



**TOWN OF MIDDLEBURG
PLANNING COMMISSION
WORK SESSION & REGULAR MEETING MINUTES**



**MONDAY, MARCH 28, 2022
PENDING APPROVAL**

PRESENT: Terence S. Cooke, Chair
Donald Woodruff, Vice Chair (arrived late)
Edward R. Fleischman, Member
Rachel Minchew, Member
H. H. “Dev” Roszel, Member
Mimi Dale Stein, Member
Morris “Bud” Jacobs, Councilmember

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

The Middleburg Planning Commission held their work session and regular meeting on Monday, March 28, 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.

Discussion Item

Report on R-2 District Review – The Berkley Group

Deputy Town Manager Moore introduced Kelly Davis and Shubhangi Rothor, of The Berkley Group, and advised that they would present their findings on their review of the R-2 District. He noted that he received comments from Commissioner Fleischman, which he would share with The Berkley Group.

Ms. Davis reminded the Commission that the R-2 Residential District primarily covered three neighborhoods in the town – Chinn Lane, Lincoln Road and the Ridgeview area. She advised that they conducted an analysis to determine the smallest, largest and average lot sizes to get a sense of the neighborhoods. Ms. Davis reviewed the regulations regarding this zoning district. (Vice Chair Woodruff arrived at the meeting at 6:38 p.m.) She reminded the Commission that when she previously appeared before them, some of the issues that were highlighted included scale, height and massing of houses; lot coverage; stormwater drainage; the loss of mature trees; and, housing affordability and socioeconomic diversity. Ms. Davis reviewed some of the tools that were available for addressing these issues, such as general interventions related to zoning and the establishment of a neighborhood conservation overlay district. She proposed three levels of intervention for Middleburg, as follows:

Level 1 – Impervious Coverage: Maintain current lot coverage requirements; add maximum impervious lot coverage requirement; and offer incentives related to the use of pervious materials and/or front driveway widths.

Level 2 – Add Additional Development Requirements: Establish a maximum lot size limit, reduce the lot coverage allowance; and, add a minimum landscape requirement.

Level 3 – Establish Architectural Design Standards: Establish minimum standards and a review process.

Chair Cooke opined that the report captured the areas of concern and noted that there was a lot for the Commission to consider. He suggested there were opportunities to mix and match some of the recommended approaches.

In response to Commissioner Fleischman's request that the consultant respond to the comments he provided to the staff, Deputy Town Manager Moore reviewed them with the Commission and the consultant. He noted that Mr. Fleischman was concerned that The Berkley Group only analyzed the Ridgeview area and suggested that his comment that they also analyze the other two R-2 areas was a good one. Mr. Moore noted that Mr. Fleischman also noted the lack of stormwater management facilities in these areas. He reported that Mr. Fleischman recommended the Commission concentrate on the Level 1 recommendations.

The Commission held some discussion of the fact that the report focused on existing homes that exceeded the current R-2 District regulations. They noted that those homes met the requirements when they were constructed and suggested the need to look forward, rather than back. Ms. Davis advised that she would clarify this in the report.

Deputy Town Manager Moore asked that as the members looked at the levels of intervention, they also consider enforcement. He explained that if the regulations were too difficult, they would be hard for the staff to enforce and for applicants to understand and meet.

Commissioner Fleischman expressed concern that it would be too expensive for property owners to bring the existing houses up to code and suggested it would be less costly to build new ones. He noted that the Town was concerned about a house that had deteriorated on Jay Street and suggested there were homes in the Ridgeview area that were worse. Mr. Fleischman reminded the Commission that they reduced the allowable building height in the R-2 District a couple of years ago and suggested they see what happened with that before exploring the Level 2 and 3 recommendations contained in The Berkley Group's report.

Councilmember Jacobs reminded the Commission that the desire was not to preserve the existing homes, but rather was to protect the neighborhoods as the homes were replaced. He opined that The Berkley Group's report provided important tools that would allow the Town to preserve neighborhoods, as opposed to preserving buildings. Mr. Jacobs advised that he had no problem with the Level 1 recommendations, as well as the maximum lot size recommendation in Level 2.

Commissioner Fleischman noted that there was a large lot in the Ridgeview area, which he liked. He opined that the recent instance of lots being combined to allow for the construction of a large home would not be repeated. Mr. Fleischman advised that he would like to allow for larger lots, as they added to the openness of the community.

Vice Chair Woodruff agreed with Commissioner Fleischman; however, he noted that if homes were demolished to allow for a larger lot, it would limit the number of homes that were available. He opined that this would be detrimental to the town.

Chair Cooke opined that the report was thorough and noted that it was up to the Commission to determine what they wished to recommend to the Council. He acknowledged that there were not a lot of infill lots available and noted that there were a lot of older structures. Mr. Cooke opined that based on the market, the properties containing the older structures would sell and the homes would probably be demolished. He noted the need for regulations that would apply to any new construction. Mr. Cooke agreed that stormwater management was a significant concern and noted that having too much impervious surface impacted the neighborhoods. He suggested that as the Commission moved forward, it consider addressing the impervious surface issue, including lot coverage.

Commissioner Roszel noted the need to focus on future development, not the existing buildings. He further noted that the Charter allowed the Town to create an architectural district and asked that the Commission be educated on that option.

Ms. Kelly explained that by virtue of its Charter, the Town could evaluate architecture outside of its Historic District – a tool which was not available to other communities.

In response to an inquiry from Commissioner Fleischman regarding the status of his comments, Deputy Town Manager Moore reiterated that he would forward them to The Berkley Group for their consideration. He advised that he anticipated bringing the revised report back next month, at which time the Commission could discuss what zoning text amendments they wished to introduce.

Chair Cooke closed the work session and called the regular meeting to order at 7:23 p.m.

Disclosure of Meetings with Applicants

The members reported that they had no meetings with applicants.

Public Comments

David Mars, General Manager of the Salamander Resort, noted that he was present to answer any questions the Commission may have related to short-term rentals.

Approval of Minutes

Vice Chair Woodruff moved, seconded by Councilmember Jacobs, that the Planning Commission approve the February 28, 2022 regular meeting minutes as proposed.

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.)

Public Hearing & Action Item

Comprehensive Plan Amendment 22-01: Amendment to Chapter IV (Population & Housing) pertaining to Short-Term Rentals

Deputy Town Manager Moore reminded the Commission that the Council asked that they consider this for a number of reasons, including the pending new residential development that may include short-term rental uses and the unpermitted uses the staff has had to address. He noted that this was still an emerging business sector. Mr. Moore opined that there were gaps in the ordinance that could be tightened to address issues, such as the frequency of this use and the saturation of neighborhoods with it. He reminded the Commission that they looked at Comprehensive Plan amendments and zoning text amendments and agreed to concentrate on the Comp Plan amendments first. Mr. Moore noted that the Commission had the opportunity to hold discussions with both Mayor Littleton and Prem Devadas, of Salamander, after which they adjusted the draft language based on the insights they offered.

David Mars, of the Salamander Resort, advised that Salamander was fine with the proposed language. He explained that any of the Salamander residential units that were used as short-term rentals would have access to all of the resort’s services, with the guests receiving their hotel experience.

No one else spoke and the public hearing was closed.

Commissioner Roszel moved, seconded by Councilmember Jacobs, that the Commission approve Comprehensive Plan Amendment 22-01 as contained in the draft dated February 28, 2022 and forward the amendment to Council with a recommendation for adoption.

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 Council was continuing their discussion of the real estate tax rate for the coming year and would hold a special meeting on March 31st to set it. He advised that the members wanted to limit the impact of the increased real property assessments on the property owners as much as possible. Mr. Jacobs opined that they would equalize the rate plus include a 1-5% percent increase.

Quorum of April Meeting

Chair Cooke advised the Commission that he would be out of town on April 25th and requested they consider moving the meeting to April 18th if possible. The members agreed to do so.

There being no further business, Chair Cooke adjourned the meeting at 7:38 p.m.

RESPECTFULLY SUBMITTED:

Rhonda S. North, MMC, Town Clerk

Middleburg Planning Commission Transcript
March 28, 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)

Terry Cooke: Good evening, everyone. We will convene the work session of the Middleburg Planning Commission for March 28th. And we will begin with the roll call. Rhonda, please?

Rhonda North: Chair Cooke.

Terry Cooke: Present.

Rhonda North: Vice Chair Woodruff is absent. Commissioner Fleischman.

Ed Fleischman: I'm present. Thank you.

Rhonda North: Commissioner Minchew.

Rachel Minchew: Present.

Rhonda North: Commissioner Roszel.

Dev Roszel: Present.

Rhonda North: Commissioner Stein.

Mimi Stein: Here.

Rhonda North: Council Member Jacobs.

Bud Jacobs: Present.

Terry Cooke: Thank you. Well, we have one very interesting and important discussion item on the work session agenda this evening and it's our review of the report regarding our R-2 District Review by The Berkley Group. And greetings to the representatives of The Berkley Group. And Will, do you have any preliminary comments?

Will Moore: Other than to introduce them? You've met them before. Kelly Davis and Shubhangi Rathor from The Berkley Group. And you had the benefit of a little bit a few days at least of extra time to hopefully look over the report. It did receive some comments from Mr. Fleischman already. We were

discussing some of those with the representatives here for the meeting and we'll give those full comments to them. But they're going to walk you through a quick presentation and then lead some discussion with them.

Terry Cooke: Very good.

Will Moore: Great.

Terry Cooke: Ladies, again, welcome. And we're looking forward to hearing what you have to say.

Kelly Davis: Thank you so much. Again, my name is Kelly Davis. I'm the Planning Director with The Berkley Group. We are a local government consulting firm that specializes in land use planning issues such as this. So we are happy to be serving Middleburg again. We were happy to be able to support you all with the development of the comprehensive plan and to be able to support implementation and other issues.

Terry Cooke: One second. Is that mic on?

Kelly Davis: Battery?

Rhonda North: It's not a microphone to enhance the sound, it's just for recording purposes.

Terry Cooke: If you would just speak up a little? [multiple speakers].

Kelly Davis: All right, I'll try. I'm feeling a little low here, too, in this chair. [multiple speakers] So I'll try to project. Yeah. [off mic] That might help. [off mic] And project. Okay. Thank you.

Estee LaClare: You're welcome.

Kelly Davis: Make sure my computer was in [off mic]. All right. Next slide. All right. A few things for today that we'll talk about. I want to briefly introduce the R-2 District just for the record and the assessment of issues that we discussed when we met with you all in October. Is the sound level okay now? Okay. We also have performed some additional best practices and bench-marking research since the last time that we were here. That information was presented in the report, and I'll hit some high-level bullet points from that for you all today as well. And then I want to spend the bulk of our time discussing the recommended interventions and the different levels that we've offered the town to consider. Next slide. And we'll move on first to a discussion of the R-2 District. Next slide. So the R-2 District is covering primarily three neighborhoods here in the town, Chinn Lane, Lincoln Road, and Ridgeview. Those neighborhoods are identified in this map shown on the screen. And we performed a little bit of GIS analysis to identify the smallest lot size, largest lot size, and average lot size. And we can circle back to these numbers, but just wanted to get a sense of these different neighborhoods and those are shown on the screen and in your report. Next slide. Again, for the record, the R-2 District

standards here are shown on the slide with the minimum lot size being 8,000 square feet, kind of hitting a few of the other things. Y'all have already adjusted the principal building height down to 25 feet and allowing up to 30 feet with an increased side yard. I think the maximum lot coverage is something that we'll discuss today that's currently 30% and that is for buildings only. So things under roof. Next slide. And so now again, briefly hitting on an assessment of various issues in the R-2 Zoning District. As you recall, we were here back in October to visit these various neighborhoods, these three neighborhoods, and hear firsthand from Members of Council and from the Planning Commission about the extent of those issues. So next slide.

Terry Cooke: Just a moment. Just let the record show that Vice Chair Woodruff has joined the meeting. Thank you. Please.

Kelly Davis: Sure. So when we were here in the fall, we talked about several different potential issues that you all might be experiencing with these neighborhoods. And we wanted to hear firsthand, as I mentioned, about what those issues were. Some of the things that we heard were primarily related to scale, height and massing, as well as lot coverage and impacts on things like light and air and stormwater. We heard a little bit from some about architectural style, but we also heard that, that wasn't the key issue that folks were kind of okay with the the character of the homes themselves. We had highlighted things like the front-loaded garage seemed more common on the newer construction, but overall, the height and some of the architectural features seemed compatible. And next slide. We did talk quite a bit about the stormwater drainage, the clearing of lots and lots of mature trees in order to construct very large structures. And next slide. And we heard a little bit about housing affordability and socioeconomic diversity, obviously. And I think it's even worse now than when we were here back in the fall. But the housing market continues to become less and less affordable for members of the community. And while that was important to some that we spoke to, others felt like the Windy Hill Foundation is here in the town and is addressing housing affordability. And maybe zoning isn't the best way to do that. So that was kind of just a key summary, high level summary of some of the various issues that we, as we were going into our best practices research and our bench-marking things that we were keeping in mind that we wanted to look at how other communities were addressing these issues. Next slide. So a little bit on best practices research. Next slide. So we looked at many different reports and studies to try to find how American Planning Association, other planning agencies had tackled this particular issue. We'll say that Middleburg is quite unique, and we didn't find necessarily 1 to 1 comparisons of this particular issue. But we tried to find different reports that were covering and addressing these issues in different ways. The report's identified a number of different interventions that could be used, and I've kind of classified them, and on this chart, you don't have this exact chart in the report, but this is a summary based off of what we've found through our research. So things like scale and massing in the planning world, we refer to floor area ratio. It's not very common in Virginia as a tool except if you're doing form-based code, but floor area ratio setbacks and accessory structure requirements are things that you already have. And then neighborhood conservation overlay district. For architecture, getting into requirements for building materials, architectural design guidelines, permitting review like you already have in your Historic Overlay District and using what's called a Neighborhood Conservation Overlay District was one of the more

common tools that was identified in our best practices research to address issues of neighborhood compatibility. On the stormwater side, max impervious coverage was listed as a common tool to use along with setbacks, preserving open space, maximum yard slopes, requirements for a stormwater management plan, which I believe that the town already has separate mechanisms for that and restrictions on grading, altering topography. Some communities have very complex requirements for landscaping and other communities just require a simple percentage of preserving front yard landscaping. But there are different ways that you can require landscaping and some of the surrounding localities we found in benchmarking do require landscaping. The affordability side, as I mentioned, was not as commonly detailed in the best practices research for again, for this particular issue. There were some communities that were actually opening up their Single-Family Districts to allow small scale duplexes and townhouses and then limiting the potential for tear downs to preserve naturally occurring affordable housing. We wanted to include that on there, but again, it wasn't the primary concern that we heard, so we haven't really explored that as much through the research. I did want to explain a little bit more about Neighborhood Conservation Overlay Districts because I promised that I would the last time that I was here. We do believe that you have this tool available to you through your charter. It's not something that's available to every locality, but because Middleburg's Charter allows for architectural review outside of Historic Districts, that seems to be the way that most localities in Virginia are using the Neighborhood Conservation Overlay District or enabled to do so is through their Charter. This is a zoning tool. It's very similar to a Historic Overlay District, but it's not as restrictive and there's different ways that you can do it and implement it. For instance, there are some requirements in Roanoke's Neighborhood Conservation Overlay District that are reviewed administratively versus usually your Historic Overlay District is going to require a review by the Architectural Review Board. It is an alternative to strict Historic District Regulation, but we would recommend that if the town is interested in pursuing this, that it's something that's done through that it's something that's done with involving the neighborhood and making sure that there's outreach, that you would be doing this. But it can address things like different building features, the porches, the location of garages, lot sizes, building sizes, setbacks. It's kind of a hybrid between your standard zoning district and your Historic Overlay District. All right. Next slide. And so then we also looked at benchmarking. And so when we got into the bench-marking research because we couldn't find kind of the exact problem that Middleburg was facing, we looked at many different ordinances. I think our scope of work was originally to look at three and we ended up looking at many more than that because we just wanted to make sure that we had covered a wide variety and made sure that we had looked at as many different tools in the toolbox, if you will, since we couldn't find the locality that was or the three localities even that were addressing this particular issue. We classified them in general zoning interventions and then more of the Design Conservation District interventions. We prioritized communities that were in Virginia because we are under the same authorizing legislation as those. But we also found some communities that were doing some unique things in North Carolina and Massachusetts and a few other places with Neighborhood Conservation Districts that we wanted to highlight and include in the report as well. Next slide. So this slide is kind of tabulating what we saw in terms of building design and landscaping as a general zoning intervention. And by that, I mean they are not operating with a separate overlay district. In the town of Ashland is under their standard residential districts regulating things like the percentage of windows, where requiring an entrance on

the front yard or along the front frontage of the property, restricting the location of or placement of a garage was something that was found in three of the communities that we looked at. And again, only Ashland was really regulating materials without an overlay district. The town of Blacksburg was the only locality that we found that was using floor area ratio, which again, I think there is an added complexity in that, that is most Virginia localities aren't using, especially with a small staff. And then several localities were regulating landscaping. I will say more of the localities do have landscaping regulations. I was trying to hone in on those that had landscaping for like a single-family building. So one infill lot versus some of these. You know if you've got a larger site plan for a large development that would trigger landscaping in some of the other localities beyond what's shown here. Let me see if there's anything else here that I want to highlight. The only other thing I'd say is the town of Leesburg, some of these were specific to one zoning district, and that may be the case. I was really looking at each ordinance to try to find different zoning districts. So it's not necessarily that it's going to be applicable in every single zoning district in these localities. We were trying to find districts that would align to your R-2 District in some way. Next slide. So that was interesting. But I think what was more interesting to me through this was that when it came to impervious surfaces in driveways, Middleburg is not currently regulating impervious surfaces beyond the buildings themselves. And many of the, most of the bench-marking communities that we found were regulating these in some way, whether it was from maximum driveway percentage of your front yard; that's that first column here. So several of the communities were doing that. Most were regulating buildings plus surfaces. So impervious surfaces plus buildings that's on the furthest right column. And then a few of the localities, just one locality, city of Manassas, only regulating impervious surfaces and driveway pavers, that kind of things. And then Falls Church in Herndon regulating building coverage at 25% and that's 25% is less than what Middleburg is doing right now. Next slide. So and then there's quite a bit of information and many different approaches to these neighborhood design and compatibility tactics or interventions that you could use. These are just three examples that I wanted to highlight to you all. The city of Roanoke was, I believe, the first in Virginia to use a Neighborhood Design Overlay District for some of their older neighborhoods. It looks at things like building location and massing on the property based on the block average, it looks at roof requirements, the specific pitch, gables, and overhangs. It looks at door and window requirements, sidewalk requirements, different requirements for siding, trim, porches, garages, addition. So it's pretty comprehensive, but still not as stringent as a Historic Overlay District. The town of Nags Head was one that has a very unique approach that I haven't seen before in that it actually defines large residential structures as a use and then provides supplemental standards for that. So if, for instance, you only wanted to regulate the largest of structures, we'd have to figure out what that trigger point would be of what would constitute a large residential structure. But then that for a Nags Head ordinance kind of triggers some additional design criteria, but it's only for the largest of structures and it's kind of on an incentive approach. So if you want to be even larger, we'd like to see you do porches or we'd like to see you provide additional setbacks. So it's an interesting approach. The town of Wellesley, Massachusetts, has a large house review. So it's similar to its kind of a mix between the two, between Neighborhood Design Overlay and the Nags Head approach. It requires an ARB review for large houses, but there's no maximum size of the house. But it's they are looking at houses of a certain size you have to go for design review. So there are things that are out there to and kind of boils down to how far does Middleburg want to go in regulating these

things? You you have the ability in your Charter to do it, but what's the appropriate balance for these neighborhoods? And so that's where I want to focus our discussion. Next slide. I'll introduce the different interventions that we've proposed, and then we can talk through those. So the level one interventions is kind of, I think, the bare minimum to put you in line with the other localities that we saw in the benchmarking. Like I mentioned, most of the localities are regulating impervious coverage in some way. We have for discussion purposes offered 45% and created a little graphic to help visualize what that might be for an impervious lot coverage requirement that would include both buildings and surfaces. I'd suggest that we continue to maintain the current building coverage of 30%. And then there's options that you can do with this. You could allow for greater coverage. If people use pervious surfaces, the pervious materials that can where stormwater can infiltrate or you might adjust that percentage up or down based off of benchmark, the different benchmarking. Some communities also had that maximum front driveway width or percentage. We didn't hear as much that driveways was a concern from this group as much as overall impervious surfaces. So that's kind of the difference between those two regulations. If you're more concerned about stormwater overall and swimming pools, patios, driveways, then the impervious lot coverage is the way to go. You could combine that with like a two-car driveway width, for instance, which is what we've shown here. The level two is some additional development requirements that could be considered that go a little further than just addressing stormwater. This would be trying to get a little more at the character of the neighborhood by establishing a maximum lot size that would prevent the consolidation of lots to create massive structures that might be out of character. You could also consider, at the same time reducing that lot coverage to 25% for buildings. That was in line with the two bench-marking communities that we had seen in the Northern Virginia area that are regulating that. Again, not all communities are regulating building lot coverage. Another thing that you all could do if you're interested in kind of going beyond stormwater, but it does help with stormwater, is adding a minimum tree canopy or a landscaping requirement. You can certainly give credit to existing landscaping on the property, but the idea is we're not completely bulldozing the entire site. We want to preserve some trees or make sure that you plant some additional trees. And then finally, next slide, the level three standards being those architectural standards or a large house, basically utilizing your Town Charter provision that allows you to look at architecture in different ways. And I'm happy to discuss what some of those options would be. You could take the Ashland approach and just say very simply, you need to have a front porch. Your garage needs to be set back five feet from the front of the property, or you could come up with some more detailed design standards, and that would probably require a larger project with an architect or a design professional to support that. This would allow you to look at demolition for tear downs and other things could be done through administrative review, for instance. And final slide. These are just some additional example provisions that could be considered with your architectural design standards, things like a minimum window requirement for buildings facing on the street, and usually that's done with a percentage. So requiring that 30% or 40% of the front façade would include windows. Requiring an entrance on a front façade, so that for example, the building on the bottom, you could have a requirement that they would have been required to put a door there. You can require to push the garage back from the front face of the building or require a maximum garage width as a percentage of the front façade. Some communities even go so far as to say your siding needs to be horizontal, not vertical. So really there's a lot of variability in what we saw. And if you go through this

route, there's going to be some hard decisions that need to be made through this. And we've tried to lay all those options on the table for you as part of this report. So with that, I will turn it back over to the Commission for discussion and questions.

Terry Cooke: Thank you. Thank you very much for what I consider to be a very thoughtful and thorough presentation.

Kelly Davis: Thank you.

Terry Cooke: And I think you did a wonderful job of capturing the areas of concern that were the genesis of this whole exercise. As we go forward on this there's a lot to think about in here. Lots of opportunities to mix and match concepts and approaches. So that's what I was hoping to see from you. And I'm speaking for myself. I'm very pleased with the breath of your report. I think you very much [multiple speakers]. With that I would like to hear from any of our Commission Members who have questions or thoughts about this. Anybody? Commissioner Fleischman, I know you offered a couple of comments.

Ed Fleischman: Yeah. Yes, I did. I transmitted them. I believe that Will look them over and presented them to the consultants. So if the consultants want to address them or Will wants to address them, we can do that.

Terry Cooke: Thank you. Yes, Will.

Will Moore: Just quickly. They have not had the benefit of seeing your full written comments yet. We were just discussing. [multiple speakers]

Ed Fleischman: There was only a few paragraphs. [laughter]

Terry Cooke: And they were quick. I mean, I hadn't even printed out [multiple speakers].

Will Moore: No, Mr. Fleischman raised a few of, I think, really good points to consider. One was that folks from Berkley had done an analysis in the Ridgeview area of and this was just based on GIS data, but it was looking at current developed properties, the select ones that appear to already exceed the minimum lot coverage. And Mr. Fleischman offered the suggestion that we should go ahead and look at the two other neighborhoods that were included in the report. And it sounds like that should be a pretty, easy thing for Shubhangi to do [off mic] GIS analysis, it's really good idea. One of the comments he made that we might have skipped over when in regards to stormwater concerns is just noting the fact that all three of these distinct neighborhoods lack storm sewer in the structure. [multiple speakers] So it's all ditch section where those ditches have not been filled in. So that's certainly worth noting. And then he kind of opined on the different levels of intervention, mentioned kind of saying that two and three might not be appropriate at this time, maybe concentrating on level one interventions to

see how those work out. [off mic] two and three. And I don't mean to speak for you, but that was kind of my read on your [multiple speakers].

Ed Fleischman: It's correct. [laughter].

Terry Cooke: Thank you, Will I recall one of the one of the questions that Ed raised in his comments with respect to a number of lots in I think it was in Ridgeview that exceed the maximum lot coverage. And he raised the question, why? I mean, were these grandfathered or what was the reason?

Ed Fleischman: Let me just say what I wanted to say was the report shouldn't hone out that there are some properties that exceed the requirements. Basically, almost all those properties, I believe, were constructed under existing requirements at the time they were constructed.

Kelly Davis: Yeah.

Ed Fleischman: So I think that's important to point out that they're not non-conforming at the time they were built.

Terry Cooke: Yeah. Okay.

Ed Fleischman: And that's important.

Terry Cooke: Yeah. I noticed that you suggested we refer to it as current [multiple speakers]. I don't think so. [laughter]

Dev Roszel: Why doesn't mine? [off mic] on Chinn Lane. Yes, that's the way mine is. They changed the lot lines long after my house.

Ed Fleischman: Yeah. Yeah. So, I mean, that's. [multiple speakers].

Dev Roszel: I think that we should not. You know, I get what you're saying, but, I mean, we're not really, we're not going to change that. It's going forward and looking at what's going to happen with those with anything that's being built forward.

Ed Fleischman: And just not to say that those people do something wrong.

Kelly Davis: And we can make that note quick to clarify. Yeah.

Will Moore: I think the one thing that kind of ties into that discussion as we look at these different levels of intervention, we have to keep in mind the ability to effectively regulate those. And as these interventions may become more complex, they become a little more difficult from a staff point to regulate. But less important on that front, maybe more important, it becomes a little more difficult for

applicants to navigate too. So some, you know, we pride ourselves on making application processes as simple as they possibly can be for any given application.

Don Woodruff: But still complete.

Will Moore: But still complete. So it becomes a little more difficult once those regulations become a little more involved. If we're looking at percentages of surfaces plus building and things like that, it just becomes a little more difficult for somebody who wants to put in a garden shed to put together an application. But those are just things that we have to keep in mind as we look [off mic] kind of interventions.

Ed Fleischman: Mr. Chairman, if I can just give an overall philosophy that I have? You know, I lived in Historic Districts. My house was, you know, in an Historic District for many, you know, 38 years. And we had an Historic Review Committee. And I've gone through a lot of different iterations. My current, I have a current building I live in that's 120 years old. So I really know, you know, I have some history about old buildings. And one of the things about old buildings is if you don't maintain an old building, it's very difficult to bring it up to code. And when I looked at some of the tear downs, we had to tear down across the street from us, we had a tear down on Sycamore, three houses down. And I went into those houses when they were for sale. And when you review the house, when it's for sale, they're not in accordance with fire codes and they're really fire traps when you look at it. And you could actually bring them up to a fire code, but it costs a lot of money. And spending all that money, you could also produce a new house that would be bringing it up to the existing codes. So there's always a view, do you want to tear it down or do you want to build a new house? And there are some houses that I think, you know, are too far gone. And I think there are a few houses in Ridgeview that are too far down. And I also am interested, I'll just go on because we have plenty of time, that the town of Middleburg was concerned about a house in the Chinn Lane area, and they, the town council, felt that they should go upon themselves, the town of Middleburg, to make some adjustments to the house on the roof. I don't know all the particulars about it, but I reviewed that. I went over to the house that the Council was looking at last week, and I looked at it and I didn't think it was that bad compared to some of the houses in Ridgeview that have junk in their front yard and look pretty bad and bring down the whole neighborhood. So, I mean, it's in the eye of the beholder. But, you know, they may go after the Chinn Lane area, but certainly Ridgeview has some areas that are even worse. And I, you know, when I still go into some of the houses, I think they deserve to be torn down. I mean, they just have too many fire code violations. And, you know, we bought houses that were 80 years old, and we bought a, you know, a place that we're living in now that was 110 years old when we bought it. And God, you look at some of the stuff in it and you have to make a decision, do you want to rip it out or do you want to deal with it in historic places? So it's a big decision on moving to protect some older buildings. So I just caution the Commission to go slow. There are a lot of pros and cons for things. And, you know, I think that we made some changes. We voted a few months ago to reduce the height of buildings depending on the side yards. And in my notes, I said level one on lot coverage might be good, but I think that, you know, to go beyond that level to level three, I think we want to see what's

happening now before we go on to level two and three. So I'd just be cautious about making too many changes all at once. Thank you.

Terry Cooke: Other members, any thoughts before we move on? Yes, Council Member Jacobs.

Bud Jacobs: I think Ed's points are well taken. Philosophically, if I can use that term in this context, I thought our interest was not driven so much by a desire to preserve tatty homes in the Ridgeview District, but rather to protect the neighborhood by controlling to the extent we can whatever replaces those homes once they're torn down. That was at least my understanding. So if that's accurate, I think what the report gives us is some very important potential tools to use to gain the outcome that we were seeking, which is to preserve the character of the neighborhood as a whole and of the town as a whole, rather than worrying about individual decisions a homeowner may make with his or her building. And if that understanding is not accurate, please correct me, but I think that's where we're going. In that regard, I don't have any trouble at all with your level one interventions; make great sense to me. I used to serve on our Wellhead Committee, so the question of pervious landscapes is near and dear to my heart. I like that and I could even see us moving into at least I think it's the first recommendation in level two, the lot size limitations. That might be something we could consider. Beyond that, not sure.

Terry Cooke: Thank you. Thank you. Commissioner Woodruff.

Don Woodruff: No, Ed's got his hand up.

Terry Cooke: Oh, I'm sorry. Ed.

Ed Fleischman: I want to respond to your lot size comment. I know that the former Mayor of Middleburg, the town of Middleburg, has a very large lot and I like it. I don't think there's any problem with large lots. I think large lots control density. So I don't think that we ought to have any kind of requirement on large lots. I think that the incident that happened last year with the combining of two lots was a one off. I don't think that's going to happen again, but I think we should allow large lots to continue. I mean, you know, if someone has a large lot, there's nothing wrong with it. It adds to the openness of the community.

Bud Jacobs: We're talking about new construction, though.

Ed Fleischman: Yeah, a lot size is different than a building size. A lot size, I think there's nothing wrong with having a large lot in Ridgeview or in Chinn Lane or in Lincoln Road. It's the building size that's a problem, not the lot size.

Bud Jacobs: Thank you.

Terry Cooke: Commissioner Woodruff.

Don Woodruff: Yeah Ed, I agree with you, basically but on one hand, I mean, Mr. [off mic] property is substantial, and it's been there for a long time. But if we suddenly found that people were taking down a lot of buildings to make a larger lot and not using it, we are limiting the amount of space that is available to people who might want to move here. And that would be, I think, detrimental to the ideas that have been presented as well as to what Middleburg would like to do.

Ed Fleischman: Yeah, I agree with that, that we wouldn't want people coming in and tear down, you know three houses and building one. I don't think that's really going to occur. I don't think that's a future problem [off mic].

Don Woodruff: But I agree.

Terry Cooke: Well, I think as I as I said at the outset, I believe the report is thorough, gives us lots to think about. It's up to us going forward as to what extent we want to adopt some of these recommendations and put them in the form of regulation. The purpose of today's discussion is really to receive the report and to have an opportunity to question The Berkley Group if we want clarification on anything. So I don't think we need to get too much into flyspecking as to exactly the wording and the different alternatives. They are there for future consideration. We don't have at first, I worried a little bit about, well, are we closing the proverbial barn door after the horse has made a run for it? But and I thought that because I said to myself, well, we don't have a whole lot of infill lots available anymore in the town. But and I think consistent with what Ed was alluding to, we have a lot of very, very old structures in various states of disrepair. And with the market being what it is and home prices being what they are and real estate speculation being what it is, it's inevitable that some of those properties are going to be sold. And what's going to become of them? Are they going to be improved, or as Ed suggested, in many cases, probably they will be torn down and something new will go in. And so we want to have whatever regulation we think is appropriate on the books to apply to that, that new construction going forward in whatever form it may take. I think stormwater management is a significant concern to me. The topography of Middleburg is very much a rolling geography. And we all know what happens when we get significant rainfalls and too much impervious surface, in my estimation, contributes mightily to the impact on neighboring properties. So as we go forward, I want us to take a real hard look at things we might be able to do to address the impervious surface issue. I think it's worthwhile considering whether our lot coverage definition should be updated to include more than just residential areas under roof. When you build a big house and then you put a very big garage attached to it, so it all looks like one structure. And yet you say, well, it's the garage doesn't count because that's not included in the lot coverage computation. I don't think. [multiple speakers]

Will Moore: Sorry so just to be clear, it actually does count.

Terry Cooke: Say again?

Will Moore: It does count.

Terry Cooke: All right. There's some.

Kelly Davis: The driveway.

Will Moore: Anything that on the roof does count. But if you have impervious services, such as swimming pools or patios or just hardscape in general, it does not count. But any building area that's under roof.

Terry Cooke: Even if it's a detached garage?

Will Moore: Yes, detached garage or garden shed.

Terry Cooke: Okay. I stand corrected then. All right. Thank you. Thank you. Well, anyway, my point was, is that if you put a lot of concrete over the ground, it doesn't soak in, it flows off somewhere else. So we need to look at that. I think.

Don Woodruff: Somebody gets flooded.

Terry Cooke: Yeah. Okay anyone else?

Dev Roszel: Yeah, I have one.

Terry Cooke: Yes.

Dev Roszel: Well, first, I appreciate what you guys have brought to the table. I do have one question for you, but I do want us to make sure that we focus on the fact that it's not current buildings. We're looking at future development, not at changing what's happened in these neighborhoods. I realize there are some non-conforming lots in Chinn Lane, non-conforming, but we have to focus on what we're going to do going forward for the tear downs or whatever happens. So I just want to go on record as saying that I really think that's important is to not dwell on what's happened, but what are we going to do to fix it? You commented earlier that the Town Charter had specific I don't know if they're regulations, but things in there that the town could rely on. Educate me on what you mean by that?

Kelly Davis: Sure. So most localities in Virginia are not permitted to evaluate architecture from a zoning perspective outside of a Historic District or an entrance to a Historic District, an entrance corridor district. So several towns, Middleburg being one of them, have over the years received charter amendments to expand the regulatory authority over architecture and Middleburg. [multiple speakers]

Dev Roszel: Outside of the historic district?

Kelly Davis: Outside of the historic district, so beyond what is permitted through state code. And so it's just something that we look at and we want to make sure that if we were to suggest something like a Neighborhood Conservation Overlay District, that you have the regulatory authority from the Commonwealth of Virginia to do that and you do through your Charter. There would be a process to create that district. But you do have that authority.

Dev Roszel: Okay. Thank you.

Terry Cooke: Mr. Fleischman.

Ed Fleischman: Just for clarification Will, five of my six comments are regarding the report. So are we going to make changes in the report or are we going to discuss my comments or what are we going to do with my comments?

Will Moore: So again, we just briefly discussed them. I will be sending those forward. Plus, they have the benefit of the discussion that's happened here. I anticipate we'll have a revised final report that we'll bring back to you just next month.

Kelly Davis: Yes.

Will Moore: Just so you see [multiple speakers].

Ed Fleischman: I don't think my first five comments are controversial. Do you have a problem with them Will?

Will Moore: I wouldn't say I have a problem. We could discuss your first comment, but [multiple speakers] touch base with.

Ed Fleischman: But what about the first comment? [multiple speakers]

Kelly Davis: My suggestion is if there's editorial things that you find in your review, please send them to us through Will and we'll get them integrated. And my suggestion would be, if you haven't had a chance to look at it, we could give a week, an additional week for you all to review and give comments to Will. If you need more time, that's fine too but.

Ed Fleischman: Terry I have no more comments [off mic].

Terry Cooke: Okay? Sure. Thank you, Commissioner Fleischman. Okay. Thank you again. Very, very helpful information. Will, what do you think the next step is here?

Will Moore: I think the next step is we'll reconvene next month and give you a little more time to digest this and the discussion that's happened here. We'll get the final edits to the report, and we can

begin a discussion next month about where we go from here in terms of possibly initiating a text amendment to address interventions at some level and what pieces you like. And I think kind of what you were saying, Mr. Chairman, the level one, two and three are kind of grouped, but there could be things that could slide from one to the other. So we can discuss those in greater detail next month.

Terry Cooke: Great. Good. Okay. Thank you again.

Kelly Davis: Thank you for having us. If there's any other information that you need from us to help you with your decision, just let us know.

Terry Cooke: Does Ed have you on speed dial? [laughter]

Ed Fleischman: [off mic] directly. I know my purpose here [off mic] [laughter].

Kelly Davis: Thank you very much. It's been a pleasure.

Dev Roszel: Thank you [multiple speakers]

Terry Cooke: [off mic] Okay. We have adjourned for the work session, and we will move right into the regular meeting for March 28th. And the first item on our agenda is the disclosure of any meetings [off mic] applicants [off mic]. Rhonda, would you call the roll [off mic]?

Rhonda North: Chair Cooke.

Terry Cooke: I had no meetings [off mic].

Rhonda North: Vice Chair Woodruff.

Don Woodruff: No meetings. Thank you.

Rhonda North: Commissioner Fleischman.

Ed Fleischman: I've had no meetings or discussions with any applicants. Thank you.

Rhonda North: Commissioner Minchew.

Rachel Minchew: I've had no meetings. Thanks.

Rhonda North: Commissioner Roszel.

Dev Roszel: I've had no meetings. Thank you.

Rhonda North: Commissioner Stein.

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

Rhonda North: Council Member Jacobs.

Bud Jacobs: I've had no meetings with any applicant.

Terry Cooke: Thank you all. [off mic] Next agenda item is public comment. We do have a public hearing on the agenda this evening that will come up very shortly. But this is an opportunity for anyone who wishes to address the Commission on a matter other than the matter that is a subject for the upcoming public hearing. Yes, sir.

David Mars: Good evening. How are you? Would you like me to [multiple speakers]?

Terry Cooke: Yes. Please state your name and your address.

David Mars: Thank you. My address is still 500 North Pendleton because I just moved here, so I'm staying at the hotel. But my name is David Mars. I'm the general manager, new General Manager for Salamander Resort and Spa. [off mic] And thank you very much. So great opportunity to say hello to the Planning Commission. Thank you for welcoming me. Prem Devadas had intended to be here this evening but had a last-minute meeting in Charleston that he had to attend to today. So he asked me to come in and answer any questions that I possibly can regarding the short-term rental development at Salamander and but most importantly, just name with a face. And let you know that I certainly plan on being very involved and helpful in anything that I can be moving forward. And it's great to be a part of the community. So thank you.

Terry Cooke: Okay. Well Thank you. And we will get to that matter very shortly.

David Mars: Yes, sir. Very good. Thank you.

Terry Cooke: We have some minutes from our meeting, our work session and regular meeting of February 28th. Do we have a motion on approval of those minutes, please? Commissioner Woodruff. I'm sorry. Go ahead Don.

Don Woodruff: Yes, I move the minutes of the last meeting and the work session both be approved. [off mic].

Bud Jacobs: Second.

Terry Cooke: Any discussion? All in favor?

All of Council: Aye.

Terry Cooke: Those opposed? The ayes have it. The motion is approved. Thank you. And now we come to the public hearing. On the subject of the Comprehensive Plan Amendment 22-01 pertaining to short term rentals. And this is a matter we've discussed several times in the past. Will, you want to just go over very quickly the memo you've distributed?

Will Moore: Certainly. Thank you, Mr. Chairman. As you correctly stated, it's something you've gone over quite a bit in the preceding months. The matter asked to be considered by you for a couple of reasons. One, because we do have a pending new residential development coming into town. And we do know that part of that development may include short term rentals. But also because although to this point, this being a little more than five years since we first adopted regulations pertaining to short term rentals, although to this point we have not had any applications for them, we have dealt with a few select ones that pop up here and there and that we have to then go into some different levels of enforcement with maybe and just overall that understanding that it is still a burgeoning sector of business, an emerging one may be a better way to say, that we saw that there may be a few gaps in the existing ordinance that could possibly be tightened up that would better address potential frequency of such uses or saturation of such uses in any given neighborhood. So we first started approaching this kind of looking at draft comprehensive plan language and draft text amendments at the same time. And I think that was a bit much to try to address at first. So in our discussions, the Commission kind of reached a consensus to bifurcate these issues and say, let's first talk about introducing a statement into the Comprehensive Plan. Once we decide on that, once that goes through its process, then we can revisit what potential ordinance amendments might then follow. And in the months that you've discussed this, you've heard you've had a discussion with Mr. Devadas from Salamander who came and spoke with you. The Mayor came and spoke with you the following month as well. So you got some insights from two very important lenses, I think, and you've made some adjustments to that draft language that we've been working on. [inaudible] So what you have before you this evening is the language that you last [inaudible] tweaked last month. And it's in that same form. The attachment that actually has the amendment also includes a quick red line in the strategy section that references short term rentals. But it's basically the final page of that chapter of the Population and Housing Chapter of the Comprehensive Plan, where we basically introduce that new section pertaining to short term rentals. And again, that has the exact language that you had last agreed upon in February.

Terry Cooke: Thank you, Will. And we will now invite anyone who's in attendance who wishes to speak to the proposed Comp Plan Amendment language. And in addition to those who may be here, is there anyone on the line? Rhonda who? [multiple speakers]

Rhonda North: Sir.

Terry Cooke: Okay. So, sir, did you have any comments regarding the proposed language?

David Mars: No I don't.

Terry Cooke: Okay.

David Mars: We're fine with the language. And if you have any questions for me, please, please don't hesitate to let me know, I think. Would you like me to?

Terry Cooke: Yes. Yes, please.

David Mars: I think you'll find, obviously, our short-term rental program at the Salamander will be very unique in the fact that we'll have 24 hour check in and check out. We're going to have 24-hour security and life safety, 24-hour engineering and maintenance facility available. So a very seamless experience to what happens at the hotel. And so we're very familiar and certainly premise with the ordinance, town ordinances and certainly don't see any issues moving forward as it relates to potential rental involvement with the new homes that are coming on board. And at this point, we don't know. We don't have anybody who's raising their hand to say that they would want to do that. I assume that they [inaudible] probably will, but it'll be very consistent with the services that we provide our hotel guests so.

Don Woodruff: I'm sorry, the last thing you said?

David Mars: Just that, you know, all with the resort. So all the services that are provided at the resort as it relates to the check in and check out and the security and whatnot will be consistent with what the rental guests will be required. The rental the people that own the homes are required to when they put it into our rental program, will have access to all of those amenities and services.

Terry Cooke: Very good.

David Mars: Yes, sir.

Terry Cooke: We have flogged this language for some time. [laughter]

Bud Jacobs: Is that a technical term?

Terry Cooke: That's a legal term.

Rhonda North: Mr. Chairman, you do need to formally close the public hearing.

Terry Cooke: Oh, thank you. Well, seeing no other attendees and there being no one else on the line that wishes to speak to that, we will close the public hearing on this matter. And there is a draft proposal or a draft motion, I believe. If someone would care to make it?

Bud Jacobs: This is the. Go ahead.

Dev Roszel: Mr. Chairman. Yeah, I move that we approve the amendment and forward to Council with the recommendation for adoption of the change to the original document. I move that the Commission approve the Comprehensive Plan Amendment 22-01 as contained in the draft dated 2-28-2022, and for the amendment to the Council with a recommendation for adoption. Based on the fact that we flogged it to death. [laughter]

Terry Cooke: Is there a second?

Bud Jacobs: Second.

Terry Cooke: Any discussion? Hearing none all in favor of adopting the motion.

All of Council: Aye.

Terry Cooke: Opposed? Hearing none. The motion carries. Thank you. It's time for the Council Representatives Report. Council Member Jacobs.

Don Woodruff: Drum roll. [inaudible].

Bud Jacobs: I got nothing. We're still in the throes of dealing with our real estate rate. We're going to have a special meeting on the 31st, I believe, to finalize that. Discussion so far, I think I can characterize as in general Council members want to limit as much as is practicable the impact of the increased assessments on our residents' tax rates. And the way that is shaking out, I think is that I shouldn't predict this, but I don't think we'll leave the rate the same as it is because that would result in an increase in substantial increases. In some cases, I think we'll probably do the equalized rate plus something plus 1 to 5%, whatever it turns out to be. And that's what we'll be discussing the 31st. And other than that, I don't have a lot. It's taken up a lot of time.

Terry Cooke: Thank you. Any discussion items that any of the commissioners want to bring up at this time? Very good. We'll move on to the Quorum for our April 25 meeting. I had a week or so ago gave Will a heads up that I will not be here on the 25th of April, nor will I be anywhere with access to the technology that would allow me to participate remotely. So I suggested to Will that, if possible, if we could move the meeting, the April meeting up one week to the April 18th, I could certainly be available for that, but that obviously depends on whether we can have a quorum on that date. How does the Commission feel about that, anybody who could not be here on April 18th?

Ed Fleischman: I have a question.

Terry Cooke: Yes.

Ed Fleischman: What are you going that [laughter] [inaudible]. It's a. Every place has access.

Terry Cooke: It is a, you would be surprised. [laughter] It is a secure and undisclosed location.

Dev Roszel: [off mic] In West Palm Beach [off mic].

Terry Cooke: I don't think on the beach they have Internet access in the Caribbean but no. So. Okay. So it looks like we can have a quorum on the 18th. Any reason? [off mic] Yeah. Oh, it wouldn't take much to get warmer than this. [laughter].

Will Moore: That's fine.

Terry Cooke: Any items that would cause a problem with?

Will Moore: No, I don't have any applications in the pipeline that would cause issue there. So no.

Terry Cooke: OK. All right. So we will we will have our April meeting on the 18th. And thank you all.

Ed Fleischman: I would just say that if there are no issues, we ought to think about just canceling.

Will Moore: No, no applications, not no issues. [laughter].

Ed Fleischman: Well, we make up the issues, [off mic] but, you know, we don't have a meeting, then we won't have an issue.

Terry Cooke: Okay. We're good for the 18th?

Will Moore: Yes.

Terry Cooke: That concludes our agenda, ladies and gentlemen. So we are adjourned. Wonderful. Thank you. [multiple speakers] Great.