



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



**MONDAY, DECEMBER 20, 2021
PENDING APPROVAL**

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

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

The Middleburg Planning Commission held their regular meeting on Monday, December 20, 2021 in the Town Hall Council Chambers. Chair Cooke called the work session to order at 6:36 p.m. Town Clerk North called the roll.

Discussion Item

Short-term Rentals

Deputy Town Manager Moore reminded the Commission that they discussed this item during their last meeting, at which time, he introduced the framework for adding language to the Comprehensive Plan and revising the zoning ordinance related to short-term rentals, based on direction they received from the Council. He further reminded them that the request was to consider the effects of short-term rentals on the character of the community and to identify how applications for special use permits would be evaluated. Mr. Moore reiterated that they reviewed the framework for regulations that would limit the concentration of short-term rental uses in an area, as there was concern that too many of them grouped together would affect the character of a neighborhood, and that would limit the frequency of the use so as to reduce the impact on the neighborhood. He reminded the Commission that it was their consensus that this was a good approach that merited further discussion; therefore, the Planning & Project Associate conducted research to identify ideas for how to address it. Mr. Moore opined that the proposals were not perfect and advised that they were being submitted for the Commission's review and discussion.

Deputy Town Manager Moore advised the Commission that three items were being proposed that would address the concerns regarding the concentration of the uses in an area, the first of which was to establish a radius from a property. He explained that under this approach, once a special use permit was granted, no further uses could be considered within that radius. Mr. Moore advised that the second proposal was to establish a tiered system regarding the frequency of the use. He noted that if dwellings were located closer together, the use would have a greater impact on the neighborhood. Mr. Moore reminded the Commission that currently, the uses required twenty-five feet between properties. He advised that under the proposed tier system, the use would be allowed for up to twenty-four days per calendar year if the next closest property was located between 25-35 feet; for forty-eight days if the next closest property was located greater than 35 feet and up to fifty feet away; and, for seventy-two days if the next closest property was greater than fifty feet from the short-term rental property. Mr. Moore reiterated that this was only a first draft that was meant to initiate the discussion.

In response to inquiries from the Commission, Deputy Town Manager Moore advised that the distance would be measured from property line-to-property line for the property separation approach and from structure-to-structure for the tiered approach. He confirmed the measurements would be taken on all sides and that for the structure measurement, it would be taken from the structure used for the short-term rental. Mr. Moore advised that in the case of something like a living space over a garage, the measurements would be taken from legal dwelling to legal dwelling. He reminded the Commission that the location of the short-term rental must be used principally as a residence, which would generally prohibit short-term rentals from occurring in living spaces over a garage. Mr. Moore advised that a short-term rental was defined as being less than thirty consecutive days.

In response to an inquiry, Deputy Town Manager Moore advised the Commission that he consulted with the Town Attorney on the question of whether a special use permit could be limited to a year only. He further advised that the Town Attorney opined that once the special use permit was granted, it ran with the land in perpetuity, as long as the use was in conformance with the permit. Mr. Moore noted, however, that the permit could be revoked for non-compliance with the regulations.

In response to an inquiry from the Commission as to whether she relied on the data from other jurisdictions in developing the recommendations, Planning & Project Associate LaClare explained that she initially compiled the changes based on the data from other municipalities; however, when she compared it to the properties in Middleburg that were currently eligible to apply for a special use permit, she realized that the majority were less than sixty feet apart. She advised that she then used that number to develop the suggested distances. Ms. LaClare advised that she looked at the data from other localities when developing the suggested rates of frequency of the use.

In response to an inquiry from the Commission, Deputy Town Manager Moore advised that he had not yet sent the draft recommendations to the Town Attorney for his review. He noted that establishing regulations regarding the number of days per year that a use would be allowed was standard. Mr. Moore advised that he discussed the concept of establishing a separation between properties with him and the Town Attorney did not dissuade him from pursuing it. He confirmed that once the Commission was comfortable with the draft recommendations, he would send them to the Town Attorney for his review.

In response to inquiries from the Commission as to what would occur if an individual was granted a special use permit and then did not use it, Deputy Town Manager Moore advised that the Town could impose a time limit for the individual to commence the use or the permit would become invalid. He noted that issues such as that required further discussion with the Town Attorney. Mr. Moore reiterated that the Town Attorney advised that the permit would run with the land and noted that he gave him a compelling reason for that position.

In response to an inquiry from the Commission as to how the required rental management plan would transfer from one property owner to another, Deputy Town Manager Moore reminded the Commission that the plan must be updated annually, otherwise, it would be a violation of the permit conditions. He reiterated that the Town could revoke the permit if the property was not in conformance with the conditions.

Commissioner Fleischman suggested the Commission clearly state in the regulations and to the applicant that the special use permit would not convey to future owners. He further suggested that if someone disagreed, they could sue the Town. Mr. Fleischman noted that some sections of the draft language talked about the number of days and others talk about the number of nights. He asked that all references be changed to "nights" to be consistent.

Chair Cooke suggested the Commission break their discussions into components, starting with the issue of frequency of the use. He advised that he liked reducing the number of allowed days below 180.

Deputy Town Manager Moore reminded the Commission that currently, the maximum number of allowed days was 180; however, it was never intended that this would be the actual number. He further reminded them that this was intended to reinforce the requirement that the dwelling unit must be used for residential purposes for more than half the year. Mr. Moore advised that the particulars of the application would determine how many days the use would be allowed under the permit. He stressed that it should not be represented by an applicant that they were allowed to use their property for short-term rental uses six months per year.

Commissioner Fleischman agreed that the issue of frequency of use should be addressed. He advised, however, that he was concerned about limiting the special use permits to the first one granted. Mr. Fleischman opined that if the frequency of the use was limited, it would negate the impacts on the neighbors.

Vice Chair Woodruff advised that a resident asked him about the purpose of the short-term rental regulations, to which he responded that they were to help retain the character of the town. He advised that the resident did not believe the character of Middleburg would be impeded by short-term rentals, but rather, felt the Town was trying to stop them. Mr. Woodruff questioned whether other towns listed the purpose of their regulations in their ordinances.

Planning & Project Associate LaClare advised that in looking at the meeting minutes, the purposes of their ordinances were to maintain the character of their towns.

Deputy Town Manager Moore reminded the Commission that they were considering two potential items – short-term rental regulations and a Comprehensive Plan statement, the latter of which spoke to the purpose. He encouraged the Commission to review the Comprehensive Plan statement carefully to ensure it stated what they wanted it to state.

In response to an inquiry as to why the regulations required a minimum of a two-night stay, Deputy Town Manager Moore reminded the Commission that the intent was to mitigate the impact of transient uses. He noted that they could rethink whether this was appropriate.

The Commission agreed this was important as it prevented someone from renting a house for a party. They noted, however, that the individual could still rent it for two nights but only stay for one.

Chair Cooke suspended the work session and called the regular meeting to order. He noted that he was going to alter the order of the agenda and move to the public comment section first.

Public Comments

Prem Devadas, President of Salamander Hospitality, advised that he would meet with Deputy Town Manager Moore so he could understand what was being proposed and would then provide a written response to the Commission. He expressed concern about the impact of short-term rental regulations on Salamander's efforts to sell houses in The Residences at Salamander. Mr. Devadas advised, in response to the Commission's inquiries as to why localities adopted regulations, that this generally occurred when there was concern that a community could be over-run by them. He reminded the Commission that he offered input on the existing ordinance when it was developed and suggested the need to establish practices to protect the community from other third-party rental companies.

Mr. Devadas reiterated that practices to protect a community were usually driven by third-party rentals. He advised that Salamander did not want only one-night rentals and opined that the Town and Salamander were aligned on the why concern. Mr. Devadas reminded the Commission that in the five years since the short-term rental ordinance was adopted, no one had applied for a special use permit; therefore, he believed it would be hard for the Town to demonstrate there was a community concern or a measurable impact as a result of them. He reminded the Commission that fifteen years ago, people were worried about what the Salamander Resort would do to the community and that it narrowly received approval after Salamander was able to explain their concept and answer questions. Mr. Devadas advised that The Residences were always a part of their plan and

noted that the same forty-nine by-right homes were being developed, just in a different configuration from which they were originally approved. He opined that no one was interested in restricting their development and advised that Salamander worked with the Town on the changes, which included limiting the size of the homes. Mr. Devadas advised that Salamander also worked with the Historic District Review Committee to develop standards under which the homes would be constructed. He reminded the Commission that Salamander would build and sell the homes so they would have control over them. Mr. Devadas advised that they told people from the beginning that some of the owners would be full-time residents and that the homes would be second and third homes for others. He reiterated that Salamander discussed the short-term rental ordinance with the Town when it was created and advised that they believed that much of what was in it was good for controlling third-party booking agencies. Mr. Devadas expressed concern about such agencies operating in Middleburg. He advised that Salamander shared the Town's ordinance with individuals when they signed a purchase contract with them.

Mr. Devadas advised the Commission that Middleburg did not have ideal family lodging and noted that the Salamander Resort primarily catered to corporations and couples. He advised that while families stayed there, Salamander only had a limited number of suites to accommodate them. Mr. Devadas explained that the resort viewed short-term rentals at The Residences as an opportunity to capture families looking for a five- to seven-night stay. He reminded the Commission that those guests would be able to enjoy the resort's amenities.

Mr. Devadas asked for the opportunity for the Commission to understand what the resort was doing and noted that it was different from what other third-party booking agencies did. He advised that he would like to work with the Town to do what was right for Middleburg. Mr. Devadas opined that there were things he could learn and that he could adjust to; however, he wanted to have discussions with the Commission.

In response to a comment and inquiry from the Commission, Mr. Devadas advised that there was input on the original ordinance from many people, including Salamander. He encouraged the Commission to be careful when comparing Middleburg with other localities, as their regulations may be different. Mr. Devadas advised that Salamander was accepting of and embraced the existing ordinance.

Commissioner Fleischman noted that he previously raised a concern that the Council wanted a solution where there was no problem. He advised that while the Commission could do nothing, he would suggest they continue their discussions.

Mr. Devadas expressed an understanding of the desire to anticipate problems before they arose. He opined that for some people, this was about the concept of what Middleburg should be. Mr. Devadas suggested, however, that the way to address that was not by limiting short-term rentals.

Councilmember Jacobs noted that this issue surfaced during the discussions on amending Salamander's zoning proffers related to the extensions of Chestnut and Reed Streets, as people were concerned that short-term rentals could increase traffic in their neighborhoods.

Mr. Devadas opined that the use of their homes as short-term rentals would decrease traffic, as the guests would walk or utilize Salamander's transportation. He opined that while this was a concern for some people, the issue was more about the character of Middleburg. Mr. Devadas advised that he would like for everyone to understand what Salamander was doing. He suggested that while their short-term rentals would be a good basis to look at this issue, what they would do was different than what other third-party booking agencies did. Mr. Devadas acknowledged that the ordinance must govern every neighborhood the same; however, he reiterated that there were differences in what Salamander would do.

Councilmember Jacobs agreed that no application submissions suggested there was not a problem. He opined that the strongest defense in the existing ordinance was the requirement for a management entity. Mr. Jacobs expressed confidence in Salamander's enforcement of the rules.

Mr. Devadas advised that any home that was used as a short-term rental would utilize the same mechanisms that were used to manage the resort, such having a resort phone so the guests could dial security. He further advised that in order to maintain their five-star rating, the resort would have control over the quality of the guests' experience. Mr. Devadas noted that he worked with the Town and wanted to be a trusted partner. In response to a comment from the Commission, he suggested that short-term rentals would enhance the resort and allow them to add amenities. Mr. Devadas opined, based on his experience, that half of the properties would start as short-term rentals; however, the number would decline as people stopped renting them or decided to move into the home on a full-time basis. He expressed hope to break ground on eight homes in February, which should be ready for occupancy in 2023. Mr. Devadas advised that Salamander anticipated it would take seven years before the subdivision was fully built out and suggested there would be an opportunity for the Town to look at the short-term rental regulations before the subdivision was fully developed.

Chair Cooke thanked Mr. Devadas for providing his perspective. He advised that there would be opportunities for public comment on this item in the future.

Chair Cooke suspended the regular meeting and resumed the work session discussion.

Discussion Item

Short-term Rentals

Deputy Town Manager Moore suggested the Commissioners look at the draft Comprehensive Plan statement over the next month so they could determine whether they wished to move forward with it. He noted that if they did, the zoning ordinance regulations would then support the statement. Mr. Moore asked the members to provide him with their input before the next meeting so they could discuss it in January.

Chair Cooke closed the work session and resumed the regular meeting at 7:53 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 Commissioner Roszel, that the Planning Commission accept the November 22, 2021 Regular Meeting Minutes as presented.

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

No – N/A

Abstain – N/A

Absent – N/A

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

Council Representative's Report

Councilmember Jacobs reported that the Christmas parades were successful and advised that while the Council hoped to limit the crowd to 7,000 people, estimates were that there were 7,000-10,000 present. He advised that there were no complaints from the merchants or restaurants.

Councilmember Jacobs reported that the Town Hall Project was moving forward. He advised that the easements were secured and that the Council awarded a contract to Cooper Building Services, LLC, with the final cost to be determined based upon value engineering and other savings. Mr. Jacobs noted that cost was a concern. He further noted that supply chain issues could affect the Town's ambitious construction schedule.

Councilmember Jacobs reported that the Council also awarded a contract for wayfinding and street signs, with the focus being on entry, parking, and pedestrian signs, as well as a visitor kiosk. He advised that the street signs would also be consolidated under this project.

In response to an inquiry from the Commission, Town Manager Davis reported that the Town received five bids for the Town Hall Project; however, one bidder withdrew his. He advised that the final cost estimate for the hard costs associated with the project was \$10.5 million, with the low bid being \$10.7 million. Mr. Davis noted that once some bid alternates were considered, the cost increased to \$10.9 million; however, value engineering savings have already been identified to reduce the cost. He advised that the staff and contractor were working to identify further savings.

Discussion Items

R-2 Residential District Ordinance Amendments

Deputy Town Manager Moore reported that The Berkley Group completed their study of the existing conditions in the R-2 District, as well as their initial draft of their benchmarking research. He advised that they were looking at a number of communities that have dealt with the same redevelopment pressures that Middleburg was facing. Mr. Moore reported that the consultants would refine the options for addressing it over the next month.

Banbury Cross Reserves

In response to an inquiry from the Commission, Deputy Town Manager Moore reported that he was awaiting the third submission of the plans. He advised that he anticipated another round of reviews once they were received.

Quorum of January Meeting

The members confirmed they would be present for the January 24th meeting.

There being no further business, Chair Cooke adjourned the meeting at 8:04 p.m.

RESPECTFULLY SUBMITTED:

Rhonda S. North, MMC, Town Clerk

Middleburg Planning Commission Transcript
December 20, 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: All right. Good evening, everyone. We will convene the work session of Middleburg planning commission and. We will begin by asking the town clerk to call the roll, please.

Rhonda North: Chair Cooke.

Terry Cooke: Present.

Rhonda North: Vice Chair Woodruff. Absent. Commissioner Fleischman.

Ed Fleischman: I'm here. Thank you.

Rhonda North: Commissioner Minchew.

Rachel Minchew: I'm here. Thanks.

Rhonda North: Commissioner Roszel.

Dev Roszel: I'm here. Thank you.

Rhonda North: Commissioner Stein.

Mimi Stein: Here. Oh, excuse me.

Rachel Minchew: Council Member Jacobs.

Bud Jacobs: Present

Terry Cooke: Thank you all. We have. Yes, sir. [multiple speakers] And Vice Chair Woodruff has joined us. So all hands-on deck, we have one discussion item tonight having to do with short term rentals. We spent some time on this last month and Will was good enough to send us some additional language to consider, but you want to introduce the subject Will.

Will Moore: Certainly thank you, Mr. Chairman, members of the commission. So as the chairman correctly noted, we spent a little bit of time discussing this last month. Last month, we didn't have any particulars for you necessarily to consider, but kind of introduced a framework, if you will, for possibly adding some language to the comprehensive plan to to address short term rentals and then also possibly proposing some revisions to our current regulations as it relates to short term rentals. That would be in support of that comprehensive plan statement, and this grew out of direction from council to more closely examine the issue of short-term rentals and in particular to consider what effect they might have on the character of the community. And then as well to give hopefully the council a little better framework if and when we received applications for short term rentals as to how they might evaluate those applications. So the framework that was proposed last month consisted essentially of distilling down regulations that would potentially limit the concentration of such uses, maybe in any given neighborhood and any given radius of a property, so that if a short-term rental were operating during its operation. As such, when it's a transient nature, there's a concern that if you have too many of those grouped closely together, that could have a greater effect on the character of the neighborhood than if they were further spread apart. We didn't propose any what that distance might be, but we just proposed that that might be one

way of addressing some of the concerns stated by council. And then the second aspect that we proposed for your consideration was limitations on the frequency of such uses, and that has to do with the again, the potential impact on Moore. So the directly neighboring properties so that if you have a use that occurs less frequently, it will probably have less impact overall on the neighboring properties. So basically looking at those two issues of concentration and frequency of use, after some discussion last month, the commission gave its kind of general consensus that that was a good approach to merit further exploration. So since that time, staff spent some time examining this. In particular, Estee did a good bit of work when I was away, I think some other fun training, so experimenting with some different ideas of how we might propose this, at least for your initial discussion. I highlighted this last month. I'll reiterate this month that we're not coming to you with something that we purport to be a perfect proposal. We want to start with something. It merits your discussion. It merits your revisions or your endorsement or outright rejection. You know, we want to make sure that you're comfortable with whatever it is that you may eventually send forward for council's consideration. So what we're proposing in this original draft here is three different things for you to consider regarding addressing potential concentration of uses. And with this, we had three separate attachments and basically, we have proposed you consider maybe a one hundred foot two hundred foot or three-hundred-foot radius, if you will, from a property. And what we're talking about here is that if a property comes in and is approved for special use permit, then any property that is within that radius, whatever it might be, would be excepted, excepted from consideration for the use. So it's kind of a first in first approved gets the benefit of the permit. And then once that permit would be approved, no use within that radius could be considered. So much like in our current regulations, we have certain criteria that will automatically exempt you from consideration. So if your structure is within twenty-five feet of a neighboring structure, even if you're in the zoning district, it's allowable for consideration. You cannot be considered if your property is less than ten thousand square feet in size, you could not be considered. So in this case, if a property within that radius of your property gets a special use permit for the limited residential lodging approved, then you were exempted from that point forward from being able to apply yourself. So again, we gave you three different examples we can circle back to those in a minute if we want to talk about those that we have mapped out for you. The second part of this was proposing with relation to frequency of use, a tiered system. Again, the idea being that transient uses that are in closer proximity to neighboring properties may have greater impact than uses that are further separated from neighboring properties. So in this case, we start with that physical separation from dwelling to dwelling. So again, the current regulations and no proposal to change this require that you're at least twenty-five foot separated from the dwelling in which this use would take place to any neighboring dwelling. So what we're proposing is that there would be a tier and the first draft for your consideration would be between 25 feet and 35 foot of separation would be the first tier over 35 feet and up to 50 feet would be the second tier and then greater than 50 feet would be the third tier and corresponding with that, depending on which tier in which you fall you may be able to operate as a short term rental more days during a calendar year or fewer days during the calendar year, depending on which day or which tier you would fall fall under. And so for the initial consideration, what were proposed for your discussion would be in that first tier, you would be limited to a maximum number of twenty-four days in any calendar year. So you can think of that a number of different ways you could think of one weekend per month. So a Friday and a Saturday night, one time each month, 12 months, that gets you to twenty-four. But it might not be that maybe you rent out your home for the entire two weeks or however long the Upperville Colt and Horse show is. So you decide to take vacation during that time yourself. You rent it out for two weeks and then there's fourteen of your days are gone or something like that. So again, that would be the first tier. That's for those properties that are in the closest proximity to neighboring properties. For that second tier. Again, for your initial consideration, we had proposed a maximum number of days of forty-eight for that middle tier, so twice as frequently as in the first tier. You could think of that as two weekends per month, but you could think of it other ways as well. And then for that tier that has the greatest physical separation, a proposal of a maximum number of 72 days in any calendar year. Again, you could think of that as three weekends per month would be one way to think of that. So again, that's that's the first draft at giving you something to potentially address the frequency. Mr. Chairman, maybe I don't know if we want to talk about that before circling back to the to the physical, to the property separation, however, works works best for you. There's a lot here to ponder and and talk about.

Terry Cooke: Why don't we talk about the separation issue first? Okay. I suspect many of us have some questions as to the details on this, but one perhaps the most obvious question is how are we going to measure the distance between lots? Is it going to be, I would presume, from any lot line if it's let's say we're working with

the. Twenty-five-foot minimum separation, that means anything within twenty-five feet of a rear lot side, lot of the front lot line.

Will Moore: Ok, so very good question. So for these two different elements that we're talking about, we have the property separation, the 100 and 200 and 300 foot those would be measured property line to property line so we can talk a little further about that. But for the the tiers of 25 to 35 feet, 35 to 50 and over fifty feet, that is actually measured structure to structure so measured a little bit a little bit differently. And again, the way the the current ordinance is stated is you have to have a minimum separation of twenty-five feet. So think of two houses on properties next to each other. Obviously, the separation of properties from each other is zero at that point because you have a common front line. But depending on how close those structures might be built to that property line that separates it to, you might have twenty-five feet, you might be much less than that. And again, if that's the case, then neither property could be considered for the short-term rental use.

Terry Cooke: All right, we're going back to my hypothetical. It's I guess then if it's structure to structure. It would be measured again from all sides of that structure.

Will Moore: Correct. Closest point of that of that structure only the principle structure. So if you have a detached garage or something like that, that wouldn't come into play, but any structure that is used as a dwelling. I'll say that again. Sorry. Any structure that is used as a dwelling. It would not apply to a garden building, a detached garage that's not used as a dwelling or anything like that.

Terry Cooke: All right. But if you do have a detached garage and some folks have these with living space above that garage or some even behind the garage building, right? And if a property owner decided to make some use of that space by putting in living arrangements. How would that work, I mean, you have a detached garage with a habitable space within that garage. And then you have a main residential building on that lot. Would your distance measurement if they're using the space in the garage for a short-term rental, would you measure from that garage to the principal residential building on the lot, or no?

Will Moore: So good questions. The short answer is it's going to be measured from legal dwelling to legal dwelling. So there may be. And we have dealt with these in the past. There have sometimes been dwelling units that were created not in conformance with our regulations in accessory structures, for example. We also have some that were created legally, depending on the zoning district. They may be conforming to today's regulations. They may be legally non-conforming, grandfathered, if you will. But if it's a legal dwelling, then it's measured from that dwelling. So I hope that helps to answer.

Terry Cooke: I guess what I'm still not clear on is let's assume it's a legal the garage. Living space is legal. Would that space be then measured against the principle residential building on that lot? Or would it have to go outside?

Will Moore: Understood. So no, it would not be measured within a lot. It would be a neighboring dwelling on a neighboring property. It would be the way I would [inaudible].

Terry Cooke: Well, I mean, presumably that the owners of the property are not going to complain about about the use being too close if they're the ones renting out space out. And I just wanted to get some clarification.

Dev Roszel: [off mic]

Will Moore: It would. I just it's important to just clarify, but that is correct. But it's important to clarify that in order to be used as a short-term rental, it has to be a principal residence. It cannot be only used for that purpose.

Dev Roszel: It can't be an apartment above a garage that just sits there. [inaudible]

Bud Jacobs: Council Member Jacobs. Well, I want to back up a little bit, I have a few questions. Before we get down to the weeds on what it's going to be a really meaty subject. I must say, how do we define again, if you remind me, how are we defining short term rentals?

Will Moore: So I don't have the definition right in front of me, I can pull it up. But in essence, it's a rental that is for fewer than thirty consecutive days. Yes.

Bud Jacobs: At one go.

Will Moore: Correct. Correct.

Bud Jacobs: The special use permits that we're talking about are, is it are you contemplating those permits being valid for one year or one use? That was my question.

Will Moore: So good question, and this question was somewhat raised last month with regard to can we put a limitation, can we put an end date. I did consult with the town attorney on that, and the essential answer is once that special use permit is approved, it runs with the land. So it's perpetual as long as they're operating in conformance with the permit. There are. There are ways in which a permit can be revoked for noncompliance with associated conditions. Things like that. But in short, once it is approved, it runs with the land.

Bud Jacobs: So it's a [inaudible]. In developing these Estee, did you rely on what other jurisdictions do with short term rental properties? [off mic] How did you come up with these particular [inaudible]?

Estee LaClare: So initially I started doing the research and looking at lots of other municipalities throughout the state, along with throughout the country and seeing what their provisions and their ordinances were. And then I started to compile the chart. However, Will had asked me to start looking at the distances between the properties within town. And when I started to do that, I realized the chart I initially created was not up to snuff, if you will, because when you start to look at the measurements in between majority of the properties in town, especially in Ridgeview and Chin Lane, have less than 60 feet between them. And therefore, I changed the graphs and the numbers because based upon relevancy. And that's how I kind of came up with those numbers and the differences in between the properties. That being said, I did look at other ordinances to come up with how many days per month or per year. And that's how we and Will and I talked about trying to establish the tiered system and what we thought would be kind of like a compromise for you to look at and review and analyze.

Bud Jacobs: Thank you. Thank you.

Estee LaClare: You're welcome.

Terry Cooke: Any other questions from other members of the commission at this point on the subject of the issue of separation? No.

Terry Cooke: Estee. These are suggested language, this is suggested language been vetted with the town attorney at all. I mean, in terms of concept, there's, do we know whether he feels these if any of these were adopted in some fashion or another, they could, they could be enforceable.

Will Moore: So we've not sent him this exact draft yet. We have had discussions with him in particular less about the how many days per year you're allowed to operate. Those are fairly standard standard in that that type of condition can be imposed. The question about the physical separation of the properties, this kind of the first in with the permit becomes the winner if you will like it. If there is a radius of one hundred feet or two hundred feet around and you get in, you apply, you're granted a permit. The issue of that automatically exempting other properties that surround you if you're within that distance, that's probably the trickiest part about what we're discussing. We've discussed that in concept with him. I don't want to speak for him, but he didn't dissuade us

from pursuing it at this point. But I think once we have a draft that you have some level of comfort with, we're going to get it to him and then get his [inaudible]. Hope that helps.

Terry Cooke: Yeah, thank you. Thank you. Ms. Minchew.

Rachel Minchew: So let's say somebody decides to go ahead, applies for the permit and you've got within your area now. Nobody else can do it. Trying to eliminate anybody else from doing it to begin with. And so you just do it. Does that last forever? And then if you sell your house, that doesn't go with it, does the new family have to reapply or what happens there?

Will Moore: So interesting questions. Estee found some information on with that particular that raising the question of a neighbor or neighbors kind of grouping together, pooling their funds, applying for a permit for that particular reason to keep the use out of the area. The protection that we have there is that you can impose a limit on a time limit on the use commencing that says something along the lines of the use does not commence as applied for within a certain amount of time and the permit is invalid. So now what does that mean? Does that mean you have to rent it out one time and then never again in the future? Those are some things we have to talk a little more with the town attorney I think about,

Estee LaClare: If I may, Mr. Chairman. They also did. It's called adversarial permits. And so a number of neighbors have grouped together to negate other people's ability to operate a short-term dwelling unit within their area.

Terry Cooke: Commissioner Roszel.

Dev Roszel: So what you're saying is that if I understood it correctly, if I have the permit and I sell the house, it does not convey with the house.

Will Moore: No, it does. It runs with the land. Correct.

Dev Roszel: It'll be there forever.

Will Moore: That's the feedback from the town attorney. And he gave some. I've made this comment in the past I think to this body that I've sometimes you receive conflicting opinions from multiple different municipal attorneys and probably for good reason. You know, so I raised this question with him, and he gave some what I found compelling reasoning for his position on that.

Mimi Stein: So just on that subject, how in the world could whatever the packet is that the owner has to create with the security numbers and the, you know, the just in case options? How could that possibly relate? You know, how would the new owners? It wouldn't be the same information.

Will Moore: Correct, so. So that is that's already built into our regulations, that this packet has to exist, and it has to be updated annually. So if it's not updated, then that would be in violation of any permit that was issued. That requires that. And again, there are provisions where a permit can be revoked if you don't operate in conformance with the conditions that are. Associated with it.

Terry Cooke: Commissioner Fleischman,

Ed Fleischman: Thanks, Mr. Chairman. I have a number of questions on this, but just relating to this permit being permanent, a permanent permit, I would suggest that the Planning Commission recommend in this Section 61 that we say specifically that the permit does not convey to future owners. And we should say, specifically that. And if someone wants to sue the city or something, OK, fine. So we can give it up at that time. But I think that would sense that the planning commission, the city, the town feels it's important that it not convey. And then if there's a big hubbub and someone gets some senior attorneys then say, OK, it conveys, I think we ought to have that in the rule.

Terry Cooke: Thank you. Thank you. Something to think about. Anyone else have any thoughts on the the separation question?

Ed Fleischman: Yeah, on the separation on the it's sort of the table in H. You talk about the maximum number of days per calendar year in other places, you talk about nights. I think that it should really say maximum number of of nights because you have one night, it's two days. I think it gets a little confusing to switch from days to nights in this two page write up.

Will Moore: Ok. Yeah, we can. We can definitely look at that for consistency. That's a good idea.

Terry Cooke: That makes it clear it's a 24-hour period. Yeah. It's good. All right, why don't we move on to the to the issue of frequency use and see if we have any thoughts on that? I like the personally. And this is the chairman speaking out. I like the fact that we seem to have at least we're willing to consider reducing the original 180 days to something substantially less. And it's interesting that we tie the frequency into the the separation. The more separation there is, the greater availability for frequent, more frequent use. It's kind of an interesting way to approach it. But with that, I'll invite other members of the commission who have comments or thoughts on that one.

Will Moore: Mr. Chairman, if I might, before introducing, I just I can't state this clearly enough. The 180 days that is written into the current ordinance was the maximum number of days that could be considered. It was never the intent in the drafting of that ordinance that any particular property could actually be used 180 days for the use. That that basically was put in there to reinforce the other part of the regulation that says this dwelling has to be used flat out primarily for residential purposes more than half of the year. So it was always intended that the particulars of the application, whatever that may be, the proximity to neighboring properties, all those things buffering available of off-street parking, all of that would play into exactly how many days or nights per year it could be issued. The council wanted a little more clarity on how they could evaluate that than simply saying, here's a maximum number of days that could be considered. So that's I think it's important that nobody should represent to you that this change is. You know, I thought I was going to be able to do this, you know, six months out of the year, well, no, there was never that was never the intention in the initial draft.

Terry Cooke: Thank you. Well, thank you for that clarification. So Council Member Jacobs,

Bud Jacobs: I have a process question for you, Mr. Chairman. I noticed that Prem has taken the time to come to the meeting today, and I don't know if it's appropriate during the discussion session or whether it's should be held for the public comment period. But I very much would like to hear his views on the impact these proposed regulations could have on Salamander, however you want to do that, and I'm assuming Prem, you're willing to address those questions.

Terry Cooke: Well, great. Yeah, thank you Prem. Why don't we, why don't we just talk about the frequency issue, so we sort of close the book on this particular issue, and then we'll invite Prem to come in and speak to anything that you'd like us to consider. [off mic] Thank you. Ok. Back to where we were. Commissioner Fleischman on the subject of frequency of use.

Ed Fleischman: Yeah. Thank you, Mr. Chairman. I think the frequency of use is a very good item that we ought to include in the rule. So I'm happy to see it. I'm a little bit more concerned with this first in arrangement, and I think that if we put in the rules saying you can only rent for 24 days a year or 36 days a year or 48. That's sort of, I think, negates the necessary the reason to say you can't be next to a neighbor if they have a license because with a 28 day limit, you wouldn't have a lot of things going on. And I think that simplifies it by taking out that first in, first out type of arrangement. So I think that should be really looked at, as is it worth it to put that in if we control the number of nights I would say per calendar year that a property can be rented and that would control things better than the other item. Thank you.

Terry Cooke: Thank you. Other comments or suggestions from the commission. Yes, Commissioner Woodruff.

Don Woodruff: Yes, Mr. Chairman. The question was asked of me by a resident of the town and when I started saying this is something we were looking at and they said, what is the overall purpose of this type of arrangement. And as I see it, it is to retain the character of the town that did not satisfy. This gentleman wanted to have the opportunity and he will at public comment I think come and say that he doesn't believe that the character of the town would be impeded upon should somebody rent their place out, even if they don't meet all these regulations. He said, It sounds like you're trying to stop us. And I said, well, it's, I think, rather stop then stop is limit. Oh, excuse me. So Estee, when you looked at what other towns did, they have that they preface their regulations by saying what their overall purpose was?

Estee LaClare: I think when you started to evaluate the reasoning and when I looked at minutes from meetings and stuff, they did contemplate and say it's to maintain the character of the town. A lot of times these are initiated to maintain that, to prevent an overrunning, if you will, increased traffic potentially, parking issues, noise violations. Those are the all the different things that you started to see come into play and the concerns were addressed, and that's why they would start to implement these ordinances.

Will Moore: And to carry on with that. Remember that there are two potential things that you're considering here. One is the amendment to the regulations, but there's also the potential comprehensive plan statement. And if you look at that draft language in that statement, it really does speak to that. Again, I'm not proposing that that language is necessarily perfect. That was our first draft at that. I encourage you to look carefully at that language. Consider whether or not it's stating what this commission wants it to state, as we would eventually forward it to council for consideration.

Don Woodruff: Thank you.

Terry Cooke: Any other comments from commissioners?

Mimi Stein: No, I would go along with the evaluating it by nights. I think that's very sensible. You know, instead of calling it days. I don't know. I don't know if those days now translate to the same number of nights, but I think it's the only I think it's important that we do that.

Terry Cooke: Commissioner Roszel.

Dev Roszel: Thank you so along with Mimi's Commissioner Stein comment. The I assume that that's why we put in here that it has to be done at a two-night stay, not just a single night. You can't just have somebody come in and stay the night and leave. So it's more prohibitive than allowable, basically. Well, I mean, the way it comes across is that we really don't want it, so we're trying to put up, I don't want to say we really don't want it, but we're trying to make it so that if you want to do it, you got to meet all of these specific criteria to to fit into that. And one of them is a two-night stay. So that would probably limit a lot of them because a lot of people may not want to go for two nights somewhere. Some people do. But what we're saying here is it is a minimum of a two-night stay.

Will Moore: Yeah. And again, that was included in the First Ordinance Amendment that addressed this. And again, the intention there was to attempt to mitigate the impact of transient uses. And if you have the same property rented out on a Friday night and a Saturday night by two different occupants, for example, that's creating more of an apparent transient nature than if one group comes in and has it for the weekend leaves. There's a little different. and that's why that was included. I'm not going to suggest to you that you couldn't rethink whether or not that's appropriate to keep as we go forward. What we're really looking at is adding on some things at this point, but we can certainly relook at the existing language and see if there's anything that needs to be tweaked as well as we go forward. [off mic]

Terry Cooke: Commissioner Fleischman,

Ed Fleischman: I think having the two-night minimum rental is important. I think that prevents it rented out for a party one night. Just to clarify, though, it's a two-night rental. You can't force someone to stay there two days. They could rent it for one two days and stay one night, right? That's a side [inaudible] right? But it is important to prevent parties, you know, someone coming in for a one-night arrangement. Thank you.

Terry Cooke: Ok, I'm not going to close the discussion on this, but I'm going to suspend it while we give Prem an opportunity to come up and share his thoughts with us. And then maybe after that, if [inaudible] among the commission to revisit some of this and talk further about it, we'll do it. If not, we'll move on. But, let's welcome Prem.

Ed Fleischman: This is the part of the discussion. Or are we moving into the actual meeting.

Terry Cooke: No, we're moving into public comment. Well, that is part of the regular meeting. But we are going to I'm going to use my prerogative and alter the the order and invite him to.

Prem Devadas: Well, thank you. Thank you very much. And I'm really glad that I had a chance to hear the closed session. I have many, many, many thoughts on different levels about this subject, I came here tonight because I understood that this was the beginning of a process and that there will be much discussion over a period of time and that public comments will be considered as well. Under normal circumstances on something like this, that that really does affect Salamander. I would start by sitting with Will and understanding some of the proposed proposals that are going to be considered to specifically understand how it impacts us. And and I plan to do that understanding that hopefully there's time to be able to do that, that a decision is not going to be forthcoming right away. However, based on what I've heard preliminarily this evening, I think it's fair to say that I have some great concerns about the impact that will have on our efforts to sell residences. And and and again, I don't want to lay it all on you tonight, and I'm actually happy to go back, meet with Will and then develop some kind of more thorough written response to you. All that will cover all of these. I don't think I can adequately do that this evening, nor nor should you want to hear it. But I will just say a few things for the for the group this evening that came out of the discussion. I thought it was really interesting Don question about why some of the towns have adopted some of these things. I'm very familiar with short term rentals in communities over the last 25 years. Some are what would be considered resort communities. Others are not. And and the the point made about they are generally resulting from concerns of the impact of what's happening with short term rentals in communities and the concerns about being overrun. Those are actually those are things I've understood my entire career and that I have heard and that I've shared that concern about. And it's really interesting the the two-night minimum. And by the way, it's not a two-night stay, it's a two-night minimum. It can't be less than that. That is, you know, in the existing ordinance, we did have an opportunity to have some input. We did have conversations with Will. And I think what we wanted to demonstrate that we were aligned in the kind of practices that we're going to protect the community from concerns that I have seen in other communities that are primarily driven by Airbnb and other third party. They are specifically called third party rental companies. So so actually the two-night minimum was something that I embraced because at Salamander. We never want somebody to come for one night, quite honestly. And if that number had been three nights, I would have probably said, well, that's better than one night. And so I'm telling you that because I think we're much more aligned on the why the concern than, you know, right now. And so I look forward to being able to demonstrate that. The second thing, though, is that to the best of my knowledge, since we've had in the ordinance in place, how long has it been?

Will Moore: Five years

Prem Devadas: So this ordinance that we talked about years ago has been in place five years and there's nobody that signed up up to this point. So I think it's very hard to demonstrate a overriding concern by the community or impact that is measurable in any way up to this point. So I think for me, there's a great concern, and what it takes me back to, unfortunately, is 15 years ago, a conversation 15 years ago here with a different planning commission, a different town council about the concerns about what a resort would do to Middleburg and the objection by many, many people to even considering that as part of a process because of the concern about what had happened. And it was incumbent upon Salamander and and me to through numerous meetings to be able to

answer questions. Explain exactly what our concept was, what our plan was. How we would execute ultimately make commitments and gain approval. Very slim margin. But we we gained approval. And so we're here, you know, years later. And I think that if there hadn't been an open mindedness to the discussion and to trying to truly understand what we're doing, there wouldn't be a resort today. So I tell you that also because in that process, the residences were always part of our plan, specifically part of our plan. And you know, the forty-nine homes were by right at that time with the property. There wasn't a dispute about that, but there was a different configuration of those homes, and approximately twenty of those homes were at that time allowed to be as large as five acres. And given the existing coverage and zoning, they could be built mega mansions, which we're already starting to happen up and down Leesburg in '15. And we didn't think that was a good idea. Specifically, we didn't think it was a good idea. And if you go back in the records, you'll see nobody was. Nobody was interested in limiting restricting anything having to do with the residences at Salamander. We actually went back to the town, and we proposed that we make the lot smaller and that we limit the size of the house. And we worked with the town in order to accomplish that. And the reason we didn't is because we didn't think that a twenty thousand square foot house was good for the resort, and we didn't think that it was good for the town. And we stated that publicly, we we we did. We thought that that was wildly out of character. Furthermore, we agreed at the time without without argument, we agreed to the idea of connecting it to the town's existing grid through the number of streets. And you've dealt with some of those issues, you know? Once again, we haven't been opposed to those things. We also have wanted to try to work with existing residences whenever we can. So, we that's how it came to be that these homes were limited to first floor square footage and total square footage by doing that. And and the whole idea was to create something that would be homogenous with the resort, homogenous with the town. So once the approval was gained, we started working with the town and very specifically the HDRC with the understanding that this was going to be something very different. And and one of the primary characteristics that was going to make a difference is we explained, we're not selling lots. We want to have control over what is built and we're actually going to do a specified house, two different types. And we started working with the HDRC on standards of those homes, and we were successful in coming up with a pattern book for the first set of homes that. Today it guides materials and a number of different things that are part of the existing town ordinance and and one of the significant things about it is that anybody who has been interested in buying a home we share with them that this is what it's going to be. And this is the pattern book and here's what the town allows for material use. This is the way it has to look now. We do explain to them that if you wanted to go outside of that, you have to go in front of the HDRC. But there's not that option because we're actually going to build the houses and sell houses, not lots. So all along that process, people have asked us and I'm sure it's in public meetings have asked us about the homes, and we've explained that there there would be owners who would live there full time and there would be owners who would have them as second homes and maybe even third homes. And that, you know, no secret that prior to coming here, I was at Kiawah Island for 12 years, and I would reference to people about the kind of community we had there and the kind of program that we had there, the rental program we had there. So there was always we were always explaining the difference with this kind of home. We did enter into conversations with the town when there was discussion about creating a short-term ordinance. And much of what you see in the current ordinance is what we thought would be good from a standpoint of being able to control the activities of third-party booking agents like Airbnb. I'm on the American Hotel Lodging Association Board. And so I will tell you that we have studied Airbnb over the past few years very, very closely, both in a rural setting, resort setting, community settings. So I understand what they do very well, and I have great concerns about any third party, whether it be Airbnb, or any third party being allowed to operate in the way they operate in other places here in Middleburg. And what that means is, you know, the one night minimum is just the first part of it. Actually, the renting the garage room, the room over the garage is the first thing. The one night is another thing. The collection of tax revenues is another thing. The zero control over security and safety and standards that even a regular hotel license carries with it is nonexistent. All of those things should be big concerns about for us in the community. And so there is language in the current ordinance that speaks to security and speaks to standards and speaks to life safety, fire life safety speaks to all of these things that we know that we can control and that we also know that there are other third parties that if they want to control it, they're going to have to spend a whole lot of money in order to do it as as we do. So I don't want to go on and on. These are just some of the levels of the discussion we have been and I personally, I can tell you that personally, on Wednesday, I spoke to a couple last Wednesday to a couple that is signing a contract on one of these homes. And they had questions about the rental program and the answers that I gave them were straight off the ordinance. And then I sent them the ordinance. I said, here's the town's ordinance. Ok, so please

understand this is this is what it is. These are the guidelines. And we've done that with, you know, twenty plus other people who have been interested in buying these homes. So I can tell you that there was a purpose to building these. Middleburg does not have, and the resort does not have ideal family lodging, and, you know, the resort has become very popular among couples and corporate business, very popular. And it's become popular with families because of the programming that we do, especially in the summertime and during the holidays. But the accommodations aren't don't match up to that, you know, have limited number of suites. So we we have always viewed this as being a great opportunity to really capture families and to capture families that during the summer, at least, they come for the same five to seven nights as they might go to somewhere else. And they and they take that home and they create a tradition, and they use the town. And the attraction is being able to walk into town and walk to the resort and be able to enjoy the amenities and the pools and things like that. And that's why I said that, you know, the two night at a minimum was not an issue with me. And if that ends up being more that's not necessarily a bad thing. It might impair our business a little bit, but it's not a bad thing for all of us who care about the town. And then and then the other opportunity for these homes is not one family, but two families, which is also common that, you know, relatives with their families are able to come and really stay and enjoy. And again, we think that that's very, very additive to the town and way in the way we've laid it out, we have ample parking that is on the site that will not burden the roads. But more importantly, these people, once they arrive at the resort, they're walking to the resort. And if it's inclement weather, they actually have the opportunity. Just as our resort guests have to call up and we come pick them up in one of the Audis and we bring them back up to the resort, so. So that said, I really would like the opportunity for you to be able to understand what we are doing, what our program is. Admittedly, it's different. Everybody should be treated the same, but this has been different from the very, very beginning. And I think that Mr. Fleischman was the one that brought up legal challenges. You know what? Everybody will have their different reasons for doing that. But I can tell you that in other communities that I have seen, it always happens. There's no question that it will happen. So so I think that I want to continue to try to be a part working with the town, working with Will and Danny of doing what's right for the town. But I would ask, and I don't have to ask, you guys have exhibited always open mindedness. And so I just wanted to be able to count on being able to work through the process. And there are always things that we learn and things that we can adjust to. My analogy all the time is about the resort and also about these homes, the residences working with the HDRC. There were very few times where the HDRC did not make a recommendation that we adopted that that I think was better than what we had before. So it's not that we're not open minded to whatever modifications have to be made from the existing ordinance, but the existing ordinance does provide a template that allows us to be able to carry forth our vision. And and so I'd love an opportunity to be able to continue the discussion and to give you more information, and I'll answer whatever questions you may have right now.

Terry Cooke: Any questions, Commissioner Fleischman?

Ed Fleischman: Yeah, thank you for the presentation. I'm very familiar with rentals. I've spent a lot of time at Kiawah Island also and Hawaii renting houses all over. And when I saw this, the existing zoning regulation that came out in 2016, I looked at it and said it looks like Salamander had input to this because I could see Salamander saying it all looks fine to me.

Prem Devadas: No, I just and I'm sorry to interrupt you, but just to make sure that we're clear on it, I am sure that there were was input from a lot of people. We respect the fact that we were asked, you know, for input and had a chance to participate. And absolutely, it's not something we said we're fine to. It's things that we said this is what we think are right. And then the second thing I'll just say, since you brought up Kiawah Island and many other places like that, please know that places like that and specifically Kiawah Island, there are no minimum night restrictions on how many on on how you rent. There are no restrictions on the number of nights that you rent. So we have to be very careful to compare things that may exist in other places to where we are right now. I just would like to make that clear, and obviously when I respond in writing, I will be much more clear.

Ed Fleischman: OK, I didn't want to say anything derogatory. Kiawah Island is beautiful. And the other thing I just wanted to get to the point about the October 13th, 2016, regulation, or zoning regulation that's already on the books to say when it was put in. You didn't write it, I didn't say that right, but you saw it, and you could

comment if you wanted to. So you're happy with that right now. Is that is that correct? Something that you could, or Salamander could live with it?

Prem Devadas: We absolutely accepted it and and we accepted it as being the law of the land, and we've treated it as such. We listen. There's some things that you accept that you may not be in favor of, but you accept them. The bottom line is we accepted it. We have actually embraced it. As I've explained, we have circulated that right up front to anybody who's interested in buying and asks about a rental program. And and so I think that's part of it is that that is what we have been working with.

Ed Fleischman: You're happy with it. And I think that your other point about no one in the town of Middleburg has gone through that rigamarole, you might say, to apply for a permit, so I mentioned this at the last meeting that this is the council wants a solution for something that really isn't a problem. And you know, I think that maybe one alternative is not is the do nothing alternative, but I think that we should continue discussions.

Prem Devadas: Thank you. I you said it better than I said it. I think that I totally understand and have been accustomed to in my entire career with responding to concerns that are based on problems that have arisen. This is unique because for some, it's based on problems that could arise that you want to anticipate, and there's nothing wrong with that. For some it's the concept of the town and what it should be, not specifically a problem, but you know what it should be. And I would just say to that that I understand a concern about there being a town, and I've had some conversations with some people, so I am paraphrasing concerns among some that the town would not be well-served by having houses that are empty next to houses that are, you know, occupied full time versus people that are only showing up on, you know, select weekends. And you know, I understand that the way to solve that is not by limiting rentals. That's one of my points. That's not how you get there. You know, that's a different kind of problem. Anyway. Any other questions? Yes.

Terry Cooke: Council Member Jacobs.

Bud Jacobs: Just quick comment. Prem, for me at least, this issue surfaced really only in the discussions that we held concerning whether to open Reed Street as a as a through or not Reed Street. Chestnut. I guess it was and Reed and there were concerns that members of the community and particularly people living on those streets raised about the the looming increase in traffic that we would face as Salamander moved toward short-term rentals for the new residences. Honestly, I don't know if that's a valid concern. We've had, I think, one traffic study done, but it didn't really focus on the issue of short term. It just focused on the increase in the number of residents themselves. I'm sorry to say I don't remember the details of that, but at the time I don't recall it triggering any great concern on anybody's part. And I think that may be to get at Ed's comment that that may be the genesis of council's concern about short term rentals.

Prem Devadas: Well, thanks for bringing that up. A couple of things related to that. It's interesting. Yes. As far as I understand, any traffic study that's been done takes into account a home that is occupied by, you know, two adults and two kids, et cetera, and has and generate certain traffic on a daily basis. Simply, the limitation of currently the 180 days that it can be rented reduces that number. I don't know by how much, but it naturally reduces that number. So. So and then furthermore, with my experience in managing that type of thing is that, as I explained, people are going to walk into town. They're also going to walk to the resort. That's what they came there for for the week. And so you're not going to have that many trips. I actually, though believe that among some that is that is a concern. But I think that it is more about this concern about the character of the town than it is even the traffic. I believe that. And so I think again, I'm always concerned about the character of the town. You know, my first year I moved here, I rented George White's house on Reed Street with our dogs, and we lived there, and we walked everywhere, and it was the greatest loved it. And and because I could also walk to my office and I love it, and I understand, you know, those things that are just really special about the town. So I also, though, know that I went through the process of the approval for the resort and there was such an overriding concern about what was unknown that it almost caused us not to get approval. So what I would just really like to do is I'd like everybody to understand what we're doing and what that means, answer as many questions as I possibly can. And and I believe that will be a good basis with which to look at this. I mean, I think

you also have to just understand that the difference in the character and while you know, whatever ordinance should govern every neighborhood the same, there are inherent differences what we're with, what we're doing.

Bud Jacobs: A couple of comments. It's illustrative. I think of the point that Ed made is that we in the five years that this ordinance has been on the books, we've actually never had an application for special use permit for short term rentals. That strongly suggests to me that we may be dealing with an issue that's not really a problem. And finally, I think one of the strongest defenses, if that's the right word that is built into the current ordinance is the fact that a management entity is required for the management of any short-term rentals that that come forward. I assume in the case of your residences that entity is Salamander. And I am confident that your enforcement is likely going to be at least as vigorous as anything we might put on our books.

Prem Devadas: Well, yes, all of the mechanisms that we have in place to manage the resort are in place here, including as an example, if you rent, you are required to have a resort telephone that's put in at our cost so that you can one button dial security, you can one button dial our transportation. We want to have control over the quality of that experience and what's done. We are if you own the home, not the same as just renting, but if you own the home, you have to have the grass cut by us, not your own people, because it's got to be absolutely up to the standards. So, you know, we call that five star. The five star is much more a mentality about making sure that things are done the right way. Do we make mistakes? Sure. Do things sometimes not go the way we exactly thought? Sure. And then we adjust to it. But I also know how we have worked with the town's police department through these years, how we've worked with the County Sheriff's Office through the years and the fire department. And I think that, you know, we're we're a trusted partner and they're a trusted partner of ours, and that is what will be extended into the residences different than other companies at Kiawah, Mr. Fleischman that lack of control extends to the rentals in that you can rent through another management company that is not on site, has no security, has put no capital investment into it and therefore doesn't feel like they have a stake. You know, rent the place you go. That's it. They're not accountable for anything. So that's that is a huge difference with what we believe is the right thing for our residences. Who want to rent is that we are fully accountable.

Terry Cooke: Commissioner Roszel,

Dev Roszel: Thank you, Mr. Chairman. I do want to say thank you to Prem for coming up and just taking the time to explain a lot of these things, and I will what you just pointed out. To me is a lot of the crux of the situation is that. Having all these houses, you're not going to do something that's going to impede the people coming to stay at the resort. It's a benefit that will be there, but your intention isn't. It doesn't appear to me that you're going to want to have every house out there be a short-term rental that takes away from people staying at the resort and all the things that you just said, I think makes it a better partnership because you wouldn't want to do something that's going to make your resort a step down. And so that's what I think we as a commission need to take a look at. It's a partnership and looking at everything that we're doing, because I don't think that you would do something to shoot yourself in the foot just to have a two, a two-night stay or a three-night stay. That's not the point. The point is, I see it as you're offering an opportunity to people that do invest in that resort or that home, they're getting the benefit. But you certainly wouldn't want to take, from my perspective, take away from people coming to stay at the resort because that's what you're there for.

Prem Devadas: Yeah. In fact, the advent of the residences is allowing us to enhance the resort for the guests. We're adding another pool to the complex, you know, which is going to be a more infinity edge more five-star pool. We're enhancing the restaurants pretty significantly. We'll continue to do that over time. You are right, but I think that. Yeah, I think that, you know, when we started talking about this with the town, we also were asked, well, how many do you think are going to rent? And actually even before the discussions about this ordinance way, you know, in the beginning when we were having going through the approval process. And, you know, I always thought that roughly half of the homes would possibly rent. And I've always said that and there's nothing that's happened actually in the past few months that has changed my thought as we're hearing from people. The other thing that's a resort phenomenon, it's interesting. Places like Kiawah actually are the same is that people enter into these communities as buyers that are very part time and they do rent. And then as time goes on it, it moves towards a higher level of full-time residency or not renting function of two things people just don't want

their people to stay in their place anymore, even if they're getting some revenue. And the second thing is that they decide that this is where they want to live and and you know, they can't do it right now in their career. They're going to come out and stay during the holidays with their kids. They're going to come for a week in the summer and they're going to stay weekends when they can in their home. But gradually they love it, and they fall in love with, you know, the community or the town and they take it off the rental market. So we always understand that you're going to the the number of rentals are going to go down. I believe that today and I've always said this that fully built out at 49, there may be half that will go down. Another thing I would like you to consider is that in this first phase, we plan to break ground in February on the first set of homes. In the first phase, we're estimating eight homes commencing building with completion, the builder says by the end of the year, I think it'll probably be first quarter of 2023. So these first eight homes will come on. Probably half of them would go into rental program. We have an opportunity to see how that acts at only a number of four or five. You know, the next set of homes will happen will start to construct, I think, eight months after that. And then and then the full build out of it was anticipated to be seven years. That's probably going to be right. So it's not like all of a sudden twenty-four homes are going to hit the the rental market. So we do have an opportunity to look at it too.

Terry Cooke: Any other questions? Prem, thank you.

Prem Devadas: I can't thank you enough. We appreciate it.

Terry Cooke: Altered the the process a little bit this evening, but I think it's helpful for us as members of the commission to get a perspective from someone such as yourself. And as you undoubtedly saw in the comments during the first part of the work session, this is an issue that we've all given thought to and it's. When we're going to continue to work on and you're right, as you said in your comments, there'll be opportunities down the road assuming we decide to do something with this for you and others to come in and in a public hearing format and and give us your your perspectives. But again, thank you.

Prem Devadas: Thank you. Should I stay or should I. I'll stick around a little, I miss these.

Terry Cooke: It depends on how much of a masochist you are. All right. We sort of suspended the conversation on this, but is there anything else we want to lay out for Will's consideration before we move into the regular meeting? Will anything you need from us tonight?

Will Moore: I would say not tonight, but in the interest of keeping the conversation moving forward. I would encourage each member to look closely at the proposed comprehensive plan statement, maybe back off for a minute from the regulations and the three tiers and how far a property is separated. And maybe look at that statement first and maybe hindsight that might have been the better way to tackle this discussion is to really look at that closely and see if things in that statement are ringing true or not and how we might revise that if we even want to continue to move forward with it. Because if we move forward with a comprehensive plan statement regarding short term rentals, then any regulations would support that correct? Yes, sir. So maybe that's best if you can provide input between now and the next meeting, that would be best, but certainly no later than to discuss that at the next meeting.

Terry Cooke: Good suggestion. Thank you. Ok. Thank you all for your thoughts. Interesting discussion tonight. Let's see with that, we will conclude the work session and we will go into our regular meeting for the planning commission. And once again, we'll ask the town clerk to. Well, no, we don't have to do the roll call again. I'll just call the meeting to order. And first item would be disclosure by the commission members of any meetings with applicants. Would you call the roll on that question Rhonda?

Rhonda North: Chair Cooke.

Terry Cooke: I've had no discussions with anything before that's come before the commission.

Rhonda North: Vice Chair Woodruff

Don Woodruff: No discussions at all.

Rhonda North: Commissioner Fleischman,

Ed Fleischman: I had no meetings or discussions. Thank you.

Rhonda North: Commissioner Minchew.

Rachel Minchew: No meetings or discussions.

Rhonda North: Commissioner Roszel.

Dev Roszel: I've had no meetings or discussions.

Rhonda North: Commissioner Stein.

Mimi Stein: I've had no meetings or discussions with any applicants.

Rhonda North: Council Member Jacobs,

Bud Jacobs: I've had no meetings or discussion with any applicant who has any matter before this commission.

Terry Cooke: Thank you all. The next item on the agenda is public comment, an opportunity for members of the public to address the commission on any matters they want to bring to our attention. Rhonda, do we have anybody on the phone who wants to speak?

Rhonda North: This isn't a remote meeting.

Terry Cooke: Ok. All right. Public comment period is closed. Next item is approval of minutes for the commission's work session and regular meeting of November November 22nd, 2021. Can we have a motion, please?

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

Terry Cooke: Is there a second? [off mic] Any discussion? All in favor.

Everyone: Aye.

Terry Cooke: That motion carries. Next item is our council representative report Council Member Jacobs. Anything to share with us tonight?

Bud Jacobs: Well, a couple of things. December so far has been a pretty busy month. We got through the parades. I hope everybody had a good time. It based on the feedback we've received so far, it seemed to have been quite successful. We were hoping for attendance somewhere in the area of maybe 6000 or 7000 people, and I don't think A.J. has completed his analysis. But his best guess so far places attendance at between seven and maybe as many as ten thousand people, but no complaints from the merchants. Restaurants, of course, always benefit. For the record, the scientific method that is used to determine crowd size is called the Jacobs method. I'm not getting any royalties, unfortunately, but I wanted you all know that the town hall project is moving forward. I think we have put in place all of the easements and approvals necessary. The council authorized the signing of a contract that as a result of a competitive bid process and the company that will be doing the work is an outfit headquartered in Frederick, Maryland, called Cooper Building Services. I don't know if any of you are familiar with them. I looked them up a little bit they are actually quite a large construction company, and it looks like our little bit of work is not going to form a major part of their business actually, they

do a lot. We're still finalizing costs, looking at value engineering savings that we might be able to identify. And I guess the message is it's moving forward there is a major concern that apart from the costs, supply chain difficulties are certainly going to have an impact on our rather ambitious schedule to put this thing up and start using it within a year. I don't know any sentient being these days who thinks that's actually going to happen. I think it's going to draw out. And finally, after years of discussion, most of which thank goodness I missed the town is moving forward with the wayfinding project. So we were successful, not we. The project committee was successful in paring about \$100000 off the costs of the project. We're going to focus the effort on entry signs on either side of town. Parking signs, pedestrian signs about how to get here and there. I guess there will be one kiosk on Main Street identifying places of interest for tourists to visit. And of course, the bigger part of it, I think, is we'll be doing new street signs all through town, consolidating a lot of them. And when the work is done, I think we're all going to be very, very pleased with the results. So that's it. That's all I've got. Thank you.

Terry Cooke: Thank you very much. Commissioner Fleischman,

Ed Fleischman: Thank you for the report on the town hall. As an engineer myself, I'm always interested in engineers estimates and what the construction bids were. Do you could you tell me what the engineers estimate was and what the Cooper bid was?

Bud Jacobs: I don't have the numbers, but Danny's here. He can certainly tell us. I know there were four bidders. Is that right?

Danny Davis: There were. And we actually had five bidders. One one had some mistakes in their bids, so they had to withdraw their bid. The we went through a number of iterations, as you would during a project this size of estimated construction costs. And when I say construction costs, that's site development building, you know, and getting it ready to open up. So it's a nearly two-acre site. I believe if I recall the those costs continue to escalate during the project, and that was obviously due to the COVID situation, as well as due to continued refinement of that understanding of the site plan and the engineering drawings. I think the final estimate that we had was approximately ten point five, ten and a half million. The base low bid base bid came in at ten point seven, with a few add alternates that we had left as options to either take or leave, depending on the cost. But we are taking a majority of those add alternates. So with those alternates, the the bid amount was ten point nine and change. However, they've already identified about \$200000 of cost savings, value engineering, and we're strongly attempting to identify more of those. So to answer your question, I think our effort in refining those internal estimates actually were very productive. We had actually been prepped to see 20 to 30 percent over that late assessment of ten and a half million because of our current situation, and we were actually quite concerned we would get some numbers in the 12 to 13 million range, which would have been unattainable for the town. Thankfully, they came in closer to that final estimate that we had from the firm.

Ed Fleischman: Great. Thank you very much. Good. Good news.

Danny Davis: It is good news.

Terry Cooke: Thank you, Ed. Next item on the agenda is discussion items, anything that any members of the commission want to unburden their souls with this evening. Or all right, we will. We will move on from that.

Will Moore: Mr. Chairman, if I might just interject one. Well, one item that was requested last month was kind of an update as to where the Berkeley Group may be in their study of some of the R2 issues. I've had some communication with their project manager. They've essentially completed the their study of our existing conditions, which obviously they did a physical tour when they were here to meet with you the one time, but there was a lot of additional study that they wanted to do. So they've completed that, and they've completed an initial draft of of essentially benchmarking research. Now I just received that today. But being in communication with them over the past month, that's been an ongoing process. So looking at a number of different communities, we fall in the trap that there is no community that's exactly comparable to us. But there are communities that are dealing with some of these same development and redevelopment pressures. So it's a pretty extensive document

that they put together of benchmarking, and I think there's a number of options to pick and choose from, and they're going to continue to work on refining that over the next month.

Terry Cooke: Great very good. Thank you. Commissioner Fleischman.

Ed Fleischman: Will, a couple of months ago, you mentioned that the Banbury Cross Group might come in with their third iteration of the final plans. Could you give us an update on the status of that? They haven't come in, yet I guess.

Will Moore: I guess they have not. I actually had a discussion with the principal of that company today. So the second iteration of review was completed returned with review comments. So we're still we're awaiting the third iteration. It's getting pretty close. But I, as of right now, I would probably anticipate still another round of review by a number of county referral agencies on the third iteration.

Ed Fleischman: Thank you.

Terry Cooke: Thank you. Next item on the agenda is a quorum for our January meeting, anyone not going to be available to attend? [off mic]

Don Woodruff: Call me when you're [inaudible]

Terry Cooke: It looks like we'll have a quorum next month. Excellent. And with that, ladies, and gentlemen, thank you all and happy holidays to all. [multiple speakers]