



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



**MONDAY, JULY 26, 2021
PENDING APPROVAL**

PRESENT: Terence S. Cooke, Chair
Donald Woodruff, Vice Chair
Edward R. Fleischman, Member
Rachel Minchew, 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

ABSENT: H. H. “Dev” Roszel, Member (excused)

The Middleburg Planning Commission held their work session and regular meeting on Monday, July 26, 2021 in the Town Hall Council Chambers. Vice Chair Woodruff participated in the meeting electronically from Doylestown, Pennsylvania as he was on vacation.

Chair Cooke called the work session to order at 6:30 p.m. Town Clerk North called the roll.

Additional Study of R-2 District Zoning Amendments

Deputy Town Manager Moore reminded the Commission that in May, they forwarded a recommendation on a zoning text amendment related to building heights and their relationship to side yard requirements in the R-2 District to the Town Council. He reported that the Council adopted it. Mr. Moore noted that they also held some discussion on the establishment of a maximum lot size requirement and asked that the Planning Commission reconsider this. He advised that it would be re-introduced to them in the coming months and opined that it was not well developed when it was first proposed. Mr. Moore reminded the Commission that they already discussed the need to look at the lot coverage requirements and noted that it was possible for someone to pave over an entire lot. He advised that due to the staff’s current workload, it was not prepared to do a study of these items; therefore, he reached out to The Berkley Group to seek a proposal for their assistance with a study. Mr. Moore suggested they may also have other ideas they could present for the Commission’s consideration.

Vice Chair Woodruff noted that in the last six weeks, he was approached by four residents who expressed concern about the development occurring in the Ridgeview area and who asked that the Commission look at it, as they wanted the town to retain the “atmosphere of Middleburg”.

Chair Cooke encouraged the members to think about their discussions with residents and/or ideas of what could be done to improve the zoning ordinance. He noted the need for the ordinance to reflect the Comprehensive Plan’s goals.

Status Update – Final Plats for The Residences at Salamander and Banbury Cross Reserve

Deputy Town Manager Moore reminded the Commission that last month, three new subdivision applications were introduced to them, one of which was up for public hearing later in the meeting. He reported that the final plats for the two remaining ones (Residences at Salamander and Banbury Cross Reserve) were still under agency review. Mr. Moore advised that he anticipated agency comments that would require plat revisions. He reminded the members that the applicants wished to bring the plats to them in an approvable form. Mr. Moore advised that he would keep the Commission apprised of the status of these items.

In response to an inquiry from the Commission, Deputy Town Manager Moore reported that during its last meeting, the Town Council discussed ideas presented by residents for altering the means of access to The Residences at Salamander and the traffic study information provided by the staff related to the access points. He further reported that the Council voted to affirm their desire that the road connections remain as planned.

In response to an inquiry from the Commission, Deputy Town Manager Moore reported that once the first review of the final subdivision plats was complete, he would provide the members with the review comments. He advised that he would be able to answer the question as to whether there were any major issues once that review was complete; however, he did not believe there were any.

In response to comments from the Commission that the architecture appeared to be different than what Middleburg anticipated, Deputy Town Manager Moore reminded the members that the Town had no influence over the architecture in the Banbury Cross Reserve subdivision, as it must be developed in accordance with the County's regulations. He advised that as to The Residences at Salamander, the 2007 proffers limited the maximum footprint of the principal structures and subjected the homes' appearance to design review by the HDRC. Mr. Moore noted that the HDRC would not review them against the Historic District Guidelines, as the property did not lie within that District. He explained that instead, guidelines were developed specifically for the homes by Salamander and the HDRC.

In response to an inquiry from the Commission regarding the Banbury Cross Reserve developer's commitment to rule out some by-right uses of the property, Deputy Town Manager Moore reported that the applicant assured him that this would be a part of his focus. He advised that he had not yet developed the instrument that would accomplish this; however, Mr. Moore assured the Commission that they would see this response before they were asked to approve the plat.

Chair Cooke adjourned the work session at 6:49 p.m. He called the regular meeting to order at 7:00 p.m.

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 Councilmember Jacobs, that the Planning Commission approve the minutes from the June 28, 2021 Work Session & Regular Meeting as presented.

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

No – N/A

Abstain – N/A

Absent – Commissioner Roszel

(Chair Cooke only votes in the case of a tie.)

Public Hearing

SD 21-01: Preliminary Subdivision Plat for 3 Lots – 300 East Washington Street – Bryon Hughey

Chair Cooke reviewed the public hearing procedures.

John Neal, 8 Piedmont Avenue, noted that his home backed up to this property. He advised that he experienced drainage issues from the rear, some of which was significant. Mr. Neal opined that most of the flooding came from the Exxon property and noted that there was no curb and gutter in this area. He requested a meeting with the applicant's engineer and expressed concern that the proposed new construction could cause even more flooding. Mr. Neal suggested this area needed a stormwater management system. He expressed concern that the applicant was not aware of the flooding issues and reiterated his desire to explain them to the engineer on the site. Mr. Neal advised that he also did not want the trees to be removed.

Trowbridge "Trow" Littleton reiterated the previous speakers concerns regarding water drainage issues and suggested consideration of the subdivision was premature. He noted that there were two houses on the property and reminded the Commission that the zoning ordinance did not allow two homes on one lot.

Meredith Whiting, 1 Orange Drive, advised the Commission that stormwater management was an issue in this area. She questioned the regulations regarding infill development in the Historic District and opined that new construction would significantly change the character of the neighborhood and the town. Ms. Whiting suggested that if the Town did not have a policy on infill development, it needed one.

John Ross, 1 Orange Drive, questioned what legal assurances the residents would have that the development would be executed in accordance with the plans approved by the Town. He further questioned whether the Town and applicant would indemnify the property owners against damages to their properties due to the development. Mr. Ross questioned how the Planning Commission would notify the residents of any revised plats that were submitted, the responses of the staff to the developer and the dates of any public meetings involving the application.

Allen Strama, 10 Orange Drive, questioned whether there were any plans to connect the stormwater runoff from this development to the storm drain located at the intersection of Piedmont and Orange Streets. He questioned what the cost would be to increase the stormwater drainage system's size if it was insufficient and who would cover that cost.

Caroline Perna, East Marshall Street, questioned whether the application would set a precedent for the Historic District in terms of splitting a lot. She further questioned whether it would change the character of the district. Ms. Perna noted the drainage issues being experienced in the area. She opined that it was not appropriate to risk the historic homes. Ms. Perna suggested the Town should get rid of (access) easements, not allow the creation of new ones. She noted that large homes were replacing smaller ones in Middleburg and opined that people did not want that. Ms. Perna suggested that subdividing this lot was not appropriate and noted that it would cause the resident of the cottage to be removed from his home.

Paul Eden, 3 Jay Street, advised the Commission that he lived in the small house on the property; therefore, he would be impacted the most as he would lose his home. He opined that the subdivision would also affect the trees and would throw away a part of Middleburg for development. Mr. Eden suggested the town did not need development. He advised that he wanted to live in town and asked that the Commission disapprove the request.

Michael Pappas, 5 & 7 Jay Street, opined that this was an aggressive plan that barely conformed to the zoning ordinance. He suggested the drainage plat was not ready and noted that it contained a lot of caveats. Mr. Pappas suggested the Town not wait until the construction plat phase to address the

drainage. He noted the existing cottage and advised that Middleburg needed affordable homes, not larger ones. Mr. Pappas suggested the Commission allow for the construction of one modest, historic looking structure adjacent to the existing house. He advised that he would be happy to allow his property to be used to alleviate his neighbors' drainage issues.

Jonie Novacich, 306A East Marshall Street, noted that she lived on an (access) easement and suggested the Town should not allow additional ones. She advised that she would hate to see Mr. Eden kicked out of his home. Ms. Novacich suggested that just because the applicant could do something, this did not mean it should be done.

John Kidder, 6 Piedmont Avenue, questioned whether Middleburg allowed retention ponds and, if so, what the rules were for their construction. He further questioned whether they were required to be fenced, who would maintain them and how the rules associated with them would be enforced. Mr. Kidder questioned whether the Town looked at an alternative to a retention pond.

John Pittman, 12 Piedmont Avenue, encouraged the Planning Commission to take their time in looking at this request due to its complexity.

Chris Gore, 1 Piedmont Avenue, questioned whether the Town had any established patterns for managing stormwater drainage.

John Neal spoke a second time. He read an excerpt from the Town's subdivision ordinance regarding design and construction of drainage facilities.

Meredith Whiting spoke a second time. She questioned the next step in this process.

No one else spoke and the public hearing was closed.

Deputy Town Manager Moore explained that the subdivision process involved three phases – the preliminary plat, the construction plat, and the final plat. He further explained that the preliminary plat was intended to be a large view look to determine whether the developer was looking at the right items. Mr. Moore noted that the Commission was not being asked to act on the preliminary plat at this time and stressed that the preliminary plat would not create lots or authorize any development. He advised that the construction plat would be a technical detailed plan, under which all engineering requirements must be met, including those related to stormwater drainage. Mr. Moore reiterated that the stormwater questions would not be answered at the current stage, but rather during the next one. He stressed that all applicable stormwater requirements must be met, and that the development could not adversely affect the surrounding neighbors. Mr. Moore advised that once the construction plans were approved, the applicant could seek a grading permit from the County. He explained that the final plat would create the lots. Mr. Moore advised that while the concerns raised by the public could not be answered at this stage, they would be answered before any subsequent plat approvals were given.

In response to inquiries from the audience, Deputy Town Manager Moore explained that in Virginia, subdivisions were ministerial acts, meaning the Town was compelled to approve applications if all the applicable requirements were met. He advised that the Planning Commission could not deny subdivision applications at any of the three phases for discretionary reasons. Mr. Moore noted that the preliminary plat was under review and advised that any review comments would have to be addressed by the applicant before the Commission could act on the plat. He advised that the same was true of the construction and final plats. Mr. Moore advised that the Town could not compel the property owner to allow the cottage to remain as a dwelling unit and noted that it could not remain as one on a reduced lot if the subdivision was approved. He explained that as such, it would either have to be demolished or rendered uninhabitable; however, it could be used as an accessory structure to the main building. Mr. Moore advised that the Historic District Review Committee (HDRC) must review and approve any new construction, changes to

existing structures or the demolition of existing structures in the Historic District. He noted that it was a high bar to get approval to demolish a historic structure. Mr. Moore reiterated that the application must meet all the applicable requirements and advised that it would take a lot of work to demonstrate it met the stormwater management regulations. (Vice Chair Woodruff left the meeting at 7:45 p.m.) He opined that this was an opportunity, which would not otherwise exist, to address some of the existing stormwater issues and noted that the development would require the construction of curb and gutter on Jay Street. Mr. Moore advised that there were no proffers involved, as they only applied to rezoning applications. He reviewed the process again for when the HDRC would become involved. Mr. Moore explained that the public hearing at the preliminary plat stage was the only opportunity for citizen involvement; although, he noted that there was a public comment period on every Planning Commission meeting agenda. He advised that he could not provide a timeline for the development of the property as it could be subdivided and never developed. (Vice Chair Woodruff resumed his electronic participation in the meeting at 7:53 p.m.)

In response to an inquiry from the Planning Commission, Deputy Town Manager Moore explained that the owners of 306-A, B- and C- East Marshall Street shared a private access easement and advised that there had been problems getting all the property owners to honor the maintenance agreement.

In response to an inquiry from the Planning Commission, Deputy Town Manager Moore advised that there were no plans for a retention pond, but rather the plan was for swales, with culverts under the driveways, and an infiltration basin. He opined that the basin was more of a water holding area.

Councilmember Jacobs noted the stormwater drainage pond on North Jay Street in Steeplechase Run. He advised that its sole purpose was to clean the stormwater runoff before it entered the Chesapeake Bay. Mr. Jacobs advised that it involved close maintenance, which involved substantial expenses.

It was noted that at one time, the cottage was the kitchen for the large house. It was further noted that it had historical value. Deputy Town Manager Moore advised that the owner shared with him that he had no intentions of demolishing it. He reiterated that he must abandon its use as a residence to proceed with this application.

It was noted that there was a rock garden on North Jay Street that also filtered water. The Commission suggested that regardless of the outcome of this application, stormwater runoff was an issue that needed to be addressed.

Council Representative's Report

Councilmember Jacobs reported that a bill was introduced that provided for \$2 million in the federal budget to help defray the cost of the Town Hall Project. He further reported that the HDRC was updating the Historic District Guidelines and noted that a first draft was presented to the Council for their comment. Mr. Jacobs advised that he would welcome comments on it from the Commission.

In response to inquiries from the Commission, Deputy Town Manager Moore reported that the updated guidelines would be presented to the Council for adoption on August 26th. He advised that the draft was too large to send via email and noted that he would send the members the Council agenda, which contained a link to the document.

In response to an inquiry from the Commission, Deputy Town Manager Moore reported that at one time, the HDRC began studying possible amendments to the Historic District boundaries. He advised that they would resume that study once the Historic District Guidelines update was complete. Mr. Moore suggested the Commission may be invited to participate in that study and reminded them that if any boundary changes were recommended, it would come to the Commission as the Historic District was a zoning overlay.

Commissioner Fleischman noted that he was involved with the National Register and the Advisory Council for Historic Preservation for years. He volunteered to assist with the study of the boundaries.

Discussion Items

Commissioner Fleischman noted that he received an email from a real estate developer regarding a new listing on Sycamore Street that involved the demolition of an existing structure and the construction of a new building. He questioned whether the developer spoke with the staff about this.

Deputy Town Manager Moore reported that two properties in this area recently sold. He advised that one was already occupied and the other had been proposed for demolition and replacement. Mr. Moore reminded the Commission of the recent changes to the zoning ordinance related to building height in the R-2 District and noted that any new construction would be required to comply with it. He confirmed that he was expecting an application for demolition and reconstruction at some point in the future.

Quorum of August Meeting

All the members who were present advised that they would be present for the August 23rd meeting.

There being no further business, Chair Cooke adjourned the meeting at 8:11 p.m.

RESPECTFULLY SUBMITTED:

Rhonda S. North, MMC, Town Clerk

Middleburg Planning Commission Transcript
July 26, 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)

Terry Cooke: Ok, everyone. Good evening. We will convene the work session of the Middleburg Planning Commission for June Excuse me, July 26, July 26, living in the past. And we will follow with the regular meeting as soon as we conclude the work session. The meeting is called to order Rhonda, would you please call the roll.

Rhonda North: Chair Cooke.

Terry Cooke: Present.

Rhonda North: Vice Chair Woodruff.

Don Woodruff: Yes, I'm calling in from Doylestown, Pennsylvania, as I am on my vacation at this time. Thank you very much.

Rhonda North: Thank you

Terry Cooke: Thank you for making time to join us, Don.

Rhonda North: Commissioner Fleischman.

Don Woodruff: My pleasure.

Ed Fleischman: Commissioner Fleischman is present.

Rhonda North: Commissioner Minchew.

Rachel Minchew: Here.

Rhonda North: Commissioner Roszel is absent. Commissioner Stein.

Mimi Stein: I'm here too,

Rhonda North: Council Member Jacobs.

Bud Jacobs: Present.

Terry Cooke: Thank you all. We have a few a couple of discussion items on the agenda this evening. And Will would you mind taking us through an introduction on the additional study of potential R-2 zoning amendments.

Will Moore: Absolutely. Thank you, Mr. Chairman. And members of the commission and I will invite Council Member Jacobs to jump in here as he sees fit as well. So you are aware, of course, that in May you forwarded a zoning text amendment to the town council recommending a couple of changes to development regulations in the R-2 district specifically building height and the relationship between

maximum building height and side yard requirements. The council did adopt those changes and we're very appreciative of the work and diligent study that you put into them. Two particular things coming out of discussion with council they were maybe being intrigued is the correct word. You know, I get the full background, including staff initial kind of proposal to the commission, which also included a maximum lot size requirement. After you recall that, after your discussion of that potential amendment, you chose to initiate an amendment that did not include that they were interested in the commission relooking at that requirement. So in the coming months, we'll probably be introduced that talk more about that, maybe better refine it, because there were some questions raised about it and it wasn't really well developed, I think, at the time. And I agree with your decision not to include it in the amendment that you forwarded. But we will relook at it. The other part that we've already discussed is the need to look at our lot coverage requirements. And specifically, there's there's current requirements that addressing percentage of the lot area that could be covered by the areas under roof, but it doesn't address other impervious surfaces otherwise to the point where you could potentially effectively pave your entire [inaudible]. And I think we all recognize that that's an issue. But that will require some additional study to see how it is that you might want to address that. And that probably that's not just that's not just R-2 specific. That's the way lot coverage is defined town wide. So we'll probably be looking at that. As I shared with the chairman earlier today, as well as with council recently, simply due to our workload at this time. Staff is not prepared on our own to get into the detail of the study on this, that we might necessarily need to be so at the mayor's suggestion, we reach out to Berkeley Group, the same consultant that assisted us with the comprehensive plan update that we adopted in 2019. And they are working on getting a proposal together to to assist us with studying those items and I'll further say that it may become a little more broad than just maximum lot size and lot coverage. They may have some fresh ideas as to once they start studying what council's concerns were, the character of the infill and redevelopment. They may have some fresh eyes to to fresh ideas to present to you as well.

Don Woodruff: Will.

Will Moore: Update on that being forthcoming.

Terry Cooke: Yes, Don, did you have a comment?

Don Woodruff: Yes. In the last six weeks, I've had at least four town residents who have come and asked me to, for the planning commission to take a good look at these, everything that Will has said, and to try and remember that we want to retain the atmosphere of Middleburg and that they don't feel that some of the things that have been done in Ridgeview and other places are in line with that. Of course, I said that some of those are outside of our boundary of responsibility, but I'm glad that they did make the comment that they were concerned about people doubling up on lots in Ridgeview and building what they call hotels. So that's not from one, but that's from several people whom I know in the town. Thank you.

Terry Cooke: Thank you, Don. I think that's a valid comment. And I would encourage all the commissioners as we move through this process to give some thought to things that perhaps they've discussed with other residents in town or ideas that they've had in a dream as to things that we think we can do to to improve the zoning code as it relates not only to Ridgeview, but other areas in town to make sure that we that the zoning ordinance reflects the objectives of the comprehensive plan. So but thank you for your thoughts.

Don Woodruff: Thank you, Mr. Chairman.

Terry Cooke: Ok, Will.

Will Moore: That's all I have on that topic. If you wanted to see if any other commissioners wanted too.

Terry Cooke: Any commissioners have any other comments on that. OK, we'll move along to the next discussion item, which is a status update on the final plat for the Residences at Salamander and the Banbury Cross Reserve Development.

Will Moore: Yes, thank you again, Mr. Chairman. This will be rather quick. Of course. Last month, I introduced you to three new subdivision applications, one which will be subject to public hearing during your regular meeting this evening. The other two being the final plans for these two projects that you've seen. The earlier iterations, the preliminary plat for both of these had previously been approved, these are still under first iteration of review, so I don't really have an update as to any status as far as the suitability of those plats at this point in time. I do anticipate there will be review on this and we'll have to return those plats for revisions. That's normal that that would happen. But I just wanted to keep you apprised that I previously stated that the goal with the final plat is to bring it to you in an approvable form. We don't want to do conditional approval of a final version of the plat. So those are still in the review process. And as that process works its way through the iterative process that it goes through, I'll keep you apprised. The chairman noted correctly last month the need sometimes to secure a waiver in writing of any legislative timelines that might make it difficult of the ability to bring those plats to you in approvable form and we have received those. We're in good shape, as far as that goes.

Terry Cooke: Thank you. Any commissioners have any comments on this matter? Yes, yes, Commissioner Fleischman.

Don Woodruff: The question I have been proffered by several more more than one resident of the area in question with regard to egress and access to Salamander, is is there due consideration of the concept of one way in and one way out? I must profess that I had no idea how to answer that. I present that to you Will.

Will Moore: Yes. Thank you, Mr. Vice Chairman. I think the best way to answer that is that council at their last meeting had been discussing some ideas that some residents had for potentially altering the means of access into the site, and they had been looking closely at that. We had presented some traffic study information from 2015 that were related directly to the subject of the access points. We had one of our engineering firms do a review of that traffic study and weigh in on their own. And at the end of the process, at the last Council meeting, the council took a vote to essentially affirm their desire that the connections remain as currently planned, which would be connected to the extension of Reed Street connection via an extension to Chestnut Street. And the connection points one public two private along North Pendleton Street.

Don Woodruff: Thank you.

Terry Cooke: Commissioner Fleischman, you had a question or comment?

Ed Fleischman: Yeah, so Will you mention that the two subdivisions are under review, and they were the developers agreed to additional time to review them. Could you give us a preview of what issues are being looked at?

Will Moore: Well, I think the best way to do that is once the first review of the plants have been completed. I can give you a copy of those few comments that will give you an issue that will give you an idea of what issues were found in the review of the plats. Otherwise, it's just looking at our ordinance at the plat platting requirements for subdivisions. That's what we're looking at. Maybe in addition to that, we're looking for general conformance with the preliminary plat. So if the final plant has evolved to the point where the administrator determines it's not in general conformance with the previously approved preliminary plat, that would be a red flag. But otherwise there are just numerous ordinance requirements.

Ed Fleischman: So I guess I was trying to learn if there are any major issues, or they are just sort of what I would call small things technicalities.

Will Moore: Right. Again, I will be able to better answer that once the first review is completed, because it's not complete. But my hypothesis is that there aren't going to be any major issues just on my initial review. But we also had town engineering consultant looking at the plats may be looking at certain technical issues through that lens that I can't answer.

Ed Fleischman: Ok, thank you Will, appreciate that. OK, thank you.

Terry Cooke: Anyone else on the commission that would comment on this?

Don Woodruff: Oh yes. Yes, Chairman. It seems to me that the with regard to both Banbury Cross and Salamander is what are these places going to look like? I mean, we had proffered maybe we didn't proffer, but we proposed that they were going to look like Middleburg. And from what some people have seen with regard to both, A, one of these entities seems to be on the verge of expansion. And the second seems to be presenting presentations with regard to architectural program that is vastly different from what those of us who have lived in Middleburg for 25, 30 years are anticipating. Oh, how does that stand with you Will?

Will Moore: So I'll answer separately for the separate applications. For Banbury Cross Reserve we have absolutely no area of influence under what those homes look like. So there's no architectural control. There are no zoning proffers that relate to, say, maximum size so they will have to be constructed according to the zoning regulations of the AR-2 district in the county. But otherwise we have no control as the town on the character of that, the development of the individual homes.

Don Woodruff: Thank you, that's what I expressed.

Will Moore: Yes, sir.

Don Woodruff: The greater concern seemed to be with what is going to happen and with the Salamanders property.

Will Moore: Right. So for Salamander, there are certain proffers in place that have been in place since the 2007 rezoning of the land. As it relates to the appearance and size of the structures, there are maximum footprints for the principal structures on the lots. It's a maximum footprint, I believe, of 2500 square feet in the R-3 district and 3500 square feet in the R-1 district. They are also subject to design review by our Historic District Review Committee. Now, I will put the caveat that they are not subject to the same design guidelines, but they have separately they being the development team and the Historic District Review Committee have. Come up with a set of design guidelines specific to that development, so there will be an architectural review of each home that is constructed in the residences of Salamander. But I don't want to give you the impression that it's using the same exact design guidelines as our historic district because they are outside of our historic district. But they do have designs [inaudible].

Don Woodruff: Oh, wow. I'm sorry. I didn't realize they were outside of historic district review. OK, thank you.

Terry Cooke: Yes, Mr. Jacobs.

Bud Jacobs: Will, in the discussions with Banbury the last go around, we received a commitment from the developer to rule out any number of permitted uses in the AG-2 district. And I'm curious where that where memorializing that commitment stands.

Will Moore: Right. I don't have a better answer for you this month than I did last month, which was I had had a meeting, a virtual meeting with the applicant and the applicant's engineer. The applicant recognized that commitment, assured that he would follow up. At that point in time, he had not yet met with his attorney to develop the instrument, whatever that instrument might be that would memorialize those commitments. That will be one of our first review comments is just asking for an update on that. And we do anticipate that there will be the answer to that forthcoming. And we would certainly want to see that answer before recommending approval of the final plat.

Terry Cooke: Thank you, Will. That concludes our work session for this evening. I know we have some folks, so we will adjourn the work session. I know we have folks here who are presumably interested in the public hearing that's part of the regular meeting agenda. That meeting is advertised for 7:00 p.m. So we will not convene that meeting until 7:00 p.m. So we have a few minutes ahead of us. [inaudible] when the clock on the wall says 7:00. All right, folks, thank you. Thank everyone for coming to the meeting this evening. Will convene the regular meeting of the July 26, 2021 meeting of the Middleburg Planning Commission. And we will convene and call the meeting to order and ask first whether any of our commissioners have had discussions with anyone having any applicants having matters before the commission. Rhonda, would you call the roll on that?

Rhonda North: Chair Cooke.

Terry Cooke: No meeting meetings,

Rhonda North: Vice Chair Woodruff.

Don Woodruff: No meetings.

Rhonda North: Commissioner Fleischman.

Ed Fleischman: I've had no meetings.

Rhonda North: Commissioner Minchew.

Rachel Minchew: No meetings.

Rhonda North: Commissioner Stein.

Mimi Stein: No meetings.

Rhonda North: Council Member Jacobs.

Bud Jacobs: No meetings.

Terry Cooke: Thank you all. The next item on the agenda is the public comment period. Now, this is an opportunity for folks who have thoughts they want to share with the commission that are unrelated to the matter that's coming up for a public hearing in a few minutes. So if there's something that is unrelated to that public hearing that anyone wants to address us on, now's your time. Now's your chance to do that. Yes.

Allen Strama: Can it have to do with the Planning Commission. Can it have anything to do with the operation of the town or is it just the planning commission.

Terry Cooke: Planning commission, matters that the Planning Commission has a role?

Allen Strama: Ok because I'm not sure what this would fall under. So I'll be I'll get it straight and then I'll come [inaudible].

Terry Cooke: That would be the Town Council probably. Alright Al. Thank you. All right. We'll move to the next item on the agenda, which is approval of the minutes of the commission's work session and regular meeting of June 28th, 2021.

Don Woodruff: So approved.

Terry Cooke: Thank you. Do we have a second?

Ed Fleischman: Second.

Terry Cooke: Any opposed? unanimously, the minutes are approved. We now move on to the public hearing. just a couple of comments about the public hearing process for those folks who perhaps were unfamiliar with it. The comments are limited to those comments relating to the matter that is the subject to the public hearing. It is not a question-and-answer period. But we do want to hear any thoughts, either positive or negative, regarding regarding the matter in the public hearing. And at the end, I will give if there's an applicant's representative here, I will give the applicant an opportunity to make the first comments and then an opportunity at the end of the public hearing to rebut or speak to any matters that that members of the public have addressed. Otherwise, I would ask each person who does intend to speak your name and address. And we will ask folks to please try to confine your comments to no more than three minutes. With that said, we will open the public hearing on the request of Byron Hughey for approval of a preliminary plat of subdivision for three lots at 300 East Washington Street zoned R-3 residential. And I will invite anyone who wishes to speak to come forward and speak into the microphone at this time. Yes, sir. Perhaps raise your hands that way we don't have a group of people coming up at the same time.

John Neal: I'm John Neal. I don't think I've met any of you. We own number 8 Piedmont, and we think it's a wonderful subdivision. And we love the people and everybody's really caring for their homes. And my home, our home backs right up to where this proposed subdivision is. And when we came in from Texas a week or so ago, I saw the sign on the street that they were proposing lots and so forth, and I just couldn't believe it but I'm not familiar with the zoning. I've never been involved in that due to the fact over many years we've had serious drainage problems in the back of our house causing flooding in the basement. It's so much of a torrent of water it has actually moved the gravel out of our backyard by our neighbor's house and down the sidewalk into the street, it's not an insignificant flooding problem. And after looking at the plans and everything else, I have some comments I'd like to make and be on record because I've been a good neighbor. I've never sued anybody. But I'm not ready to turn the other cheek now, and I wonder if it's done it be done right. And I don't want to have any problems with our home flooding. That's what I'm here all about. I don't know if I do it in three minutes, but I came by this morning and Rhonda was, made a couple of copies for me. And she also informed me that she was going to inform all of this information to all of the members so everybody would be on notice of what I was going to speak on. So I'm hoping everybody received those scans. anyway for discussion purposes I put together after I saw what was going to happen, some plats based upon the plats I've received from here in the city. And these are plats based on elevations from an app called Landglide. Landglide gets all of their information from the county. They've been known to be very accurate. But once the engineering firm comes out and I think they will have to come out and do a detailed study, they can then go ahead and say if those figures are accurate or not. By the figures that I have, the majority of the flooding has been coming from Exxon down Jay Street across Jay Street. There is no curb, nothing that comes across the property and back into our backyard along with some of our neighbors' backyards. It's caused problems for years. I wish I had some videos. My daughter is going to be here after we leave and hopefully, we could supply those with you. But I want to be on the ground and visit with the engineers when they get here and that I have some bills from the basement repairs, and I can back up what I'm telling you. It's not

just hearsay. Mainly, though, I think that it's going to be very important to get the right engineering group to study this problem versus just someone that's not really the type of engineer. This will be discussed later. I'm proud of everything y'all have done. You've done a wonderful job in Middleburg. it's a thriving community and I want it to stay that way. Elevations as I said, and the water comes from the areas just north of us and south. It also comes from Highway 50 on to the property and down across.

Terry Cooke: Mr. Neal, not to interrupt you, but your time is up. I would ask you to please try to wrap up your comments. [off mic] Well, two more minutes, Mr. Neil,

John Neal: You've got to be kidding me. I've got some serious concerns for this town. And you're telling me two minutes.

Terry Cooke: Yes, sir.

John Neal: OK, let me get to the point then. What he's proposing to put in behind our home eight feet from our home is totally inadequate. Totally. That will be overrun within two or three minutes and it's going to cause more flooding. Plus, building these homes is going to cause more water flow around those. And they're going to have to be built up to maintain the elevation. He has already been put on notice that he has to go under fifty and tear up one side of fifty to get to the water and the sewer for two homesites. I don't know how he's going to build two home sites in there and I don't know what kind of quality they're going to be. But he needs to be have some type of drainage or that I and our other neighbors are assured we're not going to have this problem again now if necessary. Since I can't give a full testimony, I think what I'll have to do this, I may have to have somebody to represent me if the committee does not want to listen to full testimony because there's a lot of things in here, I don't think you're aware of. Now you're saying, my time's up. My time's up. But I retain all my rights to notify people.

Terry Cooke: Certainly. And as you say, you've.

John Neal: And I've never been to a zoning meeting.

Terry Cooke: Some information for distribution to the commission.

John Neal: I just wanted to explain that information. So that everybody it had to be explained to me what was going on by the town council or the town people. [inaudible] they were kind enough to explain everything. And you're going to have two-foot story wall of water coming down this way. And if it's not done correctly, this town council will be involved, too. I can assure you of that, so that. I've never been to a meeting like this. So that's you get three minutes or two minutes when it's that important to the city.

Terry Cooke: Well, there are opportunities for you to have discussions with with town staff about this matter. No decision is going to be made this evening on this subdivision. There are matters that the staff has identified that the applicant does have to address on his platted subdivision that have not yet been addressed. Those have to be addressed. And the issue of stormwater runoff is properly a matter to be addressed in the construction plan phase, that all has to be addressed and it will be addressed.

John Neal: What I want to do is when the engineers come out on site and they need to come out on site, I want to be there, and I want the other homeowners to be there. And as far as the trees behind us, I don't want them to move like there are part of this neighborhood. And to cut those trees just for the sake of a development would be pitiful. And I can't imagine this town council putting up with that. So I'll address that in the proper manner from now on.

Terry Cooke: Thank you, Mr. Neal.

Don Woodruff: First of all, we applaud your we applaud your presentation, but we're not the town council as you address us. We are the planning commission, which can only make advisory comments to town council. But we do appreciate your comment.

Terry Cooke: Thank you. Next speaker.

Trowbridge Littleton: Trowbridge Littleton. I've been here a couple of times before. And I just have a couple comments and make it very short. I reiterate everything he says about the water situation. I know because I built the subdivision below it and we had a water problem from day one that we had to work on very, very diligently hard. and most of the water was coming down over that piece of property. The second thing is I think we're premature even considering anything. And the reason being is right now, you can't zone anything until this house is empty. And right now, it's not. So we have two houses here on lot one. You can't take an approved lot number 2 or lot number 3, [off mic] because this lot is not a qualifier as of yet. Because the zoning ordinances dictate that you cannot have two residential units on one particular lot. That's basically all I have to say. Thank you.

Terry Cooke: Thank you. Next speaker.

Meredith Whiting: I'm Meredith Whiting and I live at number 1 Orange Drive, directly across from where Mr. Neal lives. And I applaud the concern about stormwater management. That's a real problem. But there's another another issue and that has to do with the historic district and what regulations exist or what policies exist in terms of infill, which is what this would be. It would add structures where there have been no structures historically and that would significantly change the character of our neighborhood. And I also would like to say that if the town doesn't have a policy on infill right now, you probably ought to make one, because if this policy if this proposal is accepted, then it won't be only a matter of time until similar ones are proposed for infill in other, less populated, less dense areas in the neighborhood. And that will significantly change the character of our beautiful historic town. Thank you.

Terry Cooke: Thank you. Next speaker, yes sir.

John Ross: My name is John Ross, and my Middleburg residence is 1 Orange Drive, and I have two questions that I would like to pose for the Planning Commission. I don't expect answers to them by this evening, but I hope that the commission will get back to us on those in short order. The first question is has to do with execution and indemnification. What legal assurances will the town of Middleburg and the Applicant for development of 300 Washington Street provide that, one all aspects of the development of 300 Washington Street be executed in strict accordance with a plat or plans approved by the town, and that two the town of Middleburg and the developer will indemnify owners of parcels immediately adjacent to 300 Washington Street against damages resulting from development of said parcel as approved by the town of Middleburg. Second question is a process question. How will the Planning Commission notify residents affected by the proposed development of 300 Washington Street that of all, notify the residents. One of all the revised plats submitted by the developer. Two of responses of the town of Middleburg staff to the developer, and three of dates of meetings of three or more public officials when the proposed development of 300 Washington Street is discussed and or acted upon. Thank you very much.

Terry Cooke: Thank you, sir. Next speaker.

Allen Strama: Terry, what's your position here? You're the the head [inaudible].

Terry Cooke: Chairman.

Allen Strama: Chairman, I was just curious because my question is not going to take. Has the chairman ever been tarred and feathered before?

Terry Cooke: Not that I'm aware.

Allen Strama: OK, good. I just was curious.

Terry Cooke: There's a first time for everything.

Allen Strama: I was just curious. Just curious. By the way, I've known Terry for years. A lot of and they've all been great years. And I want to thank you for doing this because Terry is an incredible human being, and I don't know why you would want to subject yourself to all this stuff. But you're one of you're one of my favorite people in the world. So I just want to let you know that I trust that you're going to take care of everything that we need to have done. Okay. My name is Al Strama, 10 Orange Drive, Middleburg, Virginia, most everybody knows. And then and then we, like Terry mentioned before. I think some of this is putting the cart before the horse, but that's that's fine. We don't know. We are all new to this, basically. And my question is, what is the plan to connect the storm water runoff from the proposed development of 300 Washington Street directly to the storm drain at the intersection of Piedmont and Orange Street. And should the size of the stormwater drain be insufficient to handle that what's the worst cost estimate of maximum cost and who will cover it for the next twenty-five years? And basically, that's it. And I want to thank all you all. It's a pleasure to live here and you guys do an incredible job and I just wish you weren't so overpaid. [laughter]

Terry Cooke: Next speaker please.

Caroline Perna: Thank you, I'm Caroline Perna. I live on E Marshall Street, close to the property in question. I have a few things. I did meet with Will, thanks for that time Will. I went over the plan in detail. So my first question is this precedent setting for the historic district to split the lots? And I think that's important. I know when I was in corporate America as an executive, we always asked what if everybody did it? So what if every lot split in the town? How would that change the character of the town? And are we willing to let that happen? So I hear all the drainage issues. I think they're absolutely significant. I think everybody down at that end of the road has different problems with drainage because it is a hill and a slope in the town. But I also think the question comes first in terms of whether this should happen or not and what does it do to change the face and the look of Middleburg? I don't think it's appropriate to risk historic homes, particularly the small cottage. I realize that hasn't been decided yet, but it's at risk for a new home. That's contrary to Middleburg and what we stand for and what we love about our town. The easement you're going to be putting an easement in essentially at the back. I live on an easement. They're problematic. The town should be working to get rid of easements, not adding easements. What I also don't want to see happen, although there are some beautiful homes being built on the west side of Middleburg, tearing down small homes, or taking small lots or half of lots. And they're building extremely large homes. And I understand the setbacks have been increased and the height has been decreased. And that's awesome. We don't want that all over Middleburg and we certainly don't want it in the historic district. The other thing I would like to say, and I'm very glad that Paul could make it, I've been looking out for him, and I saw him tonight driving and I said, I think you need to be at the meeting. He is a kind gentleman who lives in a lot, one in that little home. And Paul has lived in Middleburg for a very long time. And I don't think considering splitting lots into two lots where they barely fit is appropriate. And that causes one of our citizens that we care about to be kicked out. We can consider one lot which Will was nice enough, kind enough to share with me when I met with him, and he could still stay in his home. And then we're sure that we preserve that cottage if we even go ahead with one lot. All right. Thank you for your time. [applause]

Terry Cooke: Thank you. Next speaker.

Paul Eden: You mind if I speak real quick, sir?

Terry Cooke: No, please. Name and address, please.

Paul Eden: It's Paul Eden on 3 J Street. I'm the little house across from the Exxon. And I'm going to be impacted more than anybody else in this room or in this town by this. And I felt after she had told me and I looked into it before, I need to be here because I'm going to have to move. I've been in town. I've worked for the town before. I love this town. I do everything for this town. I was president of Lions Club for years. And to see me lose my home over two new lots, it's just sad. And it's not Middleburg. In the past we wouldn't affect a citizen like this. And not only with the historic district in my little cabin going down, but I could lose my home. I will lose my home. It's not a could. I will lose my home. And do you really want that to happen to somebody who lives in this town and loves that town as much as I do? That's all I really have to say. I may have to go outside and start crying because I don't want to lose my house. I love my house. You guys have seen it at Christmas. If you guys have seen it at Christmas, you know how well I decorate it. You know how much I love this town. And it's just for something like this to come and affect our lot and our beautiful trees on that lot, you don't know how the big trees will be affected. And it's just you're taking apart a Middleburg and you're going to be throwing it away for development. And a side of town that doesn't need development. We're the east side of town. We're a little bit different from the west side of town. We're a small, compact community of citizens that really love each other Allen, everybody here and. Like I said, this truly affects me more than any other person, and I hope you guys will decide on the right side on this one. I'm not for tar and feathering like Allen, but if not, maybe you can find me a new home in town, which is where I want to live. I don't want to live. I don't want to live a quarter mile out of town. I mean, I love [inaudible], but I don't want to have to rent a quarter by quarter mile outside of town just to have a house where I'm not close. I want to be in town. So thank you for listening to me. You know, this is heartfelt and just please make the right decision. [applause]

Terry Cooke: Anyone else? Yes, sir.

Michael Pappas: You guys are terrific for doing this, giving up your time and your energy and putting up with everything. It's really marvelous. So obviously, this is a very. Excuse me. Oh, I'm sorry. I'm Michael Pappas. I'm sorry. I thought everyone didn't want to know me, but I am Michael Pappas and I own the premises next door adjoining to the north side at 5 and 7 Jay Street. OK, and so again, and I apologize for that. This is a very aggressive plan. And although it appears to be of conforming use and that it's barely of conforming use. Twenty-one thousand square feet. Seven thousand per lot, times three lots, I guess I wouldn't be opposed to the concept except for what everybody is talking about here in terms of the drainage problems. I think it's half baked. It's certainly not ready for prime time. When you look at the drainage plat that's involved there, there are as many caveats as on the drainage as there are any type of solid, shall we say, findings. And everything seems to be. Well, we need to look at this. We need to look at how does the water drainage exit the property that's really on the drainage plat that I've never seen that before. And downstream property configuration needs to be verified. This is totally half baked. And I don't think we need to wait until the construction phase. I think if you wait till the construction phase, basically you're giving up everything that needs to be decided beforehand and everything starts rolling downhill. And what you end up with is what's downhill. And that's that's the problem. I would like there's been a suggestion and I think Neal really had investigated that very nicely. And I understand the time constraints. But the other situation is we might want to look at how you can put three dwelling units, conforming dwelling units in such a place. and allowing for the structure that Paul is living in. And not just Paul, but all future people that the town of Middleburg needs. We need housing that's going to be affordable for people that don't need big mansions, et cetera. And and it's very difficult for us to find those types of things. So we could continue with having that structure, allow a modest but very historically oriented structure, just one adjacent to the existing big White House. And that would be your three lots for example, if there are any drainage problems, I would I'd be happy to allow my property to be used in the back if there are any drainage problems that could assist the adjoining neighbors. If there was some way to do that, I'd be certainly amenable to that sort of thing. All that is behind me is green space that I love. And I just really but I would really, I think it would be able it would be consistent with my use of the property. And finally, I just want to say that I hope you all make the right decision. And and I know that

it's up to the town council eventually. But you just have to look at that property from Washington Street and see that slope going down there and you know what's happening. So thank you all very much for listening.

Terry Cooke: Thank you. [applause] Next speaker, please. Yes ma'am.

Joni Novacich: I'm Joni Novacich. I live at 306A E Marshall, I'm a relatively new resident, just moved here this summer from Pennsylvania. have been coming down here for many years. I love the town, fell in love with it, this historical aspect of it, and bought a really old house and love it. However, we live on an easement. It's a very challenging thing and I would not like to see an easement added as Caroline said, I think we should be getting rid of easements, not adding them. I would also hate to see Paul kicked out of his home. In this housing market, it's almost impossible to find a rental, you know, or anything affordable. And I just think that would be terrible to do that for him. And I think finally, I'm not trying to keep progress. Progress is inevitable. But perhaps just because we can do something, maybe we really should. Maybe it's really not the best thing. So that's what I thank you.

Terry Cooke: Next speaker, please.

John Kidder: I'm John Kidder, I live at 6 Piedmont, so I have some questions I want to ask. And they're related to the the runoff pond or retention pond, whatever we call that. Does Middleburg allow retention ponds. Does, are there any instances right now where there are retention ponds on residences private residences within Middleburg? What are the rules and regulations that regard retention ponds, what's required and how they're built, what are the specifications, how far from the property lines must they be located? Is there fencing for the pond? How do we ensure children don't go into the pond, fall into the pond, hurt themselves in any way? Who repairs, maintains, cleans, insures the ponds, the pond? What about bugs, snakes, insects, et cetera, et cetera? How does the town enforce the rules regarding the pond? And then, is the town going to look at alternatives to the pond, i.e., is a town going to seriously look at how we can connect into the current sewage system, even if that might require a pump or whatever, as a better alternative? And those are my questions. Thank you.

Terry Cooke: Thank you sir. Next speaker.

John Pittman: John Pittman, 12 Piedmont Drive. Sometimes when you're studying a complex problem, you need to take time to really look at the upfront process as opposed to proceeding through timelines and milestones just to meet requirements. And I would urge you, because of the complexity of this particular problem that we do exactly that we take the time and effort to study the problem, walk the terrain, get the right experts out here so we know more than we know today. I would simply ask you to do that prior to making any formal decisions or recommendations to the council. Thank you. [applause]

Terry Cooke: Thank you. Anyone else? Yes, sir.

Chris Gore: My name is Chris Gore, I live on 1 Piedmont Drive, it's the corner of Piedmont and East Marshall, and my question is actually a little bit redundant to what John had asked in some length. But it's a simple question and a somewhat redundant, I guess. Does the town have established patterns for managing groundwater and stormwater ran off? I mean, there may be on the books right now or people work them out easily during meetings or whatever, but just to know if we have a [inaudible] or a pattern of procedure already, we could replicate from or build on from it, because I rather doubt, we've had to start from scratch on this. You all probably been through these [inaudible] everything from the Salamander to other properties around here that have had to be addressed. Thank you very much.

Terry Cooke: Thank you, sir. [applause] Next speaker, please. Anyone else before we conclude the public hearing?

John Neal: May I ask one more question?

Terry Cooke: Yes, Mr. Neal.

John Neal: Let me get my note out here on the town ordinance. On page 73 of the town of Middleburg Virginia subdivision and site ordinance 7.5.1 D states, the design and construction of drainage facilities shall be such that all water courses transversing the subdivision or development and water originating from outside or within the subdivision, or development will be carried through and off the subdivision or development without creating an adverse drainage condition to roadway or residential sites within the tract and without injury to roadways, residential sites or other lands abutting or in the vicinity of the tracks. So that's a town ordinance. Thank you. [applause]

Terry Cooke: You have another comment ma'am?

Meredith Whiting: I'd like to ask a question, what's the next step in this process?

Terry Cooke: Will, would you like to explain it?

Will Moore: Certainly. It maybe we should finish the hearing first. Yeah, I can certainly.

Terry Cooke: If there are no more speakers who wish to address the commission, we will conclude the public hearing at this time. Many of you have raised several questions. We recognize that drainage issues obviously is paramount concern to I think everyone here and certainly as a matter that town staff is aware of, and we'll be addressing with the applicant. But the public hearing is closed. And I will now ask Will to respond to some of the comments and questions that some of you have had and perhaps explain what the next process.

Will Moore: Absolutely, thank you, Mr. Chairman. And thank you to everyone who came out to speak tonight. Some very good concerns raised without a doubt. I think stormwater chief among those that we, from a town standpoint, can address in terms of process. And this is something that I understand it's difficult for people who don't live in this world of planning to necessarily understand. But the subdivision of land takes place in three phases. So there is a preliminary plat of subdivision, which is the stage that we are at right now. The preliminary plat is what we sometimes refer to as a sketch plat, and the intent of the preliminary plat is to make sure that from maybe the 30000-foot view level that the subdivision could take place and that the developer is looking at the right issues. The preliminary plat, if and when it is approved, and we are not asking for action from the commission to approve the preliminary plat tonight. But if and when it is approved, it does not actually subdivide the land, so it does not create the lines and it does not authorize any development. The next phase, which is the construction plan, phase things that the chairman mentioned earlier, that is much more technical detail stage during which we get all of the engineering requirements have to be met for the town. And particularly with regard to drainage. So I believe one speaker Mr. Pappas referred to [inaudible]. And no offense taken to it, it actually is a sketch plan at this point. So while it does show preliminary plans for how drainage would be handled, it is not a fully developed drainage plan yet. So if there are questions that you have of the suitability for what is being proposed here to actually adequately handle the drainage, that's a very fair point. We can't get that answered at this stage. That is answered in the subsequent construction plan profile stage when the developer is required to submit a much more detailed information as far as stormwater calculations showing that any provision for handling the stormwater are adequately sized, developed so that they meet those requirements that Mr. Neal so eloquently stated at the end that it has to be demonstrated that there will not be those adverse impacts on the surrounding streets, surrounding residential properties. So that is the construction plan phase, not the construction phase. Again, I think Mr. Pappas mentioned it, that you don't want to do that construction phase. Correct. It's the construction plan phase. Once those construction plans are approved? And again, this is before a spade of dirt can be moved on the property. At that point in time, the developer can then seek the grading permit from the county to actually start moving the dirt.

The final stage. Again, preliminary plat, construction plan phase, the final stages and final plat. And it's only at that stage where the lots are actually created. So I know members of the public has a lot of concerns with many of the things that you mentioned in your comments, but I would simply say that some of those questions can't be answered at this stage. That is the preliminary plat stage, but they do have to be answered and we will ensure that they are answered before any of those subsequent approvals could take place. So I hope that's helpful.

Caroline Perna: Can I ask a question? Can it be denied in this phase?

Will Moore: So good question, and the commission is very familiar with the rules as it relates to subdivision of land. So subdivision of land in Virginia is what we call a ministerial process as opposed to a discretionary process. A discretionary process is one where you can apply discretion. A ministerial one means that if the developer demonstrates that he or she has met all of the requirements of the applicable ordinances that are in place. So the zoning ordinance does say that in this zoning district for single family detached residential units the minimum lot size is seven thousand square feet. And if the applicant can demonstrate that he meets that which he has, that box is checked. There's a laundry list of requirements at those various stages, the preliminary stage, construction plan stage, final plat stage. If during that process it is demonstrated that all the technical requirements again in the applicable ordinances are met, then the approval is compelled. You can't deny it for discretionary purposes. So we're nowhere near that stage yet. We have done one iteration of review of the preliminary plat. We've issued review comments that the engineer or the applicant has to address and resubmit to us. We go through that [inaudible] process once, if and when they can demonstrate that the preliminary plat requirements are met, then the commission will have to take action to approve, and it would not be discretionary at that point. That remains true for the final plat as well as well as the construction plans, they have to demonstrate that all of the applicable regulations are met before an approval can take place.

Caroline Perna: Can I ask one more question. My first time [off mic]. Does the fact that it's in a historic district of Virginia have an impact on any of the process? Does that like matter?

Will Moore: Those Mr. chairmen may be two separate questions of whether there is an impact or whether. It matters. Absolutely. And it matters to the point that, you know, the reference [off mic] From a staff standpoint, I think it would be a shame that [off mic] no longer used as a dwelling for many of the reasons stated here this evening. However, we cannot compel an owner to continue to use it as a dwelling. So if this were to be approved for subdivision, that could not remain as a second dwelling on a reduced size lot. So the option would be either a demolition or to otherwise render it uninhabitable as a dwelling. It could be used as an accessory building to the main structure that would remain on the property. So I mention that because while I say those are the two options, there is protection for that structure being within the historic district. We have a Historic District Review Committee that has to review any new construction that would take place, any changes to the existing structures, they would have to review and approve demolition. And that would be a very high bar to give approval for demolition. There are safeguards to the existing structures, as well as to what any new structures on any new lots would look like by being in the historic district.

John Ross: Mr. Chairman, I have one more question, short and brief. And listening to this, I understand that the role of the commission is only ministerial. And just to make sure all the boxes are checked, and it has no discretionary authority where does discretionary authority come in the process before construction begins.

Rhonda North: Mr. Chairman, Mr. Chairman, I do need these speakers to state their name before they speak

Terry Cooke: I'm sorry again. As Will explained, the discretionary aspect only applies when the ordinance allows discretion on a matter that's before the commission. That does not exist in the case of

subdivision plat. Subdivision plats. There is, as will explain, there is a checklist of matters that have to be addressed satisfactorily in that process. If they are all addressed satisfactorily in accordance with the ordinance and the regulations, the commission does not have discretion to deny approval.

John Ross: Does the Town Council have discretion to deny?

Terry Cooke: No they do not.

John Ross: So in fact, all we have to do is make sure you guys check the boxes. And that's it.

Terry Cooke: That's essentially it. Yes.

Will Moore: [multiple speakers] It may not have been the best terminology on my behalf. And I apologize if the case to simply say check the boxes. There's a very high bar for many of those boxes [inaudible]. And most importantly, with the drainage is, I think, the main concern expressed. There are other concerns, of course, but it's a very high bar to meet storm water regulations in the Commonwealth of Virginia and as well as reflected in our own. So it's probably a little [inaudible] for me to say check the box, there's a lot of work that will have to be done to demonstrate that stormwater management is [inaudible] planned and can adequately serve those lots. It's a very appropriate comment. And if any commissioners have not yet been to the site to go down, there is as Mr. Neal started off with, there is a lot of grading existing on this property and a lot off, and [inaudible] properties to the East, some of the benefits that come with the potential for development here. It sounds like there is a history of problems affecting those lots. This is an opportunity that probably won't exist otherwise to address some of those. The comment was made that there's no curb along Jay Street and that in itself allows water to flow. Part of this development would include the installation of a curb along Jay Street, obviously not in the driveway connection, but there are some opportunities to potentially actually improve some of the stormwater issues that sounds like today.

Terry Cooke: Thank you, Will. Thank you.

Rhonda North: Mr. Chairman,

Terry Cooke: Now the meeting, the public hearing has concluded.

Michael Pappas: Don't worry, I'm not going to take anyone's time. I just want to have a question of Will here. So isn't it true that even with the approval of the subdivision, there are a number of proffers that could be requested and that would be, again, as helpful in all of the concerns that are being expressed here?

Will Moore: So the term proffer, Mr. Chairman, only applies in the case of rezoning land, this is already zoned R-3 zoning district, which allows for those 7000 square foot lot so that there is no opportunity to offer or for the town to accept any proffers which are solely related to rezoning land.

Trowbridge Littleton: Will, when does the HDRC get involved.

Rhonda North: Mr. Chairman, again, when people speak, I need them to state their name for the record.

Terry Cooke: Don't make it hard on me Trow.

Rhonda North: The transcribers are not here in this room. They know no one. [laughter]

Trowbridge Littleton: When does the HDRC get involved?

Will Moore: HDRC gets involved at any point when there is new construction proposed or if there are alterations proposed to existing construction.

Trowbridge Littleton: Because there already is by what they're saying about the fencing and all that, I mean, there's already alterations.

Will Moore: There are no changes in the physical structures existing today that are currently proposed. If fencing is proposed to be added, removed or anything along the line then that invokes HDRC's judgment, which is discretionary. So that's probably maybe just circle back around. That's where discretionary judgment comes in later on when new homes are proposed or alterations to existing structures. The HDRC does have a discretionary rules.

John Ross: Mr. Chairman, one final question and then I'll shut up. My name is John Ross. The question is this. During the ministerial process where the staff is making sure of the developers checking off the box, what are the processes for citizen involvement?

Terry Cooke: There is no review, is there of that process?

Will Moore: This is the opportunity for public hearings. So a formal public hearing and this is a requirement the town puts upon itself. It's not mandated by the state as it is in other cases if land is being resolved. Other examples where special use permits are being requested, we're obligated to hold hearings. We're not obligated. But the town chose a number of years ago to put this hearing in place because they want this kind of input. But subsequent to the preliminary plat, there's no formal opportunity for public input. But as the chairman announced at the beginning of this meeting, there is a public comment session on every planning agenda where members of the public address commission about any topic not related to public hearings. So you can come back every month and address the commission at public comment and I don't want to speak for the planning commission. But please do because we get lonely sometimes.

Bud Jacobs: And town council as well. [off mic]

Will Moore: It's on my business card

John Ross: We're going to make sure it's our business to make sure you guys don't get lonely. Absolutely.

Caroline Perna: It's Caroline Perna. I just want to ask a quick process question. What is the typical timeline in this type of project?

Will Moore: I don't know that there is any [off mic] theoretically, the subdivision of land could be approved and the owner [inaudible] development.

Terry Cooke: Ok, folks, thank you all so very much for coming out this evening. This is a good turnout. This is how the process works. And your comments have been received, and I'm sure they'll be part of the staff's consideration as we move forward. Thank you all again. [applause] [off mic] Talk to me after the meeting Al. [laughter]

Will Moore: Folks excuse me, I'm sorry, the commission still does have a meeting to finish.

Rhonda North: And Mr. Chairman, Mr. Chairman, just just for the record, we lost Don about 10 minutes ago. Yes. Hung up.

Terry Cooke: Ok, folks, we have a few more matters on the agenda this evening. We'll continue on.

Will Moore: Mr. Chairman, I don't I want to say thank you for kind of indulging the public. Obviously not typical public hearing procedures, but I think sometimes a degree of informality helps inform people. I hope that helps.

Terry Cooke: Yeah, I was concerned with the Q&A and getting a little bit off the script. But much better to try satisfy some of those issues.

Will Moore: Understood. And if any. And if any commissioners' additional comments of their own or concerns [inaudible].

Terry Cooke: Good points. Yes. I will ask the commission if any of them, any of you have any thoughts or comments on what we've heard tonight. Commissioner Fleischman.

Ed Fleischman: Never pass up an opportunity. There were two concerns that were mentioned tonight that I really wasn't aware of. And maybe you can fill me in on a little bit more. There was some concern about a problem with the easement in the back. I didn't see any problem with that. What was that about?

Will Moore: So, yes, the speaker who actually two of them mentioned an easement. So they were at both of those ladies at the address number 306 East Marshall Street. So there's actually a 306. 306A, 306B, 306C so they can be shared access easement, a private access easement. And it's a concern of maintenance. So when a development is approved where there is shared access. There has to be easement established because, you know, you're going across somebody else's lot via an access easement to get to your own. So you have to come up with agreements for maintenance of those easements and those folks are having a problem with that subdivision of land having taken place a while ago with getting everybody on board to honor their maintenance agreements that come with the land. So that's kind of the issue that they're raising.

Ed Fleischman: Ok, so the second thing that I didn't see in my review myself, the retention pond, is I didn't see anything about that, where that come up?

Will Moore: So I don't know that I would call it a pond, it's shown is a depression. Darren is the engineer on the project for the developers. So he's here. But sorry, I had to change my password. I was forced to. I'm not as adept to putting the new one in. So essentially, you have this plan sheet in your plan, these swales that are proposed with these small pipes, culverts under two driveways leading to this area that you see circled here and it's noted on the plan as a infiltration basin. And I'm not sure what kinds [inaudible] might be necessary [inaudible] time. I wouldn't call it a pond, certainly, but basically a depression, a water holding area.

Ed Fleischman: Ok, thank you. Those are my two questions. Appreciate it.

Bud Jacobs: We have, Ed, at the bottom of North Jay Street behind this development. We have a storm water drainage pond installed in Steeplechase. And you might want to take a run down to the end of North Jay and take a look at it. It's its sole purpose in our case is to clean the water running off the street that comes. It's quite a steep grade down to the bottom of the hill before the water goes into the Chesapeake drainage system. And I don't know in scale how big it is compared to what is apparently planned here. But it's but it's a substantial expense. And it's it's something that requires close maintenance, I would say.

Ed Fleischman: Ok, let me just add something. There was a remark made by one of the people impacted about the residents on the east side of town being very close and good people. And I think the people on the west side of town are also very good people. Thank you.

Rhonda North: Mr. Chairman.

Mimi Stein: The issue is it's the maintenance of it. It's just the sharing and keeping space clear. And you know the one I share of course my neighbor [inaudible] he was in here about once a week for a long time claiming that my tires [inaudible] gravel. So that's the same neighborhood. We have easement issues in that neighborhood. But I have, you know that little house I mentioned before, [inaudible] I met a woman named Virginia who worked in the [inaudible] Leesburg years ago. She grew up in that large house and she told me it was [inaudible] and that small house at one time had been the kitchen. It's just very typical of colonial construction. So to me, I have a sensitivity to the historic value of the two properties staying.

Will Moore: I can tell you that the owner has shared with me, that he has no intention of demolishing it, but he does have to abandon [inaudible] dwelling unit if this subdivision was to continue as proposed. So our historic district survey has the main structure circa 1837 and the smaller one is circa 1900. So that's what our survey says.

Mimi Stein: [off mic]

Terry Cooke: Rachel, did you have a comment?

Rachel Minchew: The only thing I was going to say about I wouldn't call it a retention pond that you have on Jay, it's more of it's a garden area and that it's got plant in there that helps to filtrate all of the water. So when you think of a siltation pond, it's deep and it's a big pond. [off mic]. Exactly. This is not a pond. You would think it's a butterfly garden or a rock garden or something because there's a lot of rocks, there's a lot of vegetation. But it does work.

Bud Jacobs: Well, it's actually quite deep. The filtering layers of sand and limestone that lie underneath it go down about 15 feet. It's quite deep. And when we have substantial rain, it does fill with water and then it'll take 10 hours, 12 hours, depending upon the volume of water to drain through and then, you know, go to the creek that runs behind our HOA property. If I can jump the gun, I want to say that I spent a lot of time walking dogs and wandering around this part of town. And it's absolutely the case that stormwater drainage is an issue. Whatever happens with this development, there are problems that need to be addressed there. I don't know how they address how they should be addressed or what entity should should take it on. And I took to heart Will your comment that perhaps if this project goes forward, there's an opportunity to be presented to help, if not eliminate, I'm not sure elimination is possible, but at least mitigate some of the impact from the drainage water flowing from the Exxon across Jay Street and down through. It can get pretty soggy down there. And you too, I guess. maybe you live with that, too, right?

Mimi Stein: [off mic]

Rhonda North: Mr. Chairman, Mr. Woodruff is back on the line.

Terry Cooke: Welcome back, Don.

Don Woodruff: Welcome back. Well, I'm glad I'm here. I'm listening very carefully.

Terry Cooke: Yeah. Council representative report Mr. Jacobs.

Bud Jacobs: I never know what to report to you guys from the many scintillating conversations that we have in town council. I thought it would be helpful to mention two things. One is that, as you may be aware, the our representative in the House of Representatives has put into the mix for I can't remember CARES or Recovery Act funding some two million dollars in the form of a grant to help defray the costs of our new town hall. And that element did make it into the House recommendations that will now go to the Senate for approval. I think the Senate side probably would be more difficult for obvious reasons, but at least it's there and we can keep our fingers crossed. Secondly, and I didn't realize how relevant this was going to be to tonight's meetings, but the HDRC, as you may know, hired a company to help them with

the long overdue task of redrafting the historic district guidelines. The first draft has been presented to town council for comment, and I think it would be very helpful for those of you who are interested in paging through it, it's a substantial document. And I would welcome any comments that you may have or ideas for changes, anything you don't like in it that we can feed back into the process and help council make more informed decisions about whether to approve it and move it forward.

Terry Cooke: What is the process adopting any any proposed changes? Is there a public hearing?

Bud Jacobs: You know, I don't know. That's a good question.

Will Moore: This will be tentatively planned for adoption by the council at their August 26th meeting.

Bud Jacobs: Yes. And that that deadline is August 23rd. Whatever it is. That deadline is imposed by the terms of the grant that the HDRC got to pay the contractor to draft the revised guidelines. So we've got to get it done and get it back.

Ed Fleischman: But I would like to see the document. How would we access it, or could you send it by email attachment?

Bud Jacobs: Will could do it.

Will Moore: Yeah, it's too large to send by email. But what I will do, I will send I will send to the commission much the way I send your agendas with linked documents. I'll send the last council agenda and there's a link to access it there.

Ed Fleischman: That's perfect. And then another question, Bud did that address the boundaries of the historic district?

Bud Jacobs: At this stage I don't believe it does. The boundaries are unchanged from the current historic district overlay.

Ed Fleischman: I mentioned this before. I think the I've never seen a historic district, just a rectangle like that.

Will Moore: It boggled my mind and actually Mr. Jacobs and I discussed that as well. The historic district had a subcommittee at one point in time investigating the boundaries, and they were struggling a little bit with making recommendations. And I will suggest once we get them clear of the design guidelines [off mic] which has been really heavy lifting them, that we reinvestigate that. And we may actually ask a planning commissioner to join us in that study because eventually any revision to that boundary, it's a zoning overlay district. So it will be treated as a rezoning of land. So any revisions to that boundary would eventually come to you the same way any rezoning would for recommendation and a hearing and forwarded to Council for a hearing and potentially adoption. So there's definitely opportunity to improve those boundaries and I think we will be revisiting that.

Ed Fleischman: So Will and Bud, I was involved for many years with the National Register and the Advisory Council for Historic Preservation on federal projects, and we dealt with historic districts and increasing decreasing. So I'd be happy to help out if you need someone to help out.

Will Moore: Thank you for offering.

Bud Jacobs: That's all I had. Mr. Chairman.

Terry Cooke: Thank you. Next item is here is a quorum for next month's meeting, August 23. [multiple speakers] that will not be available. Yes.

Ed Fleischman: I'm sorry. Could we go back to the discussion items? I have one.

Terry Cooke: I beg your pardon. I skipped over that. You're right.

Ed Fleischman: Ok, I got a question to Will. So on July 7th, we received an email from a real estate developer saying that they had a new listing on 204 Sycamore Street at 1.469 thousand. And I just wanted to know whether they have come to you or talked about demolishing the building there and building another building.

Will Moore: Let me quickly look at this property, looking at there are two properties side by side [inaudible] recently sold.

Ed Fleischman: Yes, that's correct. They are in bad shape.

Will Moore: One of which there was actually some a good deal of work put into and I think it was 202. Let me just confirm the address before I. Yeah. The 202 has been purchased and moved into. 204, someone has been speaking to me and it sounds like the intention is to demolish 204 and to rebuild on that property. It's the same developer that is currently building two homes on Blue Ridge Avenue in the 600 block. The difference would be this one would be subject to those revised regulations that you passed. So it is a larger lot than the lots on Blue Ridge. So there's a little more room to play with. But again, if you want to go to that full 30 feet in height, he would have to have these increased side yards [inaudible].

Ed Fleischman: The real estate listing has a diagram or picture of the building. So you haven't you haven't seen that at all? [off mic] Would you like me to send a copy of the email?

Will Moore: Sure.

Ed Fleischman: No, I don't have to send it to you.

Will Moore: Since you've mentioned that I'd be interested to [off mic]. And with all due respect to our friends in the real estate industry, I have seen so many schematics or renderings of things that are quote unquote possible on lots that are really not. Sometimes it clogs the works.

Ed Fleischman: Right now, I agree with you. And on second thought, I won't send it to you,

Will Moore: Now I have to see it.

Ed Fleischman: Yeah, just Google 204 Sycamore. Thank you.

Will Moore: Yes. I do anticipate an application for demolition and new construction at some point in time in the future.

Terry Cooke: Again, forgive me for skipping over that agenda item. Any other members of the commission have anything you wanted to bring up for discussion? Thank you, Ed. Keeping me honest. Our next meeting is August 23. Is there anyone who will not be available for that meeting? Speak now or forever hold your peace. Good. We'll see you on the 23rd. And with that, folks, we are adjourned. Thank you all very much.

Don Woodruff: Thank you.