that [Off mic] this is a hot button. [Off mic]

Will Moore: It is.

Terry Cooke: So I'm interested in working this through this with the commission. But there's more than one way to skin a cat as the saying goes. [Off mic].

Bud Jacobs: Well, I have to confess that living on the east side of town, as I do, I missed how neuralgic this really is for members of council in the first instance, but also for our residents. There have been apparently a number of angry complaints or concerns expressed not just to the mayor, but to other members of council, mostly folks, I think, who reside over there and are therefore more accessible. And it's not just a wild hair or somebody with an aesthetic axe to grind that's behind this. This is a real point of citizen concern. And as such, the council certainly has to respond to it. And as the delegated authority, I guess we do, too. I don't think that any solution at this point, one way or the other has been ruled out. I think there's a lot of room for creativity and for us to figure out how to meet the concerns of the citizens and also of the affected property owners and other stakeholders. Will put it very well in his memo. The concern can best be described as a concern, not just of the scale, which is something we've kind of focused on in our past two meetings, but also the character of the kinds of development and the kinds of houses, I guess mostly that would be built. I have a particular prejudice in that regard in that I don't like to see buildings planned that mirror the architecture of Salamander. I don't want to feel like I'm living in a wholly owned asset of the Salamander Resort, as wonderful as it is. And I think that's a little bit of what people are getting at when they complain about the style of a particular building or its character. It seems to me we've got to do it. And it seems to me we've got to make it a priority, apart from the holistic review we had already agreed to undertake of zoning ordinances in light of the comprehensive plan. Terry.

Terry Cooke: Other Commissioners. Commissioner Fleischman.

Ed Fleischman: Thank you, Mr. Chairman. I think that I read some of the council minutes and there are a lot of statements made in that. So people are very opinionated on it, and the residents of Ridgeview are opinionated about it. And there are also a number of people who live outside Ridgeview that have opinions as there are people who live outside the town of Middleburg that have opinions about what should go in Middleburg. I think we ought to be cautious about what we do here. Well, one of the things that I was trying to get at in my previous discussions about the zoning ordinance is, when I read the zoning ordinance, there are a lot of restrictions in there on what can or cannot be done on a residential area. And I think it might be good for you. It'd be good for me if you could take a look at those two parcels of land and given the side yard rear yard boundary, what would be the footprint of those houses? They would only go up to 30 feet, you know, less than what's allowed in the R1 and R3 and then also I saw in the zoning, it requires two parking spaces. I think I saw someplace that they wanted to use a shared driveway. Was that [multiple speakers]. So is that allowed? Is that something that they need a zoning variance to do that? Is that a way to, you know, look at all the existing zoning ordinance to see whether there really is a problem or because these are narrow pieces of property that really, they can't do much with them out of scale with what's there?

Will Moore: Yeah. So very good questions. The latest discussions I have had with the potential developer is that he would like to use a shared driveway that's already allowed for in our ordinance. It requires easements to be set in place, but utilization of a common shared driveway is permissible. You still have to meet the parking requirements for each lot separately, and that may be met through structured parking if

there's a garage that can be met. It has to be designed so that both property owners will be able to be free to come and go at leisure and not conflict with one another. One can't park right in the middle of the driveway kind of thing, but that it is permissible. I can do a little bit of analysis for you. There's I don't want to say to expect something exactly akin to what we saw on Reed Street, the three new homes that were constructed just north of the library over the last few years. But that pretty much gives you the idea of what kind of height and likely footprint that you could be looking at and potential massing. I say that because that particular developer maximized what was available under the regulations, so built all the way up to the 30-foot height, built all the way up to both of the side yard restriction lines, which are seven and a half feet from the side property line.

Ed Fleischman: Okay if you take a look at that and get back to us at a future meeting it would be good.

Will Moore: Absolutely. Yes sir.

Ed Fleischman: You know, I live in Ridgeview and I sort of like the different styles of homes. There are a lot of different, old styles, modern houses, and various styles that I really haven't seen around this area that were built, you know, 50 years ago and in varying styles. So I think that's a good thing. And I also it's something we mentioned at the comprehensive plan that some of the buildings are functionally obsolete in that they are 75 years old and the electrical and plumbing are substandard and not according to code. And when someone comes in to bring up one of those small houses to code, it costs a lot of money. And so which we should in the plan, we're trying to encourage the renovation of the buildings. And I don't think we want to pass something that would foreclose people renovating houses and maybe adding a little addition as part of it.

Will Moore: Right.

Ed Fleischman: I mean, we can't keep 75-year-old houses because someone has lived here 50 years and likes the way it is. Thank you.

Will Moore: Understood.

Terry Cooke: Will, Chair Cooke. One thing we need to keep in mind is we considered height. [inaudible] Is that in Ridgeview we have a topography that is I don't know how to say it undulated.

Will Moore: It does.

Terry Cooke: It varies. I don't know what the height above sea level is, but Ridgeview just rolls.

Will Moore: It does.

Terry Cooke: [Multiple speakers] and a 30-foot height limit on a house that's sitting 20 feet above a house 100, 200 feet away looks massive because it's a matter of perspective. So that's something that I think bears consideration too. I mean, it's you know the issue of whether garages should be attached or whether they should be in rear of the property is another way to reduce the mass or the scale of new construction. But those sorts of factors there are many, many things to consider.

Will Moore: Yes sir.

Terry Cooke: And I don't want us to get lost in the flak about one particular property to influence what we ultimately decide for an entire zoning district. And I know everybody shares my view on that. I [Off mic] just makes sense. But this is something we've got to be very deliberate about or we could find ourselves in a cookie cutter environment and I don't think serves the town very well. There needs to be

limits and they have to be well reasoned. And whether we should have a special meeting on this special work session, I don't know. But we've got to have some starting points.

Will Moore: Yes.

Terry Cooke: And maybe just a list of things that could be considered.

Will Moore: Yes.

Terry Cooke: And then we work through that and toss things out. If we think no, [Off mic] focus on things that everybody can agree on with the appropriate course. [Off mic] something we've got to respond to [Off mic] to do that. I guess the sooner the better. We need some starting points to get going. Everybody [Off mic] last month and there are probably some others that nobody brought up. But if you can help to just based upon your knowledge about what things have been [Off mic] done in other communities to address this situation [Off mic].

Will Moore: Sure. Absolutely. Mr. Chairman, would it be appropriate to check by name with the members who are participating remotely? I don't think we've had much participation in this topic of discussion from them.

Terry Cooke: Absolutely I'll invite any commissioners who are with us remotely to share their thoughts or comments on this. Anyone.

Dev Roszel: Yeah, hi this is Commissioner Roszel. I do, Will, you know, I think it's a great idea if you could put some stuff together for us, you know, me coming back on this year, over the last year. And then, you know, I remember the last time I was on we did have a lot of discussions about yards and side yards and building height. But what I was wondering is when you put your information together, is it possible to, like, give an address, of a couple of houses that fit into some of those categories? So when we're looking at, you know, what's a 35-foot high? What's a 30-foot height? What's those houses there on Reed Street? You know, if we know what we're looking at it makes it a little bit easier to rather than just I think for me visually helps. So I don't know if that's possible.

Will Moore: Absolutely.

Don Woodruff: I agree.

Will Moore: Yeah. Would be happy to do that. We'll send Estee out on an expedition to take some photos and then we can put together some information as to. Estee are you still there?

Estee LaClare: Yes, I am I'm writing it down as we speak. [laughter]

Will Moore: Okay I just wanted to be sure you understood I was volunteering you for something.

Estee LaClare: Very good.

Will Moore: But yeah, no we'll be happy to do some photo examples and just kind of just some basic information like Commissioner Roszel suggested. Just tell you, this is what a 35-foot building is and maybe a 35-foot building next to a shorter building and those kind of things. Buildings are maximizing the yard requirements versus buildings that might be providing additional yard that is not required by our ordinance. So I think we can come up with something certainly by your next meeting to include with that discussion.

Dev Roszel: That'll be great. I think that'll really make it easier. Like Chair Cooke said, you know, if we jump in, I think that understanding and really seeing what it's going to look like before we make decisions will help. So I appreciate it.

Don Woodruff: Good idea.

Estee LaClare: Okay.

Terry Cooke: Anyone else? Please.

Rachel Minchew: Hi this is Rachel. And I think that's a great idea to give us more information to better make [inaudible] decision. And [inaudible] later. So I look forward [inaudible].

Will Moore: Okay, hey Rachel, we're having a really hard time hearing you here in the office.

Rachel Minchew: [inaudible] can you hear me better now? Can you hear me?

Will Moore: It's intermittent.

Rachel Minchew: Okay, well that's okay. I agree. So I'll just put it at that.

Will Moore: Okay.

Terry Cooke: Any other thoughts? Thank you all. I think this is one we're going to sink our teeth into in the near term. Yeah, see if we can't come up with an approach to satisfy our concerns.

Will Moore: Yeah. And I think maybe, and this is something Council Member Jacobs and I can discuss. We'll try to communicate best we can I think back to council that we are taking their direction to move ahead. I think from what I'm hearing, addressing it on a priority basis, but also with the intent to be careful that we don't what I'm hearing is we don't want to rush into something just to do something. That we want to make sure that whatever is presented has been studied and deliberated on carefully. I think that's what I'm hearing.

Bud Jacobs: I think it's worth [multiple speakers] second point.

Will Moore: Yes sir.

Terry Cooke: Okay, thank you all. Our last item for consideration has to do with the quorum for our meeting on February 22nd. Is there anyone on the call or here this evening who will not be available on the 22nd? Hearing nothing [multiple speakers] I assume we all will gather again in a month or so. So thank you all very much.

Will Moore: Thanks, everyone.

Terry Cooke: With that we are adjourned.

Dev Roszel: Great, thank you.

Bud Jacobs: Thank you.

Mimi Stein: Good night, everybody. [Multiple Speakers] Thank you.

Don Woodruff: Thank you very much. Thank you, Rhonda.

Rhonda North: Thank you, Don.