



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



**MONDAY, JANUARY 24, 2022  
PENDING APPROVAL**

**PRESENT:** Terence S. Cooke, Chair  
Donald Woodruff, Vice Chair  
Edward R. Fleischman, 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

**ABSENT:** Rachel Minchew, Member (excused)

The Middleburg Planning Commission held their regular meeting on Monday, January 24, 2022 in the Town Hall Council Chambers. Chair Cooke called the work session to order at 6:30 p.m. Town Clerk North called the roll. Commissioner Fleischman advised that he was participating in the meeting remotely from Marco Island, Florida, as he was on vacation.

**Discussion Item**

**Short-term Rentals**

Mayor Bridge Littleton noted that he watched the video of the last Commission meeting and advised that he would like to share his thoughts and concerns regarding short-term rentals. He questioned whether the Town should look at other communities to determine what problems they have caused them and address them before they became problems here.

Chair Cooke noted that a couple of the members, himself included, have expressed skepticism about the need for future action, as no one had submitted an application for a special use permit thus far. He acknowledged Salamander’s plans to assist homeowners in using the homes in The Residences at Salamander as short-term rentals, which was the impetus for this discussion. Mr. Cooke opined that there were two different sections of town that needed to be considered – the Salamander homes, which would operate as a part of the resort, and the remainder of the town. He reminded the Commission that during their last meeting, they heard a compelling argument from Prem Devadas, of Salamander Hospitality, that they were different. Mr. Cooke suggested the Commission keep that in mind as they discussed this matter.

Mayor Littleton agreed there was a difference between the Salamander residential properties versus those in the remainder of the town. He opined that the issue was about what Salamander would create that would change the character, structure, and purpose of the housing in the rest of the town. Mr. Littleton opined that what made Middleburg great was the people who lived here and participated in the community. He reminded the Commission of the history of Salamander and noted that the residential development was intended to be integrated, rather than being segregated from the town; however, he acknowledged that this vision had changed. Mr. Littleton reminded the Commission that when the discussion of short-term rentals at Salamander first started

the vision was that only half of the property owners would take advantage of this opportunity. He reported that contracts/registrations had been signed for half of the houses thus far, with all but one individual indicating they wanted their houses to be used as short-term rentals. Mr. Littleton expressed concern that if 97% of Salamander's homes were used as short-term rentals, there would be pressure from developers to turn the houses in the remainder of the town into rental properties. He cited as evidence, a discussion he had with a mayor from a small town that also had a Five Star resort, who said that developers bought the smaller houses in their town and tore them down so they could replace them with rental properties. Mr. Littleton advised that this town lost 20% of their residential housing in four years, with those homes no longer containing families. He expressed concern that Salamander's plans could result in pressure being applied to change the homes in Ridgeview and noted that he was aware of offers that had been made on three homes, with the idea that they would be torn down so larger houses could be built that would be used as short-term rentals.

In response to a comment from the Commission that this would not be allowed under the existing regulations, Mr. Littleton noted that the regulations only said it had to be used primarily as a residence and opined that an owner could simply not rent a property for a period of time and claim it was used as a residence during that period. He suggested this could be a problem in the future and noted that the town was already under stress due to the need for affordable housing for the workforce and development pressure. Mr. Littleton opined that Salamander's plans were helping to drive that pressure and noted that it was the Planning Commission and Council's responsibility, as leaders of the community, to weigh in on this issue and to figure out what was best for the community. He reiterated that it was the people who made Middleburg special. Mr. Littleton suggested this was a concern that must be addressed. He opined that there could be different regulations for Salamander and the remainder of the town. Mr. Littleton suggested that if everyone believed that half of the homes in Middleburg should not be short-term rentals, regulations needed to be put into place before developers bought the land.

In response to comments from the Commission, Mayor Littleton reiterated that he believed there could be different regulations for each of the different zoning districts in town. He noted that Salamander's residential properties were zoned R-1 and R-3, whereas the Ridgeview subdivision was zoned R-2. Mr. Littleton opined that the town wanted 90% of the Ridgeview housing to be residential and suggested the need to figure out regulations that would allow that to occur.

Deputy Town Manager Moore noted the need to evaluate any proposed regulations. He further noted that there were lots in the R-1 and R-3 areas of the town that were outside of Salamander; however, fewer of those were eligible for consideration as short-term rentals. He agreed with Mayor Littleton that each district could have its own regulations.

Councilmember Jacobs opined that members of the Commission were having a hard time putting the Ridgeview area and Chinn Lane in the same category as the Salamander homes. He agreed with the need to find a way to mitigate the risk of converting the existing ninety-two homes that could potentially qualify for use as short-term rentals and opined that no one wanted to live next to a "party house." Mr. Jacobs agreed that Salamander would not have the same issues, as those properties would be run by the resort; however, he acknowledged there could be potential long-term effects for the rest of the town. He questioned how a balance could be struck.

Chair Cooke agreed this should not be a one-size-fits-all approach and noted the need to thoroughly think about the issues and the implications. He suggested regulations be crafted that were fair and reasonable.

Chair Cooke advised the Commission that he proposed some changes to the draft Comprehensive Plan language suggested by the staff so it would be broader and leave consideration open for future regulations. He read his proposed changes. Mr. Cooke questioned whether the Commission wanted to adopt the Comprehensive Plan revisions first and then discuss possible zoning text amendments or whether they wanted to do both at the same time.

Deputy Town Manager Moore suggested the Commission first consider the Comprehensive Plan amendments and, once they were comfortable with them, look at the zoning regulations. He advised that he liked Chair Cooke's proposed changes, as they would help accommodate multiple approaches. Mr. Moore noted that he would forward those proposed changes to the remainder of the Commission for their review. He asked that the members provide their input on them before the next meeting.

Chair Cooke closed the work session and called the regular meeting to order at 7:20 p.m.

**Election of Officers**

*Vice Chair Woodruff nominated Terry Cooke to continue as the Chair. The nomination was seconded by Commissioner Roszel.*

Vote: Yes – Commissioners Woodruff, Fleischman, Roszel, and Stein and Councilmember Jacobs  
No – N/A  
Abstain – N/A  
Absent – Commissioner Minchew  
(Chair Cooke only votes in the case of a tie.)

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*Councilmember Jacobs nominated the incumbent, Don Woodruff, as Vice Chair. The nomination was seconded by Commissioner Roszel.*

Vote: Yes – Commissioners Fleischman, Roszel, and Stein and Councilmember Jacobs  
No – N/A  
Abstain – Commissioner Woodruff  
Absent – Commissioner Minchew  
(Chair Cooke only votes in the case of a tie.)

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**Disclosure of Meetings with Applicants**

The members reported that they had no meetings with applicants.

**Approval of Minutes**

*Vice Chair Woodruff moved, seconded by Commissioner Roszel, that the Planning Commission approve the December 20, 2021 regular meeting minutes as presented.*

Vote: Yes – Commissioners Woodruff, Fleischman, Roszel, and Stein and Councilmember Jacobs  
No – N/A  
Abstain – N/A  
Absent – Commissioner Minchew  
(Chair Cooke only votes in the case of a tie.)

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**Action Item**

**SD 20-01:** Banbury Cross Reserve Subdivision – Middleburg Land 1, LLC

Deputy Town Manager Moore reviewed the history of this application. He reported that the applicant submitted the third iteration of the final subdivision plat and advised that only a few minor comments remained, which he was confident the latest version met. Mr. Moore recommended the Commission conditionally approve the application.

Commissioner Fleischman opined that Loudoun County gave Middleburg subdivision control so it would have a buffer to protect its water supply. He further opined that adequate information had not been provided to determine that the subdivision would not be a problem for the Town in the future. Mr. Fleischman suggested that to approve it would set a bad precedent; therefore, he would vote against approving what was within one mile of Middleburg.

*Commissioner Roszel moved, seconded by Vice Chair Woodruff, that the Middleburg Planning Commission conditionally approve the request of Middleburg Land 1, LLC for approval of the final plat of subdivision for 38 lots on approximately 570.873 acres of land consisting of Parcels 503-46-4523, 502-28-1672 and 502-39-8957 zoned Agricultural Rural-2, subject to the applicant satisfactorily addressing the remaining agency comments, specifically including: (1) confirmation that the fire protection water storage tanks and draw pipes are provided as required; and, (2) Health Department confirmation of documentation for remaining wells and sewage disposal systems and for septic abandonment, with “satisfactorily” meaning to the reasonable satisfaction of the agency submitting the comment.*

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

No – Commissioner Fleischman

Abstain – N/A

Absent – Commissioner Minchew

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

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In response to an inquiry from the Commission, Andrew Hertneky, the applicant, advised that they went above and beyond anything required in the regulations. He reminded the Commission that he volunteered to provide water to the Town, as there was an abundant water supply on the property. Mr. Hertneky noted that most of the people who were purchasing the lots were going to use them for equine use and opined that they would assist anyone who needed another well. He advised the Commission that he did his best to propose a development that would have the least impact on the community, even though it cost him \$1.5 million. Mr. Hertneky noted that the development would include open space on the roads so the subdivision would not be visible, a walking path and 439 acres of open space. He further noted that he worked with the Town, County and community and conducted extra studies that he was not legally required to do.

### **Council Representative’s Report**

Councilmember Jacobs recommended the Commission familiarize themselves with the legislation that was being proposed by the General Assembly, particularly those items related to short-term rentals and that would limit localities’ control over 5G infrastructure.

Councilmember Jacobs reported that the Council approved the purchase of an automated water meter reading system that would provide real time data and help reduce lost money by the Town and customer due to water leaks. He further reported that the Council agreed to work with a company to install electric vehicle charging stations at no cost to the Town. Mr. Jacobs advised that they would share the revenue received. He noted that Level 2 charging stations would be installed in the Liberty Street Parking Lot and at another location to be determined, and Level 3 charging stations would be installed in the new Town Hall Parking Lot.

At the request of Councilmember Jacobs, Mayor Littleton reported that the County was down to considering three re-districting maps, including the one proposed by COLT (Coalition of Loudoun Towns). He noted that the input period was still open and encouraged the Commission to support the COLT map. Mr. Littleton advised that the other two maps only provided for one representative for all of western Loudoun County.

**Closed Session**

*Vice Chair Woodruff moved, seconded by Councilmember Jacobs, that the Commission go into closed session as authorized under Section 2.2-3711 of the Code of Virginia, for briefings by staff members pertaining to actual or probable litigation, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the public body related to the requested boundary line adjustments as allowed under Subsection (A)(7). Vice Chair Woodruff further moved, seconded by Councilmember Jacobs, that the Commission thereafter reconvene in open session for action as appropriate.*

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

No – N/A

Abstain – N/A

Absent – Commissioner Minchew

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

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Chair Cooke asked that the Commission certify that to the best of each member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting, which each member so did. He reminded those present for the closed session that any discussion that occurred within it should be treated as confidential.

**Quorum of February Meeting**

The members confirmed they would be present for the February 28<sup>th</sup> meeting.

There being no further business, Chair Cooke adjourned the meeting at 8:47 p.m.

RESPECTFULLY SUBMITTED:

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Rhonda S. North, MMC, Town Clerk

**Middleburg Planning Commission Transcript**  
**January 24, 2022**

**(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:** Ok. Good evening, everyone. We will convene this work session of the Planning Commission for January 24, 2022 and we'll begin with the roll call Rhonda, would you please? Rhonda, before you do OK, I guess it's only Ed that's missing, right?

**Danny Davis:** Rhonda do we need to?

**Terry Cooke:** So we're missing Rachel.

**Rhonda North:** Rachel. It appears that Mr. Fleischman is on the line. Mr. Chairman. He needs advanced approval to participate remotely. Are you willing to give that advanced approval?

**Terry Cooke:** Ed, what's the what's the circumstances here?

**Ed Fleischman:** I am out of town. Well, not available. I'm actually on vacation, I'm on Marco Island in Florida.

**Terry Cooke:** Oh, well. [multiple speakers] Not only are you not excused, you're excommunicated.

**Bridge Littleton:** We're burning you an effigy.

**Terry Cooke:** Okay, all right. Very well. Commissioner Fleischman is excused and can participate remotely.

**Rhonda North:** Chair Cooke.

**Terry Cooke:** Present.

**Rhonda North:** Vice Chair Woodruff.

**Don Woodruff:** Present.

**Rhonda North:** Commissioner Fleischman

**Ed Fleischman:** Present.

**Rhonda North:** Commissioner Minchew is absent. Commissioner Roszel.

**Dev Roszel:** Present.

**Rhonda North:** Commissioner Stein.

**Mimi Stein:** Here.

**Rhonda North:** Council Member Jacobs

**Bud Jacobs:** Here.

**Terry Cooke:** Thank you all. Among our we have one discussion item this evening and it involves short term rentals. It's a matter we've discussed a few times in recent meetings, but I understand that our mayor. Mr. Littleton is here and wants to address us and share some thoughts on this, and we'll do that first, and then we'll get into a broader discussion after that. Mr. Mayor.

**Bridge Littleton:** Mr. Cooke, Thank you so much, Mr. Chair. Members of the commission, thank you for your time. Did we lose Ed?

**Rhonda North:** He's still on the line, he just turned off his camera.

**Bridge Littleton:** Ok. Well, I think, you know, the idea here was just to have a discussion with you all around. Some of the areas and thoughts are, you know, long term, strategically around the town. Short term rentals, what's going on with the Airbnb rules and all that kind of stuff. I think number one, share some perspectives that I've been able to get. I mean, some of them were at the VML conference back in October and November, which were highly illustrative. Whatever both of those and some other things that have come to light recently, and I did watch your all's last meeting when you discuss with Prem about short term rentals and all that kind of stuff and the questions of is it an impending problem now? Is it a problem looking for? Is it a solution looking for a problem, you know, and stuff like that? So I think the the idea was just to share some of the thoughts and concerns that I've heard and have seen and also some that, you know, I think are there, not necessarily that I've heard it from the public, but you know, this is sort of the in the weeds stuff that when you really think about it, you look at other communities you say, Well, could that happen to us? And if it could, what should we do should be thinking about it? Do we do we want to address it before it becomes a problem or while it is a problem? And so that was sort of the idea tonight. And again, this is by no means like like the last meeting where it's going to be a 20 minute, you know, monologue, but really want to give some thoughts and just have a conversation and see what you all think. So. And before that, does anybody have any questions of me? If not, then I'll just give you a couple of thoughts and a response to some of the things that Prem said and some of the questions you guys were struggling with when in your last meeting, I said I watched it all and it was very informative. So I appreciate it. Oh, I'm far too used to saying Mr. Jacobs.

**Terry Cooke:** Councilman Jacobs.

**Bud Jacobs:** Mr. Mayor, I just have one comment. If you are spending your evenings watching the streams of the Planning Commission meetings, I would like to urge you respectfully to get a life.

**Bridge Littleton:** Hey, Bud, the one good thing is I'm not having to participate in it. [off mic] I can. I can zoom ahead. [off mic] Right?

**Terry Cooke:** Anyone else with a question or comment? Let me share something, Mr. Mayor, this is the chairman speaking. As we've talked about this issue two or three times now within the commission, at least a couple of commissioners have expressed some skepticism, and you recognize this in your comments, some skepticism about the need for further action on this issue, specifically, as you said, the question has been is this a a solution in search of a problem? And it's been pointed out by more than one commissioner that the regulations that we currently have in effect, which have been on the books since 2016. Some five years, a little more than five years now, we've really had no takers, no applicants for a special use permit for short term rentals. And I think it's fair to posit the question in view of the recent plans by Salamander to begin its construction of residences, I think it's fair to speculate at least that this issue rises arises again because of concerns that might happen within the Salamander community. Salamander has has expressed its intent to work with purchasers of its residences to facilitate or assist them in short term rentals of their homes if they choose to do that. So I personally believe that's the impetus for what we're talking about today and. I think it's fair to suggest that we're really talking about two distinct communities. Salamander is a part of Middleburg, and we're happy about that. But Salamander, the resort is a resort and it is not emblematic of the town of Middleburg itself, so Middleburg is Middleburg, it's always been as it has been. There are lots of folks here who never want to see it become something other than what it always has been. But Salamander is a resort. It exists to encourage short term tenancy. The resort, you go there, you stay for a long weekend or a week or however, but it's short term uses and

the residences that are going to be built at Salamander are not we we hope and expect they will be designed in a way that is consistent with the character of Middleburg. They are not typical Middleburg residences. They are far more at least for the most part. Far more elaborate, luxurious. And geared towards the amenities of the Salamander Resort, one of the draws to purchasing at Salamander is that as an owner there you will have access to all of the Salamander amenities. I don't think people come to the town of Middleburg to avail themselves of a broad list of amenities. They come here for the charm of Middleburg. They come here for the different atmosphere of Middleburg from wherever they might reside permanently. Occasionally, there are events that attract them for a day or a long weekend, but they are not the same. Middleburg does not present the same, the town of Middleburg does not present the same sort of draw to transient residents, as does Salamander. So I hope as we get farther into this. And I have changed my personal position somewhat since we began this discussion. And I find myself aligning currently with those on the commission who question the need for this under the current circumstances. We heard from Prem last month who spoke very knowledgeably and from experience on behalf of Salamander in dealing with resort atmospheres and short-term rentals in resorts. And I think he made some compelling, some compelling arguments. And to the extent that we're different from what you're concerned about here in the town and the use that residents of Salamander make of their property may not be the boogeyman that that perhaps some folks are concerned about if it were to happen here in the traditional residential in Ridgeview, for example. So I encourage all of us to sort of keep it in the back of our minds as we talk about this. I understand you've had some conversations with with folks at Salamander in the past few weeks, and perhaps they've given you some perspective. But I'd like to hear anything you have to say with respect to the idea that. That I just suggested that Salamander may be a sort of a different animal when it comes to this issue. So. Thank you. That's all I have to say at this time.

**Bridge Littleton:** No, I appreciate that. Absolutely. So and as much as I promise to be as brief as possible, I think what you have just outlined is actually is very well said and it is absolutely the difference between the you know what the Residences at Salamander are and what they will, and they won't be and all the other kind of stuff versus the rest of the town. That is actually the issue. So it's not really so much about the Residences at Salamander. It's about what that creates environmentally. And I don't mean, you know, toxic land dumps. I mean, changing the character and the structure of housing and the town to serve a different purpose than it currently serves today. And again, I'm not talking about the Salamander homes. So a couple of premises that I want to lay out and this will relate into some of the conversations I had with a couple of different mayors at VML and where the concern arose and then actually seeing in the last couple of weeks, these concerns coming to fruition. So I would say as a foundational statement that what makes Middleburg great, what makes Middleburg the community that we all cherish is. I mean, the historic buildings are nice and, you know, quiet streets are nice and all that kind of stuff. It's the people who live here. And it is because it is a fully lived in, fully integrated community where everybody, you know, this is our home. You know, now sure, somebody goes to Florida for two months or whatever. But I mean, this is a home. Ninety five percent of the people who are a residential owner in Middleburg live in that home and are integrated into the community and take part in activities and functions. I mean, I've never seen a community with as many nonprofit endeavors and volunteer endeavors that prosper the way we do. I mean, we've got to have 40 or 50, and it's because everybody here cares deeply about what they're doing, and they contribute because this is their home. So I laid it as a foundational premise. Now a little history on Salamander and the development, which in fairness, wasn't there last time. So at the beginning of the Salamander discussion and most of you were here during that, the plan was that Salamander actually was a great extension of the town. Those homes, those forty-nine, fifty homes. It was not a segregated, disconnected, you know, community in the sort of, you know, sort of figure eight oval that they've got. It was Stonewall wasn't the only one. It was now another Stonewall too, straight lined, and gridded was the original vision and the original. And you go back and look at the original design. That's what it was. And the concept was that those homes were integrated into the community of Middleburg. Not that they would live here all the time or not about how they lived, but the vision was the homes were integrated into the community because that's what we cherished and that's what we really wanted to see. That visions changed and I would submit to you, Mr. Chairman, that's fine. That's OK, right? They haven't been built yet. Nothing's commit. Well, they're about to be built, but you know, yeah, you haven't put a spade in the ground yet. So if they have a different vision and want to change it, as long as we all see that and contribute and participate and say yes, as a community, we're on board with that, then that's fine. And that's what's happened. I mean, I was on planning commission with some of you when that all changed, and I'm all fine with that. So, you know, fast forward two



years ago, it now becomes sort of a resort community and we approved it. It's all good. No problem. There was the short-term rental program idea that it started to come up and the discussion was forty-nine homes won't have a short-term rental program or whatever you want to call it, not really Airbnb. And OK, what's the vision of that? Well, probably about half the people would take advantage of it. Another half would live here, you know, it would be there, you know, it'd be their primary residence or their full-time home. And yes, they may go to Florida for three months or whatever, but they're not going to participate in the program. Ok, all right. I think there was a OK, that's a little different, but OK, fine. That's OK. Totally permissible. No problem. Well. You know, Danny and I had lunch with Prem and the new general manager at Salamander and the realities of economics come along and, you know, the viability of these programs change over time. I think COVID driven a lot of that. Right? I mean, why has Salamander had done so well during COVID? Cause nobody has to get on a plane, come out to a really nice place, you know, and being able to run a house at a really nice place is a great kind of thing that people want to take advantage of. So as I understand it, they have, you know, half the houses, I'll just say, spoken for, you know, whether it's a reservation or contract or whatever, and all but one want them to be in the short-term rental program. All but one. So we went from 15 years ago, an integrated community as a part of the grid of Ridgeview to, well, kind of a resort ish, you know, community, which is fine. We are all good with that, and about half the people will do it and half won't, to now ninety seven percent of the people want to, and it's being marketed that way. And I don't I have no problem. That's their God given right and buy whatever they can do that. But we have significantly shifted from where it started to where it is. And that's the law of dynamics, right? I mean, Airbnb comes along these type, you know, our world has changed significantly, and that's OK. And Mr. Chair, I would agree with you that I don't think it was the original intention. And in fact, you go back and look at the minutes that the town wanted the Salamander homes to be a disconnected resort housing community separate and apart from the town. I mean, that was a significant conversation. We don't want them to be this separate little enclave. We want those folks to be part of the town. Has that changed and that desire changed on behalf of Salamander and maybe the community? Sure. And is that OK? Well, you know if we all decide it is, that's fine. So here's now where the concern rises. The concern, as you aptly pointed out, is not is Salamander going to be ninety five percent short term rentals? The concern is what pressures does that create on the rest of the of the community and the housing that's there? So I hadn't really thought about it that I thought a little bit about that way. But I want to VML, and I met with the mayor, and I promised I wouldn't out him. But he said to me, he said, You think it's really good, but you just wait and see what happens, because what happens is this is what happened to them. They have a they're in a town, they've got a resort on the brackish water of Virginia and Airbnb.

**Terry Cooke:** Sorry, what is the town? I missed that.

**Bridge Littleton:** I didn't say the name. I promised the individual. I wouldn't say his name publicly. I said a brackish water, you know, so. Exactly. Well, actually, if I said brown water, it could really be everywhere. But, you know, down the tide tidewater area, Chesapeake, Potomac, whatever so. And what is point to me was, you know, we're a small town of twelve hundred people and we have a really amazing popular five-star resort. And the prices are insane. But, you know, COVID has really driven our economy in a great way. But the flip side that's happened is because this place is getting twelve hundred and fifteen hundred dollars a night. Developers are coming in and buying the 1950 Ramblers, tearing them down and creating them as a tear down rental so they can come and go, use the resort, and have fun on the water and go do all the things they do in this little quaint little resort town. But they've lost 20 percent or so of their residential housing in three or four years that have turned over from being where families lived to. You know, now being just rentals by, you know, somebody who bought it as an investment. So he said, what is his point to me was you just really need to be thoughtful about the new pressure that development or that resort can create on your existing housing, especially. And this is what I think they didn't anticipate. If it's a five-star resort that has really neat amenities and really neat events and you have a lot of really neat events around you that people aren't willing to spend twelve hundred dollars a night for a room, but they'll get a rental house for six hundred if they can still take advantage of almost everything else. And so it really got me thinking about it. Right, it was like, OK, I get it. You could, you know, go into Ridgeview. And I think the place which is it got the most pressure is Ridgeview because you've got a lot of the, you know, you've got a lot of lots. It's, you know, there's plenty in there which are on the older side, which you could probably get an affordable price. Fix it up, do something else with it. But I mean, \$600 a night, you're half the cost of the Salamander. All you got to do is rent it five nights a month. You know you've covered

your mortgage and you're making money. So the so it got me thinking about it that way. And I'm not saying that it's a burning platform. But one thing I found out in the last couple of weeks is there are I think it's two or three offers out right now for homes and review that what the builder intends to do is to tear down and rebuild or renovate and not sell them as residences but use them as short-term rentals.

**Terry Cooke:** Ok, you wouldn't be allowed to do that under the current regulations.

**Bridge Littleton:** what's that?

**Terry Cooke:** You wouldn't be allowed to do that under the current one.

**Bridge Littleton:** Sure. No, no. I mean, so, so well. The current regulation says it has to be used primarily as a residence, not as your primary residence. Right. So what do you do? You simply don't rent it for whatever period of time and claim, oh, it's my residence. And how do we really, really validate that? So I mean, and there's all types of things you can do to try to fix that loophole. Maybe you do make it know it has to be your primary residence and you have to prove residency. So and again, that's a tool in the toolbox that the commission could look at. So the question then becomes, this is that is this something that could be a potential problem in the future? Absolutely. You know, are we already stressed with having affordable housing in town for our teachers, our town staff or whatever? Absolutely right. Is there development pressure? And I know you guys are addressing this in a different thing. Is there development pressure that's tearing down the small things and putting up these big things and making them a million and a half dollars? Yeah, absolutely. But this is something else which actually is helping drive that because now it's another way to generate income to raise the value even more. So I think what I'm throwing out there is I'm not saying I know what the answer is. What I'm saying is these are the dynamics of a problem, or I'll call it something I see as a problem. And if I'm the only one in town who sees it as a problem or a concern, hey, majority rules, not a problem. It's not somebody doing that is not wrong or immoral or unethical. You know, that's the zoning. They're following the rules. That's no problem. We have a responsibility, as you know, leaders in the community of government to weigh everything and try to figure out what's best for the overall community. And as I went back to my framework at the beginning to me, what makes Middleburg special is all of you who live here. That's what makes Middleburg special. How do we make sure? I would love to make sure that that sense of community is what survives the longest. So the last thing I'll say is this that's where my concern is. Again, I don't know the answer. We have to. I think there has to be an answer which respects. And again, I'm not making that Salamander. I mean, it could be that Salamander has its own different whatever and that can be done and reduce different. And where I live on the east of town is different. I mean, it's not one bludgeoned tool for everybody. To your point, Salamanders evolved into something different. Ok, we can respect that and figure out something different for everything else. But what I what I was going to say is I also think that if we all collectively believe that five years from now, half the homes in Middleburg being turned into some type of short term rental thing is something we don't want to see then I think we have a responsibility to put the rules in place that will align that the way we think is correct before people start going after the land grab, you know, because I do think it's bad when government comes in halfway through people doing something go well, we don't like that now. We're ripping the rug out from underneath of you, you know, so that's kind of all of it at once. But you know, I'd love to, you know, hear what you guys think and answer any questions.

**Terry Cooke:** Commissioner Woodruff

**Don Woodruff:** Mr. Mayor, Don Woodruff, this has been an issue for as long as I've been on the planning commission, which is now 16 years or so, people have been concerned about it. It didn't get to be as big an issue until Airbnb became more prominent in our society. But I I am. I hearing you saying that you think that we can allow residences within the purview of Middleburg, such as Salamander, have one set of rules and another for everybody else. Or do we have to go section by section through the town and allocate delineations in that manner?

**Bridge Littleton:** So that's kind of a technical question, but I think in a broad sense, I think the answer is it depends on how you do it and it depends on what you mean. But I think the answer is yes in this way. Like so

we have R-1, R-2, R-3, right? Every single one of those zoning designations have different rules for what it means. So you could do the exact same thing around the special use permit. So a short-term rental special use permit in R-2, the rules are blah blah blah. In R-1 it's different. In R-3 it's different and over here. It's different. So.

**Don Woodruff:** Well, that's exactly what I was aiming at. Whether you thought that was a reasonable expectation and what would that differentiation in your mind mean to the relationship between the town and and the resort?

**Bridge Littleton:** Yeah. So the resort is R-1 and R-3, right? So and we you'd want to I would want to work with them and figure out what's reasonable, what's workable, what makes sense. You know, it shouldn't be a free for all. There should be some structure, but make sure that it aligns and figure that out. And then outside of them, you got R-2, right? Which is Ridgeview. Ok. I mean, you guys all know Ridgeview. I mean, we want that to be a lived-in community of 90 percent residents, so who mostly live here. And then that comes to Will and Danny, who figure out and looking at other towns and other communities. What have they done to, you know, put certain things in place? And maybe it's not used as a resident, used as a residence, but it is residential, or it is your primary residence. You know what I'm saying? Or it's the days are different or the proximity to others is different, you know? I think the point is there's multiple things you can do. I don't know the right answer, but there's a balance there that can be figured out.

**Don Woodruff:** But in your mind, you've seemed to say or seem to be looking at the R-2 within the resort community, perhaps having different regulations than R-2. Or 1 or 3?

**Bridge Littleton:** Yeah, yeah, R-2 is, I think, just Ridgeview. The resorts R-1 and R-3. Yeah, that's exactly.

**Don Woodruff:** So but with those rules that apply to R-1, R-3 in the resort area apply to people in town.

**Bridge Littleton:** No.

**Don Woodruff:** Ok, that's thank you.

**Bridge Littleton:** Or Will you're the expert.

**Will Moore:** Or maybe. We really have to evaluate what that looks like. There are sections of R-1 and R-3 outside of the resort community that are in town.

**Bridge Littleton:** Oh, right.

**Will Moore:** But there are many, many fewer of those lots that would be eligible for a short-term rental. A lot of R-3 are much smaller lots, or they have different type of development on them that's not actually eligible. So but one way to attack would be each of those districts has a different set of regulations around them, and maybe they do apply both within the resort R1 as well as [inaudible]. There are different ways to do that.

**Bridge Littleton:** I think the way they answer it, though, Don is you can do that. I think what Will is saying is you'd want to be very diligent about making sure you do it and structure it the right way so that you know somebody who might be R-1 outside the town. You just got to be thinking about that, right? So I get it. It's a holistic picture. Yep, yep.

**Terry Cooke:** Council Member Jacobs.

**Bud Jacobs:** I'm grateful that you took the time to come to talk about this tonight. I've had a hard time as I've tried to understand some of these issues putting a Ridgeview and Chin Lane, which is the other neighborhood in the same basket as Salamander, it seems to me that there are two quite different situations. One of the things that worries people in a development such as Ridgeview or Chinn Lane is that the accommodations intermediaries

who would be handling their short-term rentals. Don't really have any skin in the game here in Middleburg, talking about Airbnb and what's the other one VRBO and [multiple speakers] others, I guess. And because of that, it seems pretty clear that we've got to find a way with respect to the 92 homes that have been identified in Ridgeview and in Chinn Lane as being qualified for short term rentals. We've got to find a way to. I hate the word control in this context, but to mitigate the risks that you've been talking about that I think are quite legitimate. Nobody wants to live next to a party house. I lived for several years in Lima, Peru, and our next-door neighbor was a party house. Needless to say, in Lima, they don't have a lot of zoning options. Nobody wants that. And it seems to me in the case of Salamander, those issues really don't come into play. The resort will run the program as tightly as they run anything else. They have a lot of skin in the game in terms of what this town is. I take your point about the potential long-term effects. And I wonder whether a strenuous program affecting Ridgeview and Chinn Lane might mitigate some of those risks as well. But as a fundamental going in principle, I have to say I'm one of the Commissioners Terry was talking about that is having difficulty conceptualizing treating Salamander on the one hand and are affected neighborhoods on the other in the same manner. And I worry about how we strike the balance because we will in fact be treating people quite differently based on where they live. The other fundamental question with respect to the situation in Ridgeview and Chinn Lane, do we need to do something? And the answer is yes. In my mind, I'm just not sure how we thread the needle and get down the road. We seem to be moving in some positive direction with respect to distancing and among allowable short-term rentals and all that. We're not there yet, but it seems to me that that kind of thoughtful analysis is probably the way we ought to go.

**Bridge Littleton:** So but I would say that that it's a great point, right. To me, I always look at these things as threshold questions, right? The first threshold question is, is there an issue that we should address? And so you got to run through all those machinations, right? And you say, Yeah, OK, this is important. This is something we want to, you know, resolve then. And sometimes that's a very difficult. And then it's the really hard part of how do you do it right and you've got to balance. There's so many things on the table that you have to balance to figure out, and that balancing is going to have some things which are great and some things which aren't. But at the end, the net effect is we got to that good eighty five percent solution. And that's what it is, right? It's always about getting to the eighty five percent solution. And again, I don't know the answer, you know, Will is an expert in this in this field, and there's a lot of other towns around Virginia who are dealing with this same exact issue. How do we preserve our town? You know, the one guy I talked to, the one there I talked to, he said. I'm just terrified because there's a land grab going sort of like a Middleburg, right? I mean, a house in Chinn three and a half years ago was six hundred and fifty just went for a million, you know, so there's a land grab going on. And you know, he's terrified that when they reach that 50 percent, everybody's neighbor is going to be, you know, vacation house and it's going to be, well, my kids don't have any. Right. I'm out of here. You know, this has become no fun. This is not a community anymore. It's a bunch of little mini hotels. I'm going to move too. So I'm not saying this Middleburg. And I think that's I'm not saying that that's happened yet, but that's what he's worried about. That's what he's hearing, the grumbings from people who still live there. So Bud, I you know how we do it. That's the hard stuff. And that's what the fun that you all get to figure out. I would say.

**Terry Cooke:** Thanks Bridge, I think. I think our thinking is it's a little closer than than it was at the outset of our conversation tonight. I mean, my point is is very simple one. This is not a one size fits all proposition. And I think we and I'm speaking for myself, not for the commission. I think it's one of those things that we have to think thoroughly about and and consider the implications of it. Well, enough said. One size does not fit all, we'll have to go into this, I believe we'll have to go into this with the idea of crafting. Assuming we decide to craft new regulations, craft regulations that are reasonable and fair within the communities where these sorts of uses will will arise. And I do think that it's a different set of circumstances just to use Salamander as an example, but it is a resort and it's the only resort in town. A different set of circumstances for communities like Salamander, which are built to attract, at least in the future, long term, and short-term residents and and those of the town of Middleburg, which I think is probably not as likely to have the kind of concentration of a short term uses as some other districts like Salamander. So I will certainly keep that in mind, and I suspect the rest of the commission will feel at least similarly and. Unless anyone else has. Further discussions with the mayor, we will cut you loose.

**Bridge Littleton:** Well, I think we've got one other thing. The BLA. Or the closed session.

**Terry Cooke:** We're going to take that up in closed session. Ok. Ok.

**Bridge Littleton:** [off mic] Yep. I will wait. Ok.

**Terry Cooke:** Thank you,

**Bridge Littleton:** Mr. Chairman, members of the commission. Thank you all so much for your time.

**Terry Cooke:** Thank you, Bridge.

**Bridge Littleton:** And your service, and I hope those checks keep clearing. [off mic] [laughter]

**Terry Cooke:** Before we move into the regular meeting, one of the things that we did last month, I think, was to and the month before that as well, I believe, was to look at a proposed revision to the comp plan to to address short term rentals is currently nothing in the comp plan, as I recall on the subject of short term rentals and one of the things that Mr. Moore asked us all to do was to at least for the moment, thankfully put aside potential regulations or amendments to the to the zoning ordinance and think more specifically about the proposed language for a comp plan addition to the comp plan. I submitted earlier today some language to Will to consider for a possible change to the proposed language offered for the comp plan provision, and it retains the the first two paragraphs regarding short term rentals in their entirety. And it revises the last paragraph. It retains most of what's in the last paragraph, but includes a revision, so the last paragraph would read as follows. While the current performance standards for limited residential lodging address a number of concerns presented by such users' hyphen must be used primarily as a residential dwelling provision for off street parking, separation from other residential dwellings. Life safety requirements, et cetera, hyphen the overarching consideration in each case shall be to mitigate potential adverse impacts to neighboring properties and to ensure that traditional residential neighborhoods are not turned into tourist areas to the detriment of long-term residents. What was I trying to get at by that suggested revision? The original language speaks to possible additional regulations to limit the potential concentration of such uses in any given neighborhood so as to mitigate potential impacts to the community's character and to limit the frequency of such uses that may be approved to mitigate potential impacts to neighboring properties. So the original proposed language speaks with some specificity to developing regulations that would limit the potential concentration of uses and the frequency of those uses. I'm not suggesting by taking that specific language out. I'm not suggesting that those are not legitimate considerations. But I thought for purposes of a comp plan, perhaps some broader language, such as the language I drafted and. I have no pride of authorship in this, anybody can make suggestions for revisions to that, but the language that I've drafted, the purpose was to take a broader approach and leave. Leave the specifics of future regulations. A more open, as we as we consider ways to deal with what Bridge has suggested ways to deal with this on a perhaps a community-by-community basis. And I just throw it, throw that out for discussion. We can discuss it now; we can discuss it later. But it's just another approach that I thought was worthy of consideration. And any of you may have other thoughts on it, but there it is for what it's worth. And presumably, do we want to get to the point where we adopt a comp plan revision and then get to the zoning ordinance language, or do we want to consider them in tandem?

**Will Moore:** So I think at this point, concentrating on that comp plan language is the best approach. Now, if you come to consensus on that language, there's still a process we have to go through to adopt that advertising a public hearing. If you're comfortable with that language at some point, then we could in tandem with the public hearing and your recommendation to council on the comp plan. Start looking at the relooking at the individual regulations. But I think at this point in time, it's probably a better approach like you're suggesting to keep those separate to really build that language that gives you that flexibility. And I really like what you've done in that last paragraph. Particularly relevant to the discussion was here. What staff's initial proposal and we've been talking about for the last couple of months entailed was more of a one size fits all approach, and it seems like there's some momentum building to not doing that and maybe treating some areas different than others. And we can get into the specifics later. And I think what you're proposing in your language there helps better to accommodate that [inaudible]

**Terry Cooke:** Ok, well, as I said this, this is hitting my fellow commissioners for the first time. I don't think it's. I would suggest when I try to make a decision on whether this is good language, bad language, or inconsequential language. Give everyone another another meeting to review this, think about it and see if they have other thoughts. I mean, this was my response. You asked us all to think about whether. The original language proposed for the comp plan was what we thought would best address this, and that's what I was trying to get at, and others may have completely different views on it, but I'd like everyone to have an opportunity to digest it and then we'll talk about it next.

**Bud Jacobs:** Could you circulate your draft? Let us have a look at it.

**Will Moore:** I was about to suggest, if I may, what I can do is rework that with your proposed language. Send it out tomorrow, OK? And that gives you it's not sent out the week before your meeting that way. It gives you some more time to start looking at how that's evolved. And if you, any of the commissioners have input additional input throughout the month leading up to your February meeting, we can start incorporating that as well. And hopefully at your February meeting we'll have a a second complete draft to really talk about.

**Terry Cooke:** Great. Great. Thank you. And I assure you, my feelings won't be hurt [inaudible] [off mic]. Ok. Again, thank you all. That concludes our discussions items for the work session, and we will convene the regular meeting of the Planning Commission for January 24, 2022. Rhonda with another Oh, we don't have to do the roll again. Excuse me, I keep forgetting that. We'll call the regular meeting to order. And oh my goodness. The first item on the agenda nomination of election of Officers Chair and Vice Chair for the year of 2022.

**Bridge Littleton:** I nominate Will Moore. [laughter]

**Don Woodruff:** Mr. Chairman, I'd like to nominate Chair Cooke to continue in that position.

**Dev Roszel:** I second that nomination.

**Terry Cooke:** Isn't there or should there not be a term limit on this?

**Don Woodruff:** Yes, there is, 20 years. In the book, twenty years before the [inaudible].

**Terry Cooke:** Yeah, well, we have a motion and a second. Any discussion Rhonda would you reluctantly Rhonda would you call the roll.

**Rhonda North:** Vice Chair Woodruff?

**Don Woodruff:** Yes.

**Rhonda North:** Commissioner Fleischman. Commissioner Fleischman.

**Terry Cooke:** Did we lose you Ed?

**Ed Fleischman:** Yeah, I vote yes.

**Rhonda North:** Commissioner Roszel.

**Dev Roszel:** I vote yes.

**Rhonda North:** Commissioner Stein.

**Mimi Stein:** Yes.

**Rhonda North:** Council Member Jacobs

**Bud Jacobs:** A hearty yes.

**Terry Cooke:** Well, it's a severe pleasure, thank you all. Thank you all very much. Yes. Try to get through the next year.

**Bridge Littleton:** That's like being happy is someone got lice.

**Will Moore:** And we would also need a nomination for Vice Chair.

**Terry Cooke:** Yes, thank you. Thank you. We also need a nomination for the esteemed position of vice chair.

**Bud Jacobs:** Am I allowed to nominate?

**Terry Cooke:** Yes, you are a member of the commission.

**Bud Jacobs:** I would like to nominate our incumbent vice chair, Don Woodruff.

**Dev Roszel:** I second that nomination.

**Terry Cooke:** It's been a motion and a second. Any discussion? Too late Don.

**Don Woodruff:** As long as you keep [inaudible] I'm fine.

**Terry Cooke:** Rhonda, would you please call the roll?

**Rhonda North:** Vice Chair Woodruff.

**Don Woodruff:** I abstain.

**Rhonda North:** Commissioner Fleischman.

**Ed Fleischman:** I vote yes.

**Rhonda North:** Commissioner Roszel,

**Dev Roszel:** I vote yes.

**Rhonda North:** Commissioner Stein.

**Mimi Stein:** I vote yes, it's a good idea.

**Rhonda North:** Council Member Jacobs

**Bud Jacobs:** Yes.

**Terry Cooke:** Thank you all. Next item on the agenda, oh, before I get to that, we do have a closed session on the agenda, and I understand that the mayor has expressed an interest in participating in that closed session. So in the interest of not keeping him up too late tonight, we will. I will change the order of the agenda to move on to what is numbered number 11, the closed session.

**Danny Davis:** I apologize, Mr. Chairman. We we actually might suggest leaving the order, as is. I'm sorry for the confusion. I think this next item should hopefully run relatively quickly. All right. And I think the closed session might take a pretty significant bit longer. I'm sorry for throwing that loop.

**Terry Cooke:** Ok. Yeah, I misunderstood. Thank you. Thank you. All right. Well, our next item is the disclosure of meetings by the commissioners with any parties having matters before the commission or contemplating matters before the commission. Rhonda, would you call the roll on that?

**Rhonda North:** Chair Cooke.

**Terry Cooke:** I've had no meetings or discussions with other parties.

**Rhonda North:** Vice Chair Woodruff.

**Don Woodruff:** I also have had no meetings on these issues.

**Rhonda North:** Commissioner Fleischman.

**Ed Fleischman:** None of the above.

**Rhonda North:** Commissioner Roszel,

**Dev Roszel:** I've had no meetings or discussions with anyone outside.

**Rhonda North:** Commissioner Stein.

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

**Rhonda North:** Council Member Jacobs

**Bud Jacobs:** I've had no meetings or discussions with any applicants with matters before this commission.

**Terry Cooke:** Thank you. Next item is public comment Rhonda. I assume we have no one.

**Rhonda North:** The only person we have on the line is Mr. Fleischman.

**Terry Cooke:** Ok, so we will close the public comment.

**Rhonda North:** But you do have folks in the audience here. You do have folks in the audience here.

**Terry Cooke:** Oh, well, my apologies, folks. Does anyone in attendance here this evening have any matters they would like to address with the commission? Hearing none, we will close the public comment next item is approval of the minutes for our December 2021 work session and regular meeting. Do we have a motion?

**Don Woodruff:** I move they be accepted as presented.

**Terry Cooke:** Second, please,

**Dev Roszel:** I'll second that.

**Terry Cooke:** We have a motion and a second. Any discussion? None. Rhonda call the roll, please.

**Rhonda North:** Vice Chair Woodruff.



**Don Woodruff:** Yes.

**Rhonda North:** Commissioner Fleischman

**Ed Fleischman:** Yes.

**Rhonda North:** Commissioner Roszel.

**Dev Roszel:** Yes.

**Rhonda North:** Commissioner Stein.

**Mimi Stein:** Approve.

**Rhonda North:** Council Member Jacobs.

**Bud Jacobs:** Approve.

**Terry Cooke:** Again, thank you. All right, our next item is an action item. Request of Middleburg Land One LLC for approval of final platted subdivision in the Banbury Cross Reserve Community. Will, will you set the table on this for us, please?

**Will Moore:** Thank you, Mr. Chairman, and if I may invite the applicant and his engineer to the table just in case you would have any questions for them? Mr. Hertneky and Mr. Connor. Okay. So you are all, of course, familiar with the Banbury Cross proposed development. You had approved the preliminary plat of subdivision in August of 2020, and you will remember that that was a it was a process to get to that point. During that time, the applicant had made some voluntary offers not linked to the approval of the preliminary plat, but having heard some concerns that were expressed during that preliminary approval process, he had made some offers. One of those was that in the subsequent construction plan phase. So that's the detailed engineering phase that although the county is the sole approving authority for that process, they offered to keep us involved in that in the form of providing us copies of their submissions to the county so that staff could review, monitor sometimes and I'll use the Residences at Salamander as a as a perfect example, sometimes the plans evolve over time, so you have to be in substantial conformance with a preliminary plat. But sometimes there will be evolution. And I can assure you, having monitored that process that the the the construction plans remain almost identical in all aspects to to that approved preliminary plat. So I appreciate being involved in that process and that was very helpful. Another thing that occurred during the that time was that the owner had indicated a willingness to voluntarily restrict certain uses that would otherwise be allowable under the county AR-2 zoning on property of whether it was within the cluster subdivision portion, which is really the part that's in our subdivision control area. But he was offering to restrict this on the the project as a whole. The 570 acres. In September of this year, he actually had developed the actual instrument to to implement those land use restrictions, and the council accepted that deed of restrictive covenants that established the council as kind of a third party beneficiary to those restrictive covenants, meaning that if there were ever an issue in the future with an owner of a particular property engaging in one of those restricted uses, the HOA itself would be pretty much the primary enforcement authority. But if the HOA decided not to enforce, we would actually have the option to, but not a requirement to do so. And that list of restrictive covenants that council accepted was identical, actually slightly more restrictive than the original list that he had presented to you at the time of the preliminary approval. So just wanted to kind of give you an update on where that is that council actually did take action to accept those restrictive covenants. So the construction plans were approved for the project by the county, and I believe, October of this year. And so now we are we were in conjunction with that. We had been for a couple of months. Prior to that, we had started the final plat review process. It has been through two complete iterations of review. It has been submitted for the third iteration of review, and it is my representing to you that there are only minor comments that are remaining at this point. Those comments I have seen the third submission. I am not the approver of whether or not the agency comments were adequately addressed. Those individual agencies are, but I can. I can say with confidence that I'm sure that this is going to, if not, meet approval and its only minor issues that are remaining

and it's appropriate at this time for you to consider conditional approval subject to those agency comments being adequately addressed. There's nothing of any major nature outstanding in the review of this. So with that being said, I have given you the pages and pages and volumes of the review comments that were issued with the first two iterations, as well as those responses, so that you could see those if you have any specific questions on any of those outstanding items, either I or certainly the applicant or the applicant's engineer, I'm sure could could answer those questions for you.

**Terry Cooke:** Thank you, Will. That's very helpful. We have all lived with this matter for quite a long time now, and I would hope that folks have reviewed the the comments and the and the applicant's responses. Does anyone on the commission have any questions for Will regarding this matter? We have a recommendation from staff for conditional approval. I would hope.

**Ed Fleischman:** Mr. Chairman. Mr. Chairman, May. I don't have any questions for will. But before the vote, I'd like to make a statement regarding the proposal before us.

**Terry Cooke:** Yes, go ahead. This is Commissioner Fleischman, go ahead.

**Ed Fleischman:** Okay. Thank you, Mr. Chairman. Yes, this is Commissioner Fleischman. I've said a number of things about this development previously, but I feel it's important enough for me to again give my views. So they're part of the official record. My background is in civil engineering. I have degrees from City University in Civil Engineering, a master's degree from Purdue University in civil engineering. I took environmental engineering classes. I started my career working for the Department of Water Supply in the City of New York. And I spent many years working in the federal government and got involved in many suits environmental suits against projects that move forward. I believe that the county gave this town of Middleburg subdivision control within a mile of our boundary for a reason. And I think that reason is a buffer zone to protect. In this particular case, our water supply, I feel there isn't adequate information that was presented that will say in the long term, that's 10, 20, 30, 40, 50 years, that these houses will be built, that there won't be water problems regarding wells and separate conditions. And I think that this sets a bad precedent for the town of Middleburg to enable other developments in the subdivision control area. And I plan to vote against this particular item for not the whole development, but any development, housing development within that one-mile subdivision control area. Thank you.

**Terry Cooke:** Thank you, Commissioner Fleischman staff has recommended conditional approval on this, and I would love to hear a motion for conditional approval. Anyone?

**Dev Roszel:** Yeah, I move that the Middleburg Planning Commission conditionally approved the request of Middleburg Land One LLC for approval of the final plat of Subdivision for thirty eight lots on approximately 570.873 Acres of land consisting of parcels f503-46-4523, 502-28-1672, and 502-39-8957 zoned agricultural rural 2 subject to the applicant satisfactorily addressing the remaining agency comments, specifically including one confirmation that the fire protection water storage tanks and draw pipes are provided as required. And two health department confirmation of documentation for remaining wells and sewage disposal systems and for septic abandonment. Satisfactorily means the reasonable satisfaction of the agency submitted the comment, submitting the comment.

**Terry Cooke:** Thank you. We have a motion; do we have a second?

**Don Woodruff:** Second.

**Terry Cooke:** Second, Commissioner Woodruff. Any discussion? Thank you, Rhonda, would you please call the roll?

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

**Don Woodruff:** Yes.

**Ed Fleischman:** Commissioner Fleischman.

**Ed Fleischman:** I vote against. Thank you.

**Rhonda North:** Commissioner Roszel.

**Dev Roszel:** Yes.

**Rhonda North:** Commissioner Stein.

**Mimi Stein:** Yes.

**Rhonda North:** Council Member Jacobs.

**Bud Jacobs:** Yes.

**Terry Cooke:** Thank you all. The motion carries. And thank you, gentlemen, for appearing this evening. [off mic]

**Don Woodruff:** Gentlemen. Do you feel that the water supply is threatened?

**Andrew Hertneky:** No, not at all.

**Don Woodruff:** That's all I need to hear.

**Andrew Hertneky:** You. Just a just a quick, just a quick follow up on that exact issue.

**Terry Cooke:** Would you please state your name for the record?

**Andrew Hertneky:** My name is Andrew Hertneky, the managing member of ML1. What we did is I believe we went above and beyond anything in the regulations for what we had to do. We reached out and got probably the foremost water person on the East Coast when Augusta National needed water stuff. They called him up and said, Come down here. He said, we don't have a contract, and they said, whatever it's going to cost, you know, he's just the very best. You know, we found so much water there, you know, earlier, [inaudible], I said, if you need more water, we will. So there's abundant water supplies there. You know, that's all I can say.

**Don Woodruff:** Don Woodruff, I asked that question because early during the whole process, when we heard at public hearing, there were many of the residents within waters reach, you know, in the same aquifer who were expressing that they already felt that they were losing a pressure in their wells, et cetera. I don't know why I'm that's way out of my ballpark, but I do. I just want to hear from you for the record, that there is a strong feeling on your part that if these people have any problems nearby, that there is a remedy.

**Andrew Hertneky:** I will not on this development at the end of the day, right? I just helped out a couple of families not lose their properties; it wasn't my role in all of this. I know most of the people are actually buying the lots for example. The the estate lots. And almost all of those people are horse people, almost all the lots right now that have been sold will be for equine use, which I think is actually beneficial for the area. All I can tell you is knowing those people personally, they would in a heartbeat to the person if somebody needed to somehow drill another well and try to get more land that they would. They would do that, I know each of these people personally, except for one. I can't say that, you know, I can't sit here and say, you have to do it, but I can say if you reached out to those people that are buying them, they would be interested in helping the community.

**Don Woodruff:** Thank you very much.

**Andrew Hertneky:** Can I just make a very brief statement, just brief. I'm talking very brief. I just wanted to say a couple of things. You know, we did our very best and as I said, I only got involved with this to help two long time families not lose their properties. That was my [inaudible] wasn't in it to make money. It has cost me money. It's cost me reputation. Cost me a lot, but I think we did the very, very best we can to do this with the very least impact on a community not to detract from the community. We just did the best we can. Just so, you know, one example or two, we put open space corridors on the roads so that people wouldn't see it. We provided an easement for Future Path along 50 for walking. Out of the total five hundred and seventy acres, I think this is critical. Four hundred and thirty-nine. Are either open space or large lots. Four hundred and thirty nine out of the 570 acres is open space and large lots, and that cost us. I could have put that extra 70 acres of open space into the larger lots and sold that. And at the what we're getting for a lot per acre there, that costs us a million. five to put that open space in there, and I think we've done our best to work with the community with. With Will and with the county, we get lots of extra studies that we weren't legally even obligated to do around archaeology, around graves. We did extra water studies that we were not obligated to do. So that's really all I wanted to say. We just did our very best job to make this. As least painful to the community as we could.

**Terry Cooke:** Thank you. Our next item on the agenda, Councilman Jacobs, is your council representative report.

**Bud Jacobs:** Yeah, look, we're going to be in close session here shortly, and it's going to be I think it's going to take a fairly substantial amount of time, so I'm going to limit, but I'm going to limit my report to just a few items. I recommend that those of you who have not done so, familiarize yourselves with the various legislative proposals that are percolating down in Richmond if percolating is the right word. I believe our town manager prepared a very concise summary. Do you mind sharing that with members of the commission after this meeting? There's some stuff in it that's fairly troubling, and I just want to draw your attention to it. We've got a lot of the usual suspects that come up year after year, but there are, in fact, a couple of items that have to do with short term rentals. So and they, I think, are important to understand from the business of this community. There's also a proposal to limit local authorities' ability to control wireless infrastructure, which is something obviously that we wouldn't want to see. And I don't think anybody in Virginia besides Sprint and the other telecoms want to see it either. A couple of quick, positive notes, and then I'll shut up. Council recently approved an initiative to develop the town's remote meter reading capabilities. I don't know if you guys saw that we're going to use ARPA money for it. It's about two hundred and thirty, I want to say.

**Danny Davis:** One hundred and sixty thousand.

**Bud Jacobs:** I wonder where I got the 230? Oh, well, anyway, anyway, you'll take it, you'll spend it I know that. Anyway. This will allow for real time data collection on our water meters and hopefully reduce the amount of money that not just we, but citizens lose having not been able to identify a leak in time to prevent getting a massive water bill and other big news that I'm particularly pleased with. We moved ahead with an initiative to work with a company to install a couple of EV charging facilities in town. And it's a very nice well, it's a very nice deal because it doesn't cost us anything to start, and we'll share revenues with the the company that's putting them in. We're going to have two facilities, one in the Liberty Street parking lot. The second one, I think the location is to be determined. And then eventually there will be a level three high kilowatt charger on the in the parking lot for the new town hall. So it's pretty cool. And finally, let me draw your attention to the ongoing discussions that the county is having about redistricting. The issue for us is to, if we can do so, retain the two supervisors on the board that represent Western Loudoun. And there are two proposals that do that, one of which was in part created by our mayor. That's the Coalition of Loudoun Towns proposal. If you haven't looked at it, I urge you to do so. And by my lights anyway, a close second is another proposal which I believe is called the center proposal, which also has a breakout for two supervisors to represent Western Loudoun. These are all on the Loudoun County website. I think the the comment period is it's still open. Do you know? Will, I mean, excuse me, Danny.

**Bridge Littleton:** I can give you a quick.

**Bud Jacobs:** Oh good, please. Yeah.

**Bridge Littleton:** So the county has selected now for three maps. One is Matt Letourneau's Map, the other one is somebody else's and the COLT map is the third one.

**Bud Jacobs:** Great great.

**Bridge Littleton:** County. The I will forward you all the email from Buffington this morning. The input period is still open. Please go in there and say we want to Western districts you know, supervisors the COLT map is the way to go. The other two maps only have one Western Loudoun district. So. We would be with only one representative for the West, not two.

**Bud Jacobs:** Well, it's even more critical than that. There be comments supporting the COLT proposal. It's easy. I did it. And if I can go online and do it, then practically anybody with the possible exception of Don Woodruff. [laughter] And that's all I wanted to take your time with folks. Thanks.

**Terry Cooke:** Thank you, Bud. All right, now we come to the next item on the agenda, which is the closed session and Will do you want to introduce this? I know we need a a motion.

**Will Moore:** Yeah, if possible, if someone could make the motion and then we would vote on the motion. And then once we're in close session, we'll then introduce the topic.

**Don Woodruff:** I move that we move into closed session.

**Rhonda North:** Sir, I'm sorry, you have to read the entire.

**Terry Cooke:** Yeah, a little more wordy than that.

**Don Woodruff:** Oh, I don't want to be more wordy. [off mic] I move that the commission go into closed session as authorized under section 2.2-3711 of the Code of Virginia for briefings by staff members pertaining to actual or probable litigation, where such consultation in open meeting with adversely affect the negotiating or litigating posture of the public body related to the requested boundary line adjustments as allowed under subsection A7. I further move that the commission there after reconvene in open session for action as may be appropriate.

**Terry Cooke:** Do we have a second?

**Bud Jacobs:** Second.

**Terry Cooke:** Rhonda, would you call the roll, please.

**Rhonda North:** Vice chair Woodruff.

**Don Woodruff:** Yes.

**Rhonda North:** Commissioner Fleischman.

**Terry Cooke:** Commissioner Fleischman, Ed?

**Ed Fleischman:** Yes.

**Rhonda North:** And Commissioner, Fleischman, because you're participating remotely, we need to know, are you in the room alone?

**Ed Fleischman:** Yes, I'm in a room alone. No one can hear me.

**Rhonda North:** Ok, good.

**Terry Cooke:** You're in a secure, undisclosed location.

**Rhonda North:** Commissioner Roszel.

**Dev Roszel:** Yes.

**Ed Fleischman:** It's secure.

**Rhonda North:** Commissioner Stein.

**Mimi Stein:** Yes.

**Rhonda North:** Council Member Jacobs.

**Bud Jacobs:** Yes.

**Rhonda North:** If you'll give me time to shut everything down, please.

**Terry Cooke:** Ok, folks, I asked the commission to certify that to the best of each member's knowledge, one only public business matter is lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and two only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting. I would like to remind those present for the closed session that any discussion that occurred within it should be treated as confidential. So Rhonda, I guess we call the roll on this and have each commissioner certify.

**Rhonda North:** Chair Cooke.

**Terry Cooke:** I certify

**Rhonda North:** Vice Chair Woodruff,

**Don Woodruff:** I certify

**Rhonda North:** Commissioner Fleischman,

**Ed Fleischman:** Yes, I certify

**Rhonda North:** Commissioner Roszel.

**Dev Roszel:** I certify

**Rhonda North:** Commissioner Stein.

**Mimi Stein:** I certify.

**Rhonda North:** Council Member Jacobs.

**Bud Jacobs:** I certify.

**Terry Cooke:** Thank you all. We are out of closed session. Our next item on the agenda. was discussion item by the commission members, if anyone has any, any commission member has any matter they want to bring to our attention. Now is your chance to do so. Hearing nothing, we will close that discussion section and move on to.

Discussion of a quorum for our next meeting on February 28. Everyone who is on board tonight be available on the 28th?

**All Present:** Yes.

**Terry Cooke:** And with that, we will see you all on the 28th and this meeting is adjourned. Thank you.