



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



**MONDAY, SEPTEMBER 13, 2021  
PENDING APPROVAL**

**PRESENT:** Terence S. Cooke, Chair  
Donald Woodruff, Vice Chair  
Edward R. Fleischman, Member  
Rachel Minchew, Member  
Morris “Bud” Jacobs, Councilmember

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

**ABSENT:** H. H. “Dev” Roszel, Member  
Mimi Dale Stein, Member

The Middleburg Planning Commission held a special meeting on Monday, September 13, 2021 in the Town Hall Council Chambers to consider a final subdivision plat for Middleburg Residential, LLC. Chair Cooke called the meeting to order at 6:30 p.m. Town Clerk North called the roll.

**Disclosure of Meetings with Applicants**

The members reported that they had no meetings with applicants.

**Action Item**

**SD 15-01:** Final Subdivision Plat for 49 Lots – Residences at Salamander – Middleburg Residential, LLC

Deputy Town Manager Moore reviewed the history of this application. He noted that the applicant changed the name legally to Middleburg Residential, LLC; however, they would continue to refer to it as The Residences at Middleburg for marketing purposes. Mr. Moore reported that the construction plans for the project were now in an approvable form and that the Town Council had accepted the performance agreements. He advised that he was only awaiting the submission of the \$8 million in surety bonds and the executed performance agreements; and, noted that, once received, he would sign and release the construction plans. Mr. Moore reported that the final subdivision plat was now in an approvable form and advised that once the Planning Commission approved it, the Council would consider the acceptance of the deeds dedicating the rights-of-way and for the off-site improvements. He noted that the agenda packet contained the reviewing agencies’ review comments and the applicant’s responses so the Commission could understand the depth of the review.

In response to inquiries from the Commission, Deputy Town Manager Moore advised that typically there was not an index for final subdivision plats, as it was simply a matter of matching the lines. He noted that the final subdivision plat showed the metes and bounds of the properties; therefore, there was no easy descriptor of the sheets. Mr. Moore opined that whether the Commission needed to review final subdivision plats was something that would be good to consider during the update to the subdivision ordinance. He reminded the Commission that the Commonwealth of Virginia required an approval authority for plats and advised that the Council made the decision years ago that the Planning Commission would approve preliminary and final subdivision plats and the Town Planner would approve

the construction plans. Mr. Moore opined that the construction plans may be of more interest to the Planning Commission. He confirmed the issues raised during previous Commission meetings regarding the sidewalks and access to the development had been addressed. Mr. Moore reviewed the history of the proffer amendment requests and advised that the applicant withdrew their recent proffer amendment request related to pedestrian facilities; therefore, there would be sidewalk on both sides of the streets. He further advised that the Council deliberated the question as to whether to eliminate one or both access points at Reed and Chestnut Streets and ultimately affirmed their desire for both. Mr. Moore confirmed he was not aware of any pending legal actions regarding this application.

In response to inquiries from the Commission, Deputy Town Manager Moore advised that the houses in the development would be subject to the review of the Historic District Review Committee (HDRC). He advised that the Historic District Guidelines would not apply to them, but rather, as required under the 2007 proffers, the HDRC and the applicant developed guidelines that would apply only to this development. Mr. Moore reported that the applications for the homes would be viewed through the lens of the Salamander Guidelines. He advised that the HDRC had started a review of the blanket design of the homes; however, they had not yet received an application for any of the properties.

The Commission noted that when Salamander’s rezoning was approved in 2007, they said the houses were “going to look a lot like Middleburg”. They questioned whether the homes were being integrated into the community.

Deputy Town Manager Moore explained that the HDRC was looking at materials and the general design of the houses. He noted that as provided for in the proffers, the houses would be larger than those typically found in Middleburg. Mr. Moore reiterated that the efforts to integrate them were related to style and materials.

The Commission expressed concern that the original proposed designs did not fit in with Middleburg. They expressed hope that the HDRC would be cognizant of what the applicant said they would do.

It was suggested that the members of the Commission visit Salamander’s sales office to get a sense of the house designs that were being proposing.

*Councilmember Jacobs moved, seconded by Vice Chair Woodruff, that the Planning Commission approve the request of MIDDLEBURG RESIDENTIAL, LLC for approval of the final plat of subdivision for forty-nine (49) lots on 54.06 acres of land at Parcel 538-25-6474, conditionally zoned R-1 Single Family Residential and R-3 Residential.*

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

No – N/A

Abstain – N/A

Absent – Commissioners Roszel and Stein

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

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### **Quorum of September Meeting**

With the exception of Commissioner Fleischman, who would be out of town, the members who were present advised that they would be present for the September 27<sup>th</sup> meeting. Mr. Fleischman noted that he would participate remotely if possible.

There being no further business, Chair Cooke adjourned the meeting at 6:57 p.m.

RESPECTFULLY SUBMITTED:

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Rhonda S. North, MMC, Town Clerk

**Middleburg Planning Commission Transcript  
September 13, 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](http://www.middleburgva.gov))**

**Terry Cooke:** We have the witching hour. Good evening, everyone. This is a special meeting of the Planning Commission for Middleburg, and we will call the meeting to order, and I will ask the town clerk to please call the roll. Rhonda.

**Rhonda North:** Chair Cooke.

**Terry Cooke:** Present.

**Rhonda North:** Vice Chair Woodruff

**Don Woodruff:** Present.

**Rhonda North:** Commissioner Fleischman

**Ed Fleischman:** I'm here. Thank you,

**Rhonda North:** Commissioner Minchew.

**Rachel Minchew:** Here. Thanks.

**Rhonda North:** Commissioner Roszel is absent. Commissioner Stein is absent. Council Member Jacobs

**Bud Jacobs:** Present.

**Terry Cooke:** Thank you. Our next item on the agenda is disclosure of meetings with applicants, and we'll just go around the dais and Rhonda would you call each member and please indicate whether you've had any discussions or meetings with applicants with matters before the planning commission.

**Rhonda North:** Chair Cooke.

**Terry Cooke:** No meetings. Thank you.

**Rhonda North:** Vice Chair Woodruff.

**Don Woodruff:** No meetings. Thank you,

**Rhonda North:** Commissioner Fleischman.

**Ed Fleischman:** No meetings or discussions. Thank you.

**Rachel Minchew:** Commissioner Minchew.

**Rhonda North:** No meetings.

**Rhonda North:** Council Member Jacobs.

**Bud Jacobs:** No meetings or discussion with any applicant.

**Terry Cooke:** Thank you. Next item on the agenda is public comments. There is no public hearing tonight, and I would just invite any members of the public who are here, and perhaps I don't know whether folks have phoned in Rhonda or not, but

**Rhonda North:** We did not set this up as a remote meeting.

**Terry Cooke:** So I take it there's no one who wishes to address the commission on any matters this evening, so we will close the public comment item on the agenda and move on to our one and only action item having to do with the approval of a final plat of subdivision in the Salamander community. And I'll ask Moore to please remind us of how we got to this point.

**Will Moore:** Yes, sir. Thank you, Mr. Chairman. It's it's been a number of years now. So some of you may recall that the preliminary plat of subdivision was approved in 2015 for the Residences at Salamander. Also, using the name, you may notice the Middleburg Residences. This is the legal recorded name, but they'll still be using the Residence at Salamander I understand for kind of a marketing purposes, so you may hear those names interchangeably. But again, the preliminary plat was approved in 2015, followed shortly thereafter by submission of the first iteration of the construction plans and profiles. After the first review of those, the project went dormant for some time reasons, which aren't all clear to us, although we do know that at some point in time over the the forthcoming years that the Salamander entities brought on a development partner. So I think it was largely due to that. So the the application was reactivated really in earnest just about a year ago or a little over a year ago. The construction plans and profiles quickly followed with subsequent submissions, and those are in an approvable form. At the council's last meeting, they approved the performance agreements that will be associated with the bonding that will be posted along with the construction plan. So in terms of the construction plans, we're simply waiting on that surety to be submitted along with the executed performance agreements. It's surety and the little more than \$8 million that will be posted. The bonding for the project. As soon as that is in hand, I will sign and release the approved construction plans. In the meantime, over the last few months, we have been reviewing the iterations of the final plat and it is now been deemed by staff and our consulting engineer to be in and approvable form as well. The council would then, subsequent to your approval at their meeting next Thursday, would take up approval of the deeds that would be associated with these plats. That is the acceptance of the dedication of the right of way and certain off-site easements. So we have reached essentially the final stages of the approvals for the project. And again, we have deemed these to be in an approval form at Mr. Fleischman suggestion, which I think was a very good one. I did include some of the previous review comments that were issued on the plat, as well as the comment responses, so that you can get an idea of some of the the depth of the review that these undergo. And I think that's a practice that we will continue with these types of approvals that we would ask of you. So that being said, there is a recommended motion. I'd be happy to answer any questions that the commissioners may have.

**Terry Cooke:** Thank you, Will. I'll invite any commissioners who have any thoughts or questions to raise those raise those at this time, I would simply remind everyone to please state your name before making your comments or asking your questions. And anyone who wishes to speak to this matter. Commissioner Fleischman.

**Ed Fleischman:** Yeah. Edward Fleischman, Planning Commissioner. Will, I want to thank you for transmitting all the documents. I think it's very helpful to see it. I have two question comments. One, when I review a set of plans, usually I look at the index sheet, it shows where the separate plan sheets are. Didn't anyone ask the applicant to include an index sheet with this set of plans?

**Will Moore:** You typically don't get an index sheet with a subdivision plat. So that's with a final plat like this you simply get the match lines. There's no real easy descriptor for the various sheets in a plat set because you're really looking at the metes and bounds of all the different properties that are involved and there are different match lines, but it would be difficult to kind of index those. So quick answer is no, we did not ask for it because it's not really typical with a final plat.

**Ed Fleischman:** Okay. I think it would have been helpful to assist the commission if there was one sheet and it laid out the 15 individual. I mean, that's usual, right? Ok, my second question is I reviewed all the material that was submitted, and I reviewed the plat and the documents, and it really focused in on what I would call the surveys of the land. And I know the commission has dealt with Salamander a lot in the past on their applications. But in this submission, I didn't see anything that a planning commissioner would review or be interested in. I mean, the plots were just numbers and laid out and there was a survey, so I was surprised that we were even asked to review it. I didn't see anything in the plat that required or any comment by me or I think the other people also. It was just a detailed survey [inaudible]. So why are we asked to look at it?

**Will Moore:** You know, it's a good question and and it may be a good theoretical question to wait to weigh in on in the future as we consider updates to our development ordinances, including the subdivision ordinance. But the short answer is that in Virginia, you have to have an approval authority for preliminary plats construction plans and final plats. The local government, the elected body can elect to be the approval authority themselves. They can designate the planning commission, or they can appoint a subdivision agent, a staff member generally. The decision was made many years ago by the Town of Middleburg that the planning commission would be the approval authority for preliminary and final plats, and that the subdivision agent staff member would be the approval authority for the construction plans and profile. So it's probably those construction plans and profiles that may have been of greater interest to you and that that is the stage that has all the technical details, but you're asked to approve it because the ordinance requires you to be the approval authority.

**Ed Fleischman:** Ok, thank you. I really looked at it. I really had no comments whatsoever on it, but I do have a question. In the previous planning commission meetings, some of the commissioners were concerned about a couple of specific items dealing with sidewalks and dealing with access from the existing Ridgewood. Have all those issues been taken care of? Are you and the council and everyone feeling good about the presentation and the plans as of now?

**Will Moore:** So those issues have been addressed. So backing up a little bit, and I think I did report this to you. So you'll recall call that you had a couple of different proffer applications come before you that related to properties that were subject to Salamander Salamanders, original 2007 proffers, and as those had been amended over the years, the first of those related to the Town Hall project and were very minor in nature. The big one that came before you had proposed a few different things, and one of those was revisions to the pedestrian network. At first, they came and said they only wanted to provide it on one side throughout the development. Then they came back and said they wanted to provide it on both sides, through part of it, but still only one side and part of it, you had ended up recommending denial of that proffer amendment application. It had some other aspects to it as well the ability of construction traffic to use North Pendleton Street in addition to Foxcroft Avenue, for example. At the end of the day, the applicant, prior to the council public hearing and prior to the council acting on that amendment application, withdrew that request to revise the pedestrian network. So at the end of the day, council approved it. But really, in effect, all they approved was the construction traffic issue. So a long way around saying that there will be pedestrian facilities on both sides of the street throughout the development. As regards in regards to the access points. Subsequent to that, and not necessarily subsequent, but during that deliberation, a number of residents had approached the elected officials and asked for reconsideration of the access points. That same proffer amendment that I was just discussing. You'll recall it originally proposed the elimination of the Reed Street vehicular connection. That request was likewise with the pedestrian alterations was ultimately pulled from the request by the applicant. But

during those deliberations, a number of residents throughout the Ridgeview area had approached the elected officials and were requesting reconsideration of access points. And one of the proposals was to essentially eliminate both of them maybe keep Chestnut as an emergency only access but get rid of the interconnection points at both Reed Street and Chestnut. Council deliberated on that. I know the Mayor attended a community meeting or more and had a lot of discussions with some of those residents. Ultimately, the the Council affirmed the desire to have both of those connections, as had been previously approved. So there was a lot of deliberation that went into that. We had an engineering firm kind of do an update to the last traffic impact analysis that was done in the 2015-time frame. And also, there was a lot of information provided to Council throughout those deliberations. But ultimately again, they affirmed the desire to have both of those connection points.

**Ed Fleischman:** Ok, thank you, Will. I have no comments really on the submissions that we're reviewing, just the general question again before we vote are there any pending legal actions or suits or anything that we, as the commission should be aware of before we take a vote?

**Will Moore:** No actions or anything like that the staff is aware of.

**Ed Fleischman:** Okay, thank you.

**Terry Cooke:** Thank you, Ed. Anyone else on the commission? [off mic] Anyone else? Before we take action? Council Member Jacobs.

**Bud Jacobs:** Thank you, Mr. Chairman. The I have a comment and a question Will. The comment is the I found the curved tables on pages 19 and 20 to be particularly compelling if you haven't looked at that. I commend them to you. Oh, exciting, yes. My question is I hope it's not out of place. It's not directly related to the subdivision plat. I still am a little confused on what the developers may have committed to with respect to design elements in the residences, the relationship to the historic district committee and how that all lashes up. As I understand it of course, they're not in the historic district. So what's the process there? If you could walk us through it a little bit.

**Will Moore:** Right. So it's an interesting one. There was a proffer from 2007, the original proffers, and that has maintained through all the different amendments since, and it proffered that essentially that the development all three zoning districts are one or three, and the potential future development in the MUV area would be subject to review by the Historic District Review Committee. It proffered that the the applicant and the HDRC, which is interesting to proffer somebody else to do something, but that they would essentially collectively come up with design guidelines for the development. And what I mean by that is the HDRC views the development in the Middleburg historic district through the lens of their adopted historic district design guidelines. Those guidelines will not be used to evaluate development in this new area or areas to be developed, but that the applicant would essentially propose guidelines would work with the HDRC to come up with what HDRC found acceptable. The HDRC would then adopt design guidelines and then as individual applications came through for new homes, they would then be reviewing each of those through the lens of those now adopted guidelines. They have gone through that process. They continue to go through that process. Well, I should say that they have adopted guidelines for both the R-1 and R-3 areas, and they have started reviewing individual home applications well, not individual applications, but just more of a kind of blanket design to get feedback on. But they've still not entertained any individual request for a certificate of appropriateness for a particular property. They are far along with the applicant, but there is still a good bit of work to do.

**Bud Jacobs:** Thank you. And I assume that the recent amendments we made to the zoning ordinance concerning height restrictions and distances between residences will obtain in the construction plans for Salamander. Or are they grandfathered because they.

**Will Moore:** Actually they will not. Those changes were made specifically to the R-2 zoning district and the residential zones in the Residences are R-1 and R-3. So they would not apply.

**Terry Cooke:** Commissioner Woodruff.

**Don Woodruff:** Don Woodruff, as I recollect from having been at those meetings, the one thing that was prevalent and for umbrella over the whole concept of what they were going to build was that it was going to quote and I believe is correct look, a lot like Middleburg and I wondered how that kind of a concept is being integrated and implemented as we look at these residences.

**Will Moore:** It's a good question. I think the lens through which the DRC has worked with the applicant on the development of the guidelines has been primarily through one of materials, somewhat general design. I will say it would be contradictory to some other proffers as relates to that were offered and accepted that relate to kind of the massing of the buildings. There's a maximum footprint that's proffered in each of the zoning districts it's twenty-five hundred square feet in the R-3 area, three thousand five hundred square feet in the R-1 area. And that's just that's footprint of area under roof of the primary building only. So point being in general, these homes are going to be a good bit larger in size than other homes in Middleburg. But there were definitely efforts as it relates to style to try to replicate things if not picked up on in town, then picked up on in development in the surrounding more rural community. Definitely things as it relates to materials, things like that.

**Don Woodruff:** Well, my concern was that when we saw the first iteration of what they were talking about, it belonged on a Caribbean island or in Florida somewhere rather than in Middleburg with a house, a long causeway and then the residential areas here. And it just didn't seem to fit. And I haven't seen anything subsequent that that delineating what they plan to do. But I hope that the HDRC will take cognizance of what they said they were going to do and that it will not be something that will make anybody feel that we have approved something radical designs that just don't fit in Middleburg. Thank you, Will.

**Terry Cooke:** Commissioner Fleischman.

**Ed Fleischman:** Just a follow up on one of the things that I did is I went into the Salamander Sales Office on Washington Street, so I would suggest at your leisure you visit it, and you can see a whole layout and then they have brochures on each of the building sizes. So give you a real sense of what is going on.

**Terry Cooke:** Anyone else before we move on to action on this application. Hearing none a motion is in order. Anyone care to put one before us?

**Bud Jacobs:** I move that the Middleburg Planning Commission approve the request of Middleburg Residential LLC for approval of the final plat of subdivision for 49 lots on 54.06 acres of land at Parcel 538-25-6474 conditionally zoned R-1 single family residential and R-3 residential.

**Terry Cooke:** Thank you Council Member Jacobs. Do we have a second?

**Don Woodruff:** Second.

**Terry Cooke:** Thank you, Vice Chair Woodruff. We have a motion and seconded Rhonda, would you please? Any questions on the motion from anyone? Rhonda would you please call the roll?

**Rhonda North:** Yes, sir. Vice Chair Woodruff

**Don Woodruff:** Yes.



**Rhonda North:** Commissioner Fleischman.

**Ed Fleischman:** I vote to approve.

**Rhonda North:** Commissioner Minchew.

**Rachel Minchew:** I vote to approve.

**Rhonda North:** Council Member Jacobs.

**Bud Jacobs:** I vote to approve.

**Terry Cooke:** Very good. The motion carries. Thank you all. That is the only action item on our agenda this evening. The only remaining item has to do with a quorum for a regular meeting, which I think is September 27th Rhonda.

**Rhonda North:** Yes, sir.

**Terry Cooke:** Ok. Is there anyone here this evening who will not be available for that meeting on September 27th?

**Ed Fleischman:** I will be out of the country. I may be able to do it remotely if possible.

**Terry Cooke:** Thank you, Commissioner Fleischman. anyone else not available? Council Member Jacobs.

**Bud Jacobs:** I move that we find an appropriate penalty for Mr. Fleischman. [laughter] [off mic]

**Ed Fleischman:** I would leave the country. You won't be able to find me.

**Terry Cooke:** We'll take that under advisement.

**Don Woodruff:** I think you should bring us all something nice home.

**Terry Cooke:** Ok, well, that that concludes the matters before us this evening. Thank you all for making the time in your schedules to join in the special meeting and with that we are adjourned.

**Will Moore:** Yes. Thank you, everyone.