



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



**MONDAY, JUNE 26, 2023
PENDING APPROVAL**

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

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

ABSENT: Donald Woodruff, Vice Chair (excused)

The Middleburg Planning Commission held their regular monthly meeting on Monday, June 26, 2023 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

ZTA 23-02: Ordinance to Amend Zoning Ordinance Pertaining to Lot Requirements & Building Height in R-2 Single-Family Residential District and Non-Conforming Lots of Record

Deputy Town Manager Moore reminded the Commission that this zoning text amendment was initiated by the Town Council, after concerns continued to be expressed about the character of the redevelopment and infill development that was occurring in the R-2 District. He reviewed the proposed amendments. Mr. Moore advised that the first amendment would expand the term “floor-to-area ratio” (FAR), as the Council wished to consider applying a FAR in the R-2 District in order to address concerns of height and massing. He noted that if applied, individuals would not be penalized for construction that was below ground and explained that the FAR calculation for below ground construction would be at 50%. Mr. Moore reminded the Commission that non-conforming lots of record may be developed as long as they met the applicable requirements. He further reminded the members that the existing ordinance granted relief to the side yard requirement for exceptionally small lots and explained that under the second proposed amendment, this relief would be stricken. Mr. Moore advised that currently, in such cases, the side yards could be reduced to five feet and noted that mechanical units and stairs could encroach in them. He noted that the seven-and-a-half-foot requirement was already small and advised that while the existing provisions were okay in theory, in practical application, five feet was really small. Mr. Moore noted a recent BZA case in which the small side yard was used as an argument to support other changes to the requirements. He advised that the third proposed amendment was to the zoning district regulations and would (1) increase the minimum side yard requirement from seven and a half feet to ten feet; (2) change the building lot coverage limits from 30% to either 25% or 20% and implement caps that would correspond to that percentage; (3) set an FAR standard at either .3 or .4; and, (4) stricken the language that allows a building height of up to thirty feet if the side yards are increased and set the maximum building height at either twenty-five feet or twenty feet. Mr. Moore noted that there were some decisions points related to these items for the Commission. He suggested the members reach a decision point on those and that he then draft an ordinance that would be presented to the community during a public meeting in order to receive feedback.

In response to a comment from the Commission, Deputy Town Manager Moore noted that his memorandum contained information on the new homes that were constructed on Sycamore Street. He advised that both were constructed at or near the thirty-foot building height limit, as the side yards were increased to twelve and a half feet. Mr. Moore further advised that their building lot coverage was 20%. He noted that the recently adopted impervious lot coverage limitations applied to the house that was built at 206 Sycamore, but not to the one built at 204 Sycamore Street.

In response to an inquiry from the Commission as to where the proposed FAR numbers came from, Deputy Town Manager Moore advised that they were developed by the staff after a discussion with the Council. He noted the Council's concern about affordable housing and advised that they had expressed concern that the size of the homes was affecting their affordability. Mr. Moore explained that establishing a FAR standard was one way to address this concern. He noted that the trend was to build to the maximum allowed and advised that adjustments were being proposed to the regulations related to the affected areas of concern.

In response to an inquiry from the Commission, Deputy Town Manager Moore confirmed a detached garage would count in the building lot coverage calculations and explained that any area under roof was included.

Commissioner Fleischman noted that the Commission did a lot of work on the R-2 District regulations. He suggested the need to assess the general issues with regard to new development and opined that it was pre-mature to review the proposed amendments. Mr. Fleischman expressed an understanding of some citizens' desire to keep Middleburg as it was; however, he suggested they were in the minority in the R-2 District. He noted that it was the Planning Commission's responsibility to analyze the issues and make recommendations to the Council. Mr. Fleischman advised that they identified zoning changes that were implemented only a few months ago and noted that the Commission did not yet know the full impact of them. He questioned how much farther the zoning regulations should be reduced. He reiterated that the Commission should fully investigate the proposed changes and general issues. Mr. Fleischman expressed concern that the homes were the nest egg for people who have owned them for a long time and suggested consideration needed to be given to this before "down zoning" their properties. He noted that many of the older homes in the Ridgeview area and elsewhere had significant building code violations. Mr. Fleischman further noted that when those homes were purchased, it would cost a lot of money to improve them. He opined that people wanted bigger houses, bigger and more rooms, and bigger garages these days. Mr. Fleischman advised that it was cheaper to tear down the existing houses and rebuild new ones. He suggested the need to consider the impact of a "down zoning." Mr. Fleischman noted that the Ridgeview area had been changing for years, which was natural. He opined that the new houses were eclectic, and that the variety of housing was interesting. Mr. Fleischman expressed concern about recommending additional changes to the zoning ordinance. He opined that some people were being vocal about changes in Ridgeview, while others were being quiet. Mr. Fleischman suggested the need for the public meeting in order to get citizen feedback. He suggested this item be tabled until after the public meeting so the Commission could find out what people wanted in general.

Chair Cooke noted that Commissioner Fleischman's concerns had been voiced by most of the members on the Planning Commission. He shared his concern about the need to be cautious and deliberate when considering what the Commission had been asked to consider. Mr. Cooke noted that there was a meeting in the works between the Council and Planning Commission and a meeting in the works with the community. He agreed it was essential to hear from the residents and advised that he had not heard much, except from the more focal people. Mr. Cooke advised that he was anxious to hear from other people in the community.

Deputy Town Manager Moore explained that the staff was not seeking an endorsement of the proposed changes, but rather was looking for a recommendation on the options contained within them. He reiterated that he would draft an ordinance amendment that could be a part of the community discussion. Mr. Moore reminded the Commission that following that meeting, a joint meeting would be held between the Council and Planning Commission in order to determine the path moving forward. He explained that he was only asking the Commission to make choices on the options in order to narrow down what was being proposed for the purpose of sharing it with the community, so they would not be inundated with options. Mr. Moore noted that during their last meeting, the Commission expressed a desire for the least drastic choices. He reminded the members that the Council drafted the proposed amendments and reiterated that there were a couple of places where there were choices. Mr. Moore advised that if the Commission said to include a .4 FAR, it would not mean they endorsed the change and reiterated that this was just what would be presented to the community.

Commissioner Roszel noted that the Council accepted the previous amendments to the R-2 District regulations and were now saying they wanted changes. He advised that it was disconcerting that the Commission did work that “had gone down the drain.” Mr. Roszel likened this to the Madison Street redevelopment proposal. He noted that the Comprehensive Plan recommended the focus be on Federal Street; however, the Council was pursuing the redevelopment of Madison Street. He opined that the Town had plans in place that the Council was changing. Mr. Roszel questioned why the Commission made a recommendation that was approved, only to have the Council want to change it.

Deputy Town Manager Moore explained that even with the changes that were adopted, there were comments from the Council at that time that they did not go far enough. He advised that many of the elected officials said they appreciated the Commission’s work but that it needed to go further. In response to a comment from the Commission that the Council should have said that before approving the previous changes, Mr. Moore explained that the Council recognized that homes were being built and noted that if the changes were not approved, some homes could have been built that would have been the same height and wider. In response to a comment from the Commission as to what would happen if additional zoning text changes were adopted and the Council wanted the houses to be even smaller, Mr. Moore suggested this be a point of discussion with the Council during the joint meeting.

Chair Cooke questioned whether the work plan for this item was in the right order. He suggested the joint meeting between the Council and Planning Commission be held first, the community meeting be held next, the draft ordinance then be developed, and a recommendation be made to the Council.

Deputy Town Manager Moore explained that, during the joint meeting, the idea was to discuss what was heard from the community. He advised that the Council endorsed the work plan; however, he could ask them to consider holding the joint meeting first.

Commissioner Stein suggested that when the two bodies appeared before the community, they should present a united front. She further suggested the materials that would be presented should have an explanation. Ms. Stein noted that a united front could help point the materials in the right direction.

Commissioner Minchew agreed with the other members of the Commission. She opined that once this item was open to the community, people would see and hear what they wanted in the moment. Ms. Minchew noted that the most recent changes had not been in place for long and opined that the proportions of the new houses that were constructed under those regulations worked.

Deputy Town Manager Moore advised that if the Commission felt strongly that its preference was to hold the joint meeting first, he would take that to the Council. He noted that he did not know how they would respond. Mr. Moore reminded the Commission that the Council initiated a zoning text amendment and had a right to ask them to hold a public hearing and forward a recommendation. He further reminded the members that the Council sent a work plan with this item. Mr. Moore reiterated that he would ask if they would be willing to consider revising it.

Councilmember Jacobs advised that he supported what the members had said. He noted that he was sensitive to the impacts of these decisions on property rights and opined that the recent zoning text changes were adequate. Mr. Jacobs advised that he had assumed the Commission would wait a couple of years to determine whether they were adequate. He opined that the new homes that were built under those regulations seemed to fit and advised that he had no problem with them. Mr. Jacobs advised that he was not opposed to tabling this discussion until the Commission had a better understanding of what people thought and what the Commission felt was doable and equitable. He opined that the criticisms of the development were not coming from Town residents. Mr. Jacobs advised that if the other members wanted to look at the options, he would do so; however, he did not have much heart for it. He further advised that he would like to hear from the community before doing anything else. Mr. Jacobs noted that he heard from a property owner that the building lot coverage requirement would negatively affect her. He reiterated that he was not enthusiastic about doing anything. Mr. Jacobs suggested this matter be tabled and the Commission send a request to the Council to schedule the joint meeting.

Chair Cooke opined that the Commission could not go to the community meeting with a general description and suggested it must have specifics to discuss as a starting point. He agreed with the need to hold a conversation with the Council prior to the community meeting. Mr. Cooke advised that he was in favor of asking the Council to hold the joint meeting first and then decide if the proposed changes should go further.

Deputy Town Manager Moore advised the Commission that he would take their request to the Council.

Commissioner Roszel opined that it would be good for everyone to be on the same page. He advised that he wanted to hear from the Council as to what was driving the proposed zoning text amendments. Mr. Roszel suggested the Commission needed to understand what the Council wanted and why.

There being no further business, Chair Cooke adjourned the work session and called the regular meeting to order at 7:25 p.m.

Disclosure of Meetings With Applicants

No meetings with applicants were reported by the members.

Public Comment

Dominic Mingione, of 5462 Hillside Farm Lane, The Plains, opined that the financial impact was the biggest issue with the proposed changes to the R-2 District regulations. He advised the Commission that the proposed changes to building height would affect the type of houses he could build and noted that while he would not build a house with a flat roof, someone would. Mr. Mingione opined that the building height regulations in most counties were for a thirty-five foot maximum; whereas, in Middleburg, it was twenty-five feet. He advised that to increase the side yard setback requirements to twelve and a half feet would equate to a 66% increase in the side yards. Mr. Mingione opined that the current zoning regulations worked except for the twenty-five-foot height limit. He advised that the restrictions would only allow for small homes to be built on the small lots. Mr. Mingione opined that a ten-foot side yard was not an issue for larger lots; however, it was for the smaller ones. He opined that FAR requirements typically only applied to commercial applications. Mr. Mingione suggested the proposed changes did not make financial sense and reiterated his belief that the current regulations were good. He noted that the Council asked the Planning Commission to select from options on some of the items and suggested that if they did so, it would appear to be an endorsement of the changes. Mr. Mingione questioned whether it would be bad if the Commission declined to endorse any of the proposed changes; although, he acknowledged the Council could still approve them. Mr. Mingione reiterated his concerns that the proposed changes would affect the financial position of the residents. He opined that none of the Councilmembers lived in the Ridgeview area. Mr. Mingione reiterated his offer to meet with the members of the Commission to discuss the proposed changes. He suggested the need for examples of the proposed changes so the public could understand what was being proposed.

Curtis Hall, 203 Sycamore Street, invited the members of the Commission to see what it was like for three adults to live in a small house. He opined that there was not much difference between his yard and the yards of the homes that were being built.

Approval of Meeting Minutes

Councilmember Jacobs moved, seconded by Commissioner Roszel, that the Planning Commission approve the May 23, 2023 work session and regular meeting minutes as presented.

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

No – N/A

Abstain – N/A

Absent – Vice Chair Woodruff

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

Public Hearing & Action Item

ZMA 23-03: Ordinance to Amend Articles II, XI and XVI Pertaining to Definition of Professional Office & Associated Regulations Thereof

Deputy Town Manager Moore reminded the Commission that this zoning text amendment was initiated by the Town Council at the staff's suggestion. He further reminded them that in 2003, the Town adopted a zoning text amendment that prioritized pedestrian-oriented businesses in the C-2 District on Washington Street, from The Plains Road to Liberty Street, as well as the north side of Federal Street and the side streets. Mr. Moore noted that under that zoning text amendment, professional offices were not allowed to locate on the ground level without a special use permit, with the exception of real estate offices. He advised that there has been concern that the number of real estate offices in the C-2 District has expanded. Mr. Moore noted that this concern was discussed with the Economic Development Advisory Committee, who agreed the number of real estate offices in the C-2 District had reached a critical mass. He reported that under the proposed zoning text amendment, real estate offices would be treated like other professional offices. Mr. Moore noted that the existing offices would be grandfathered; however, new real estate offices would need to locate on the second floor or get a special use permit. He noted that there were currently seven real estate offices located on the ground floor in the C-2 District. Mr. Moore reiterated that if the ordinance was adopted, those offices would continue as non-conforming uses. He further reiterated that if the zoning text amendment were approved, no new real estate offices would be allowed to locate on the ground level without a special use permit. In response to inquiries from the Commission, Mr. Moore advised that there were also changes proposed to the parking requirements and explained that there were currently parking requirements listed for uses for which there were no definitions or that did not need to be listed as a separate item. He suggested there only be one parking standard for office use. Mr. Moore advised that there was a process contained in the ordinance for obtaining a special use permit. He noted that how detailed the application would be would vary depending on the circumstance. Mr. Moore opined that if the permit was for a real estate office in an existing building with no improvements and with off-street parking, it would just involve an application form and a narrative.

Commissioner Fleischman questioned whether there was a problem with real estate offices. He advised that he was a free-market person and opined that additional restrictions were not needed. Mr. Fleischman advised that he would be opposed to the proposed amendment.

In response to an inquiry from the Commission, Deputy Town Manager Moore advised that the proposed amendment came as the result of a discussion between himself and the Business Development & Community Partnerships Director regarding the deficit amount of storefront space. He noted that businesses wanted to locate in Middleburg; however, there was no opportunity for them to do so. Mr. Moore advised that this was not intended to be a slight against the real estate offices. He explained that he looked at the purpose of the district and suggested the need to make sure the regulations matched the purpose. Mr. Moore noted that real estate offices could locate in other zoning districts.

Chair Cooke noted that if approved, the existing real estate offices would not be displaced, and any new ones could apply for a special use permit should they wish to locate on the ground level.

No one spoke and the public hearing was closed.

In response to an inquiry from the Commission as to whether real estate offices were allowed on the ground floor because they had walk-in traffic, Deputy Town Manager Moore advised that from the best he could gather, the real estate community did not understand in 2003 that they would be protected as a non-conforming use and there were agents who were planning to branch out who expressed concern, as they wanted to make sure there was space for them to do so.

Councilmember Jacobs moved, seconded by Commissioner Roszel, that the Planning Commission forward Zoning Text Amendment 23-03 to Council recommending approval as identified in Draft 1 dated April 18, 2023 because the amendment will support the purpose of the C-2 District in promoting the most efficient and attractive use of the district and represents good planning practice.

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

No – Commissioner Fleischman

Abstain – N/A

Absent – Vice Chair Woodruff

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

Quorum for July Meeting

Those members who were present indicated they would be present for the July 24th meeting.

There being no further business, Chair Cooke adjourned the meeting at 7:53 p.m.

RESPECTFULLY SUBMITTED:

Rhonda S. North, MMC, Town Clerk

Middleburg Planning Commission Transcript
June 26, 2023

(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: Okay, folks, Welcome, everyone. We will convene the June 26th meeting, work session and regular meeting [off mic] Planning Commission convened the work session at the conclusion of the work session will move right into the regular meeting. One item discussion item. Let's do a roll call first. I almost forgot. Rhonda, would you please?

Rhonda North: Yes. Chair Cooke.

Terry Cooke: Present.

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

Ed Fleischman: Present.

Rhonda North: Commissioner Minchew.

Rachel Minchew: Present.

Rhonda North: Commissioner Roszel.

Dev Roszel: Present.

Rhonda North: Commissioner Stein.

Mimi Stein: Present.

Rhonda North: Council Member Jacobs.

Bud Jacobs: Present.

Terry Cooke: Very good. Again, Welcome, everyone. One discussion item on the Work Session agenda having to do with a Zoning Text Amendment 23-02. An ordinance to amend articles 2, 8, and 10 of the Middleburg Zoning Ordinance pertaining to lot requirements and building height in the R-2, single family, residential district, and nonconforming lots of record. This is a matter we've all dealt with off and on for some time now and we're going to take a new look at it. We have a memo from staff. But Will, do you want to summarize that for us just to bring us up to speed?

Will Moore: Certainly. Thank you, Mr. Chairman. So you'll recall from your discussion last month, that was your first presentation of this latest proposed amendment. This particular amendment was initiated by the Council subsequent to a strategic planning retreat that was held in the spring. Discussions that took place afterward regarding the continuing concerns of that body with the character of some of the redevelopment and infill homes in the R-2 district. So as we discussed last month, this one again was initiated by the Council within the amendment. If you do pull up a draft, which I would ask you to do at this time. The draft one the main items that are for your consideration. One is an expansion of an existing term that we have in our definition sections, which is the floor to area ratio. While we have that term currently in our ordinance, we don't have it applied anywhere within the ordinance. But this particular definition was being proposed for amendment. Because we number one, the Council within this draft wants to apply a floor to area ratio or wants it to be considered at least in the R-2 district. But there was some discussion amongst

Council about some of the nature of their concerns, primarily height and massing of homes. But what they wanted to do was if they were to apply a floor to area ratio, was to not penalize somebody for doing below ground or below grade space. So what this would be that if for any floor area finished floor area is completely below grade, it would only be calculated at 50% of its actual floor area. So trying not to penalize people who want to redevelop. [off mic] A greater square footage. But with that being below grade, it has less of an effect on the esthetic character. So the second proposed change that you see in here falls under Article 8 Non-conforming Situation Section. This section of the ordinance is intended to do a couple of things. The first is that it clarifies that if you have a nonconforming lot of record, so that's a lot that may not meet the lot area requirement. It may not be [off mic] lot width requirements. But it clarifies that that lot still may be developed upon as long as you meet the other applicable ordinance requirements. So that might be the building height or side yard setback coverage requirements. All those things would still apply. It further goes on currently to state that if you have what I will call an exceptionally small lot, that is one that is less than 80% of the required area or less than 80% of the required width. It provides some additional relief in that you could further reduce your side yards. I think you would have to meet all other requirements still. So while you could get some relief on your side yards, if you had an exceptionally small lot, you get no relief setback. You get no relief on lot coverage. [off mic] Of that particular relief for those exceptionally small lots is proposed to be stricken in this case. Mr. Roszel set in on a Board of Zoning Appeals case recently. He's a joint member of that board as well. And this is a very tricky one because this, as we consider the R-2 District in particular, allows you to go down to even the five-yard five-foot side yard, which is exceptionally small. Seven and a half foot currently is pretty small, especially when you consider that side yards still allow certain things to be located. So mechanical units and [off mic] area way for basement stairs that lead to say whether it's finished or unfinished basement, those things can still encroach into that side yard. So seven and a half foot the current requirement is already fairly small but allowing it to be reduced to five feet. In theory, it seems like something that's okay. Maybe if you have an exceptionally small lot to give, maybe some further relief. But in practical application, a five-foot side yard is really small. And in a particular case that we reviewed one of those cases in the recent Board of Zoning Appeals meeting, the minimum five yard, five foot side yard was actually built and then was used as a point of argument to try to support a variance for another, basically saying, I can't wheel my lawnmower around because on this side I have a stupid mechanical units this side, I have stairways, so I can't even take my lawn equipment from the front yard to the back yard without trespassing on my neighbor's property. So that one particular provision within the nonconforming lots of record is proposed to be stricken. And then we get into the actual R-2 zoning district regulations. And there are just a few proposed revisions here, but these are kind of the ones when it comes to things that affect the character of the development. The first is the side yard requirement, as we just discussed. As proposed, this would increase the minimum side yard in R-2 from 7.5ft to ten. The next one is the building lot coverage. Again, building lot coverage is area under roof. Currently it is a 30% maximum, but in no case to exceed 3,750ft² of that max cap of 3750ft² you may recall it originated with the Berkley report that we had done to study the R-2 district. Their original recommendation was to establish a maximum size of 12,500ft². The Commission chose not to recommend that for approval. What you did was capped the coverage as though that is the largest size. So even if you have a 15,000 square foot lot, you're only allowed this 3750ft², which equates to 30% of 12,500. So that's where that number came from. The proposed revision here and in initiating the amendment, Council kind of gave you two numbers to consider. One is 25% or to go even further to 20%. The maximum cap numbers are corresponding to that. So if you were to recommend proceeding to the community meeting that we will have later on with a 25% maximum, then you would choose the 3125 square foot cap to go with it. If you were to consider reducing it even further to 20, then the 2500 square foot max cap would equate to that. And that's kind of one decision point that we would need that we would ask for you to consider this evening. And then the last one. Well not the last one. Sorry. The next one is a new regulatory standard. That is the floor to area ratio. And Council gave you two numbers to kind of choose from here, which is a 0.3 or 0.4. And if you refer back to my staff memorandum, that gives you kind of some examples of how that could play out what that would actually be in certain situations. And then the final one is, again, looking at those items that really are being considered as to affecting the character development of building height is the other one. Currently, the way it stands is there's a 25-foot maximum, except that if you provide increased side yards, you can go up to even 30 foot maximum. In this case but what is proposed is to have that last part stricken where you can no longer increase to 30. So 25 would be your first option without an option to increase the height. The other option would be to reduce it even further to 20 feet. So that kind of runs over the proposed changes. If you want to talk about those individually, we can have a little more discussion on what some of those might mean, like the 0.3 FAR versus [off mic] maybe some concerns about what happens if you artificially take a height too low that can have some potential effects on just good design. Tell somebody you can only build it to 20ft. You might end up with a bunch of nearly flat [off mic]. So however you might want to approach this again, I think the key here is for these couple of items where there are maybe decision points on which ones to go with.

If we can reach consensus on those tonight, the idea would be that I would then generate draft two of this amendment which would take away those choices. It would just have one number for each of those. And then we could contemplate going to the community meeting and kind of rolling this out to the community saying this is what is being proposed for consideration. And that starts that feedback [off mic].

Terry Cooke: Okay. Thank you, Will. I'm sure most, if not all of us have some thoughts on this. Before I turn it over to comments from the Commission and I think maybe it was your memo. It's suggested that we take a look to new construction on Sycamore Street. I think it was 204 and 206, which you said were built to the current standards, the current permissible standards. Could you sort of go over, if you remember in your head what the height and the side yards on those two structures are?

Will Moore: I can. That actually is in your packet as well.

Terry Cooke: Okay.

Will Moore: The attachment number four.

Terry Cooke: Okay.

Will Moore: Which is which is titled recent R-2 Construction. That has your height, side yards and coverage for kind of all new construction going as far back as the infill homes on Green Street. So in both cases, both of those homes are at or nearly at the 30 foot [off mic] limit. 206 is actually proposed at almost a foot shy. But we'll see when as the bill comes in where exactly that ends up. 204 Sycamore was built exactly to 30ft. In doing that this is a situation where you had to have the increased side yards in order to do that. So seven and a half is your basis. If you increase to 12.5 on each side, that's five-foot additional on each side, then you can go up as high as 30. And that's the case here. As you can see, it's 12.6 roughly on each side is provided. The coverage in terms of building lot coverage. He's down at around 20% on those. I say he, Mr. Mingione, who addressed you at your public comment last month. He's the builder of both of those homes. So building lot coverage is down at 20 I was slightly mistaken in saying both of those are built to the newest the 204 I don't think had the impervious lot coverage at that time. 206 does have the impervious lot coverage and it's only 26%, whereas 45% Impervious lot

Terry Cooke: Okay. Thank you.

Will Moore: Yes, sir.

Terry Cooke: I'll open it up to comments from the commission. Commissioner Roszel.

Dev Roszel: Hi. Yes, Commissioner Roszel. Will, thank you for that info. I have a couple of questions regarding the FAR numbers that were submitted by the Council. Where did those numbers come from?

Will Moore: So those were proposed by staff after a previous discussion with Council. So one of the initial points in recommending consideration of floor to area ratio was not only so. There's been a lot of concerns about affordability. And make no mistake, this is not going to generate affordable housing. But one of the comments that we heard on a number of times from a couple of our elected officials was that the sheer size of the homes was at least affecting affordability. So whatever that means.

Dev Roszel: Yeah, but that's all. [multiple speakers]

Will Moore: Square footage. Greater cost. [multiple speakers] It adds up. So. Instituting a floor to area ratio is one way to kind of tackle that. It's also just a way to tackle just the if we're going to continue with trends where developers tend to maximize what they can build. And that's no way intended to be a slight against developers. [multiple speakers] yield. Then if we adjust our regulations. Because we think what they're doing to right now is too much. Then we have to adjust the regulations so that with the thought that they're going to continue to try to maximize. So we need to try to address those regulatory standards that will affect those areas of concerns and in as many ways as possible.

Dev Roszel: Right. And I think that was in your I think that was in your earlier memo.

Will Moore: [off mic]

Dev Roszel: The other question I had pertained to the building lot coverage. Does that include detached garages? It does. Okay. That's what I thought.

Will Moore: Any area under roof. So it's your principal structure. It's the accessory structures, which would be a detached garage. It would be a garden shed.

Dev Roszel: I couldn't tell if I saw something that removed [inaudible].

Will Moore: Covered porches, covered decks. It would not be uncovered porches. Basically area.

Dev Roszel: Okay. Thank you. Okay.

Terry Cooke: Commissioner Fleischman.

Ed Fleischman: Thank you, Mr. Chairman. My name is Edward Fleischman, Planning Commissioner. We as Planning Commission have been following this issue for quite a while. And I think that we've done a lot of work and some of us would say we did enough work and want to move on to other issues, but this is still an important issue. I really think we're getting into the weeds here. And really I think that we have to assess the general issue about new development in Middleburg, and I think it's premature to go into these details that were presented to us. I understand the desire of some residents in the Town of Middleburg, they want no new development in Middleburg. They like what Middleburg is and they want to keep it that way. I respect that view. That's a reasonable view for that group. However, I think they're in the minority, especially in the R-2 district. The Planning Commission has the responsibility to analyze issues and we've been doing that and then make presentations and recommendations to the Council, which is elected officials have the right to make final decisions. We came up with zoning changes that were implemented. I think they're fairly recent zoning changes and I don't think we know the full. We don't know really what it means. We've only been a few months under this new arrangement, so we did recommend downzoning. The question is how much further down zoning should we have? Now before the Planning Commission approves further or recommends. I always like to use the word recommend. We have no approval authority for the down zoning. We should fully investigate the proposed changes and I think we should investigate the general issues involved here. So I have a number of concerns on general issues. One, some of the residents of Ridgeview and Middleburg and Loudoun County have owned their houses a number of years. They're older houses and they themselves the house has gotten older, but they've gotten older themselves and the houses, prices of houses, market value have gone up in Loudoun County. It's a nice nest egg and I know that some of them are looking at as a retirement nest egg that they'd love to be able to at one point, maybe their kids move out or one of their spouses passes away and they're ready to move into an apartment or an assisted living and to take that money out as their nest egg. So I think that's important that before we do further down zoning, we ought to consider that some people really have their nest egg right there, their retirement dollars. And we shouldn't fool with it without really thinking about it. Another concern that I have a general concern is the older houses in Ridgeview. And, you know, it's not just Ridgeview, but it's just older houses in general. My wife and I had a habit of going to many open houses. We enjoy real estate. We've owned a number of houses over the time and redid houses, old houses. First house was 1903. Then we now have another place that's a 1906, and now we have a place that's I guess 1952 in Ridgeview. But you go in there and you look at it and some of them really have significant code violations and the people have been living in them for many years and enjoying it. And they really. Some of them are retired, nearing retirement. They don't really have the money to really make these big improvements. The electrical system, the plumbing access, egress. There's a huge number of code violations. So when someone is going to buy one of these houses. They get advice from hopefully an engineer, architect. And they listen to what has to be done to the house. It costs a lot of money. And I think that if they're going to spend that kind of money, they want to really, they would want to upgrade to modern standards. And modern standards are calls for you know, Americans want bigger cars. They want bigger houses, and they want bigger rooms. So it would be just natural that someone would go in. They look at all the code changes they have to do, and they say, well, if I have to spend all this money, I'd like to add a little room there. I'd like to do that. And then the builder comes in and says, and this happened to the house across the street from us. My builder went in there when they were doing it, and the builder looked at the house and he went through it

all and he said. You know, you could do two things. We can take care of all the code violations and extend it a little bit here and a little bit there. We could do that, or we can tear down the house. And put something else up. It's cheaper to tear it down and start over again. That's because the way builders operate now, or they buy new parts and it's sort of a production line. So that's a concern that I have about what downzoning would do to impact someone who was planning to sell the house and then someone was going to buy it. Maybe they won't want to buy it because of the restrictions. So I think that we should really discuss that as a general issue. The other general item is Ridgeview has been changing for years. Now new houses have been built over time. You know, over many years. It's just the natural thing to occur. When I look at Ridgeview and we walk through it and I walk a lot in Ridgeview with visitors from other cities and when we walk around Ridgeview, we look at some of the extensions and some of the new houses, and we really think it's really, it's nice, it's eclectic. There's something nice about Ridgeview. It's not a subdivision. It doesn't have the sameness that other places have. The variety of different house styles. Some house styles I don't particularly like. Other people don't like the ones I like, but that's just normal. But I mean, it's the variety that's interesting in Ridgeview. So I think that we should be very, very concerned about recommending to Council any additional changes. Now some people who are against changes in Ridgeview are very vocal about it. When you look at the situation, I've spoken to a lot of people in Ridgeview, they're quiet. They like it the way it is and they're not vocal. So when you have and this is elected officials, the Council, you know, the Council has to respond to their constituents. But I think maybe they're responding to too many of the vocal people and not the people that are satisfied and are quiet. So I think there was a public meeting that was being planned with the Council and the Planning Commission, some future date to get people from the town together and hear various views. I think that we ought to table any changes until that meeting, and I think we ought to really encourage people to come to that meeting. I think that would be a really important meeting to find out really not what just a few vocal people want, but you know, generally what people want. You know, there's not going to be a consensus that everyone says this is the way it has to be. But I think we'll learn a lot before diving into what I call the weeds. So I just recommend that we not take any action, that we move ahead and ask Will and Council to move ahead on setting up that meeting and then reconvene after the meeting. Thank you.

Terry Cooke: Thank you, Ed, and I'm anxious to hear what others on the Committee seem to think. I think that for the most part, the concerns you expressed have generally been voiced in one way or another by most of us on the Commission. The concern about affecting the investment, if you will, of so many Ridgeview residents in their homes and what these kind of changes might mean, in terms of affecting those interests. And I share your concern about being cautious and deliberate about our consideration of what the Council has asked us to think about. I think that, oh, you mentioned a joint meeting of the Commission and the Town Council and a solicitation of input from community residents that those actually are in the plans. They are separate meetings. However, one would be a meeting with the community and that was going to be followed, I believe, by a joint meeting of the Council and the Commission to analyze and discuss the input gained from that community meeting. That's fine. But I do think it's I agree it's absolutely essential that we hear from the folks who live there, because those are the folks who are affected by this and so far, I personally have not heard much except on the side of those who you describe as the more vocal folks. And I'm very anxious to hear what the other folks, what other folks in the community have to say about it and hear their questions and concerns about what this might mean in terms of the marketability or salability of their current homes. So that's something I'm sure we're all going to think about here before we make a decision. But thank you. Those are well thought out comments and I appreciate it.

Will Moore: If possible if I can?

Terry Cooke: Yeah.

Will Moore: Make a clarification in case it is necessary.

Terry Cooke: Yeah.

Will Moore: We're not seeking an endorsement from you on any of these changes at this point.

Terry Cooke: Yeah, we don't have to agree to any of these if we choose not to.

Will Moore: Right. And when I was referring to the kind of the options that are within draft one, I think there was some discussion of that last month. And as I recall from the Commissioners present you favored if we're going to

present something. So let me back up. A decision has already been made as to the ordering of these things. So. We were going to draft changes as opposed to just going to the community and having open conversation about are you concerned about redevelopment? A decision was made that we're going to have changes drafted that can be part of that discussion. So not only will the discussion be are you concerned just in general with some of the changes that are happening, but it's also if you are, here's maybe an additional step. Here's what we've done so far. But here is a possible additional step. So the decision was already made, and you can make arguments back and forth or should you have anything drafted at all or should you just have an open discussion? So that decision was made. Then the community meeting and then still prior to asking the Commission to make any recommendation to Council on these changes. After the community meeting, the joint meeting with the Council. Because depending on how that community meeting and discussion goes, these two bodies might get together afterwards and say, okay, we're on the right track. Maybe we need to pivot a little bit here, or maybe we just need to slam on the brakes. You know, all those could be potential outcomes [inaudible]. Right. So when I'm asking you to maybe make some choices within draft one, where in those few occasions where choices are present, that's not asking for an endorsement. It's just we want to narrow down what is being proposed. Potential proposed. So when we go to that community meeting, we can say, hey, we've already taken the height down to here. But you can go back up to here. We just want to add up here or we might want to add here, but we don't want to inundate the community with those multiple choices. We just want to have one thing to show. So that's where we're asking for that help right now. And I think some of the discussion last month amongst at least a few of the commissioners was if we have to make a choice at this point of what to go forward with, we would prefer taking the less drastic of those choices. I think I remember hearing [off mic].

Terry Cooke: All right. So which if I understand what you're saying then, is that the council has asked us to come up with an alternative to what's currently on the books. Not necessarily one that we endorse, but one that we think is reasonable to present to the community. Well, and then the community can say, we like that. We think it's terrible. We like the way things are and we'll go from there. [multiple speakers]

Will Moore: That's what draft one is. There are. [multiple speakers]

Terry Cooke: Although there are choices within draft one.

Will Moore: A couple of places where those choices [multiple speakers].

Terry Cooke: Yes.

Will Moore: So again. And I might suggest you consider taking the least drastic of those changes as far as a basis of what we call. And partially that's based on the discussion last one. But again, I want to be clear. If you say do the 0.4 FAR instead of the 0.3, that would by no means mean that this body endorses the FAR requirement of 0.4 or endorses an FAR at all. It's just like if we're going to present something in the community present [off mic]. That's kind of what we're asking for at this point.

Terry Cooke: Thank you. Thank you. Commissioner Roszel.

Dev Roszel: Just one other question. Thank you. And to Ed's point, I think two sessions ago I actually brought up the exact same thing that you talked about, which was we had been tasked with coming up with these new requirements and we submitted them to the Town Council, and they accepted them. And so everybody was happy about it. And then all of a sudden, they come back, and they say, well, actually, we're not really that happy. We would like to make changes. Again, to Ed's point is maybe we haven't really seen how the changes we presented back then are really going to pan out and how that's going to have an effect. So I am too, and have said, as I said previously, I find it rather disconcerting that we did the work that we were tasked with as a Commission, and it's kind of like gone right down the drain. And I liken that to this is sort of an aside, but to the Madison Street Redevelopment, we've had a five-year comp plan in place for 10, 20 years, and it specifically focused on Federal Street. And now there's no talk about Federal Street. But they're going to Madison Street, and I may be making light or not diving enough into the weeds. But I guess it's interesting to me that we have these things in place and the Council is now coming back and saying we're going to do these other things, or we want your input on changing it. And I don't understand from my perspective why we go through the process of doing a comp plan, doing all these things, make our submissions, our recommendations, it gets approved and then it's like, well, I kind of want it a little bit lower than it was. That's and maybe I'm off base. Correct

me if I'm wrong, but that's where what I and perception a lot of times is reality. And I perceive that we did a lot of work and they accepted it. And now it's like, well, we've changed our mind.

Will Moore: And it's not my job to defend Mayor and Council [inaudible] to you.

Dev Roszel: It's Bud's.

Will Moore: But I think it is. [laughter] I think it would be a fair characterization that, I would say the changes that you have recommended up to this point have been appropriate in response to some of the concerns that you were tasked with addressing, correct? Absolutely. I think that even with those two different rounds of R-2 amendments that have happened, there has been with the adoption of those amendments, there has been commentary from some elected officials that we'll go ahead and do this, but we're not sure if this is going far enough. So it's not saying that the work you've done was wrong was going in the right direction. It's just it seemed like an incremental step, but they still might want to go further. And I think it's an important distinction that nobody's saying you've done the wrong thing to this point. In fact, many of the elected officials recently have like in sending this to you said, look, we actually do appreciate all the work they've done this far, but we think it needs to go a little further maybe, or at least we need to go to the community.

Dev Roszel: Okay. And I understand that, but maybe that step should have happened when we made the submission. Perhaps it should have been, well, let's let's think about it a little bit. Let's wait before we make this decision on the last round and say, well, you know what? Now we've really had a chance to look at it. I think maybe we would like the planning commission to reevaluate before we put the rubber stamp on it.

Will Moore: Understood, the flip side of that is that these homes are still being built.

Dev Roszel: Right.

Will Moore: So if we didn't say we're going to reduce height, but we'll allow you to go higher if you provide the increased side yards. If they said maybe that's not quite far enough, we're not going to even adopt that yet. I dare say that some of these homes that have been built recently may have been the same height, but they may have been ten feet wider because five foot wider on each side. [multiple speakers]

Dev Roszel: So what happens?

Will Moore: Incremental changes sometimes are effective.

Dev Roszel: When we do this and then somebody vocally stands up and goes, You know what, I think it needs to be even smaller. Then we come back and we're like, okay, well now we got to stretch it. So now we've got little doll houses instead of lots. [laughter] I just I'm merely saying.

Will Moore: I think this is going to be an excellent discussion point when you have your joint meeting with the Council, because I think that's where this really needs to happen.

Dev Roszel: Fair enough. Thank you.

Terry Cooke: This is the Chairman. In listening to the comments so far this evening, I mean, I'm in my own head I'm asking myself, have we got the work plan in the right order? I mean, maybe we should be having the meeting with Council, the joint meeting with Council, to just talk about this, get a better sense for where Council is coming from. Let Council get a better sense for what the kind of concerns that Ed and Dev and others have expressed where we're coming from before we start monkeying with the language in the ordinance. Then go to the community and say, you know, this is for your consideration. It's just a proposed change to the zoning ordinance to address some concerns and get the feedback then. And come up with a revised draft ordinance which would come to us. We think about it and make a recommendation to Council and Council can go with it from there. Do you think maybe it's we've got the order a little mixed up?

Dev Roszel: It's too logical.

Terry Cooke: God help us.

Will Moore: What I was saying earlier, there was, you know.

Terry Cooke: Yeah.

Will Moore: There's no perfect order to it. A good thing about having that joint meeting after a community meeting is that you can both bodies can sit down and say, Hey, this is what we heard from the community. Maybe this should be a joint meeting on either side. Council has already endorsed the work plan that has a certain order, but I dare say and Mr. Jacobs can chime in of course, as the Council Member representative, we could go back with that suggestion to Council and ask them if they would consider doing that.

Terry Cooke: Commissioner Stein.

Mimi Stein: Yeah. Commissioner Stein. I just have a feeling that if we. There's two things. When, and if we go to the community at large, we should have more or less a united front between ourselves and the Council. And I think that given that the material that we end up presenting to the community should be a lot more. It should be a lot more explanation to it. I mean, you know, we're looking at this material and I'm reading it over and over and over and over again to try to digest it. We're not going to have that kind of opportunity when we sit in front of the community that we're going to need more pictures, diagrams. And again, I think if we have a more united front between ourselves and the Council, at least at the onset, that we can point the materials in a direction that we think is moderate. And then listen to see if we see, you know, more, you know, people that are interested in more extremes or less. Let's I don't know if I'm just complicating everything, but. Thanks.

Terry Cooke: Commissioner Minchew.

Rachel Minchew: Rachel Minchew. I mean, I agree with what everybody is saying, and I think we've seen it happen time and again that once we open it up to the community, people hear and see only what they do in that moment. And if it's not precise, clear, and understanding, it's going to be people are going to be so frustrated and they're not going to have any. It's going to be useless to everybody. And a lot of frustration. So I think we have to be very careful on how it's presented to the community, because if you went with this, people are going to be like, what are you guys talking about? And I think that that's not doing, we're not doing our job then. And I agree that, you know, we did present this. We did agree on something. It hasn't really been that long that we've had the new zoning ordinance being in place and the new homes that have fallen underneath it, the two, I guess that's it. I mean, I don't know if people have looked at them, but the proportions kind of work. It looks pretty good to me. I mean, I'm not any expert out there, but the proportions work. And I think that that's something that people should consider and think about.

Will Moore: And that's I think, where there are areas of disagreement, some people don't see problems at all with some new construction homes. Some people think they're the worst thing ever.

Rachel Minchew: No, I get that.

Will Moore: So. Again, if this body feels strongly that we would prefer to have a joint meeting with Council prior to going to a community meeting, I can certainly take that idea to Council again. Please chime in, Mr. Jacobs, if I give you a chance. I keep talking. [laughter] [inaudible] But understand that. So I don't know what that response will be. I think they're generally a reasonable body and would probably consent to that, but. Right now, as it stands, they have given you an amendment which they have the right, just like you have the right to initiate an amendment to an ordinance. And they have the right to ask you to have a hearing and recommendation on it, whether you like it or not. That's not their approach to this. But at some point, in time, they're going to ask you, as they did in their resolution, to have your hearing and make a recommendation on this. They sent it with an endorsed work plan. But again, I can go back and ask them if they would consider revising the ordering that work plan. If that's the will of this Commission.

Terry Cooke: Thank you Will, what's the thinking of the Commission on that? I mean. [multiple speakers]
Councilman Jacobs.

Bud Jacobs: I want to support and endorse just about everything that my colleagues on the commission have said this evening. From the outset, I think we've all been very sensitive to the potential impacts that these decisions may have on the property rights of individual owners, especially in Ridgeview, and especially those who may find themselves in the financial situation that Ed described earlier. I thought that the measures we took, the changes we put before Council were adequate. I think in hindsight I assumed we were going to sit back for a couple of years and watch how those played out. I have been to the two new homes on Sycamore Street, I guess. To my eye also, they seem to fit. I don't see a problem with them. And I would not be against at all taking Ed's suggestion and tabling this entire discussion until we have first of all, a better understanding what the people who will be affected by these decisions really think. And then secondly, what we think is doable and appropriate and equitable under the circumstances. As an aside, I have to say, I'm kind of like you. I haven't heard much from folks about this question. I have to say that in a couple of instances the rather dramatic criticisms I've heard have come from people who actually don't live within town limits of Middleburg, and they're welcome to comment on what we're doing and how we're deciding the future of our town. However, they don't vote here, and they don't pay taxes here. And the mere fact that they may not like an emerging character of a neighborhood in town because it's not what they remember from their childhoods to me is not a compelling argument, particularly when balanced against the importance of individual property rights and financial well-being. If we want to noodle around with the alternatives in each of the sections that you've laid out for us, Will, we can do that. I have to say, I don't have much heart for it. I would very much like to hear from the community before we do anything further. I also I forgot to mention that the one concern I have heard expressed from a resident in Ridgeview concerns building lot coverage. And this is a woman who would like to do some things on her property that she may not be able to do if the building lot coverages are shrunk. So I guess I'm along for the ride here. I'm not enthusiastic at this juncture about doing any of these things, and I'm quite comfortable tabling everything, sending it back to Council and going ahead and deciding on scheduling both our community meeting and our Commission Council meeting, whatever order that may be. I don't have a view on which should come first, but they both have to happen. It seems to me, before we go too much further down this road.

Terry Cooke: [inaudible] Thank you. Sort of brings us back to the question, though, of which comes first, the joint meeting or the community meeting? I don't think we can go to the community meeting with I think as Rachel suggested, just a general description of we, you know, it's been suggested that we reduce the amount of developable. You know what I mean? Land on a lot and how large a house may be. We have to have something that says it can be this big or that big. And the side yards have to be this, and the height has to be that. Just as a starting point and or we go back to the suggestion I made that, you know, maybe we have our conversation with Council first. And that helps us decide whether or not we're going to take the next step and go to a community meeting or something. I think going to the community meeting and then having the meeting with Council presupposes that whatever comes out of the community meeting is what we're going to do in terms of altering the ordinance, and that might not be the case. So I agree with Rachel. It's a little bit dangerous to plant a seed that you ultimately don't follow through on. So that being said, I mean, going back to Will's question. I would favor going back to Council will and saying if everyone agrees with me that we believe a more appropriate protocol would be to have our joint meeting with Council thrash this out, if you will, among ourselves, and then decide whether to take it further. And we can then. [multiple speakers] Can craft a draft to go to a committee.

Will Moore: Meeting of Council. And if they're amenable to it.

Terry Cooke: If they say, no, no, we've got to do it this way, then that's another decision point for us. [multiple speakers]

Will Moore: That is likely the case by any means. In fact, I think they'll take your suggestion. Certainly.

Terry Cooke: Yeah. Okay. [off mic]

Dev Roszel: And I think it's a good way to I think you were saying maybe get everybody on the same page. I would like to know why they're making you know, I want to hear from the Council. Yeah, what's driving this?

Terry Cooke: Where is this coming from?

Dev Roszel: [multiple speakers] do go to the town. We do need to be on the same page. We can't be like, Well, we're not doing that. [laughter] So I'm in favor of at least having the conversation so that both bodies understand where we understand what the Council wants and why they want it. So then they have a better ability to make an informed decision about what we want to do or not do. And I understand Will, I mean, you're merely the messenger. So it's not a we can't shoot you. [laughter]

Terry Cooke: Any other thoughts from the Commission on this? Okay. I think we've flogged this horse enough this evening. Okay. Thank you. Thank you all. With that, we will conclude the the work session and convene the regular meeting of the Commission and we will call that meeting to order. First agenda item is disclosure of meetings between Members of the Commission with anyone having matters before the Commission. I would just rather than just go around the horn on this, I'm just going to ask, does anyone have anything to disclose in that regard? Hearing none, we will conclude that item. Next item is public comment. This is an opportunity for anyone this evening who wishes to address the Commission on any matter other than the upcoming public hearing having to do with the location of professional office spaces. So if anyone wishes to address the Commission on any other matter. Dom. And please state your name and your address.

Dominic Mingione: Yes, sir. Dominic Mingione 5462 Hillside Farm Lane, the Plains, Virginia.

Terry Cooke: Welcome.

Dominic Mingione: Thank you, Chairman. Commission, Mr. Moore, and staff. I don't feel like I have to say a lot tonight, but probably there's something because you've all eloquently stated important positions and the financial was the big thing that I went over at the meeting a month ago. So understanding and this is now your second meeting, I guess, on this, you might have meetings beforehand. That's all between all of you, but this is your second actual meeting on this subject. It's once a month that you have these meetings. So it still takes me a bit to go through all of the different scenarios on this zoning. And that's what I'd like to just reiterate again real quickly, You have the coverage that's going to get more stricter. You have the height that can go down to 20ft. Last month, we talked about how if you took your normal construction, we're upwards of about 18ft. If you had eight-foot ceilings actually, I changed that from last meeting, an eight-foot ceilings on the second floor and a Cape Cod where the second floor is in there. So you'd have basically about two foot above that ceiling. And so therefore, as Mr. Moore said, that could affect the design. I'm not going to come in if I do any more and build a flat roof contemporary home in the Town of Middleburg. But there will be a builder who will come in and I think you will like that less than keeping with the 25ft. That height is already currently restricted. Most counties are 35 foot. You went to 30ft and now you went to 25ft. You have the provision to increase it one foot each side up to five foot the setbacks and then go up five more feet. So what does really that mean? If you take 12.5ft the max, divide it by 7.5ft zoning setback? Now that's a 66% increase. So what is really that mean? That means that we've increased the distance of the proposed structure 66% over the minimum current setback to the property line. And if you go to Sycamore Street, you'll see that that's pretty ample. So that's a good thing. So I feel that the current zoning, the changes you've made are already restrictive, but I think they work except for the 25 foot which you changed from the last time. The 25 foot really hurts, like on Blue Ridge, those homes I built, we would not be able to do those there because it's 25 foot and there's no opportunity to go side setback because you've got a 50-foot-wide lot on the smaller lots minus seven and a half is 15 total. And that leaves a fairly small home. It's almost the size of some of the large townhomes. I think we have a section here that it's almost approaching 30ft. So that's your height. I mean, to take that and now change it to a ten-foot, ten-foot setback period, the bigger lots, it's not good, but the smaller lots are even worse. So that height, that setback, all that is very difficult the coverage is again getting more restrictive. So all these things are up and above with something that's already pretty good but also restrictive. And now we get into the FAR and that's a commercial typical application. I think as Mr. Moore has put in the drafts. Floor to area ratio, so people who are listening, what does that mean? Floor to area, area meaning your lot size. So everything that is under roof, and you divide that you take 30% FAR. So 30% of the smaller lot, let's say 7400 or 5ft², that's about 2200ft². So that's going to be your maximum 2200ft². Then you say, well, what do we have on the lot? Well, we take 15%, 50% of a basement, let's say 2200 square foot home, 1100 square feet in the basement. That's 550. Add your second floor there. Another you're about 16 or 1800 square feet. We already said 30% is 2200 approximately. So we have a differential of only an area to change of maybe 650ft². Well, if you divide that because we've got a basement, you put half of that in the basement, half of the you have really no opportunity for any sort of addition and it's not going to

make financial sense. So the 0.40 is better. But again, especially on the smaller lots, that's difficult. But I guess the big thing is you got a current zoning that is really good, and you know, now you're into a new assessment of change. So the question becomes is, okay, Town Council is asking that you select something. You're not saying you endorse it, you're not approving it, but you select something. Well, throw ten things. Maybe we have five. But whatever it is, if you agree on any of these things, then almost in effect you've endorsed it. So to go to the public meeting and say this is what we want to do. Planning Commission has reviewed it and obviously if they've reviewed it and you're submitting it, then you've endorsed it. So to come back and say at your next meeting that we don't approve any of the changes, we don't want to select one of them. Is that really so bad? I mean, it's not because you have good zoning in place already that's restrictive. And then Town Council, they're the ones who ultimately vote on it. They can say Planning Commission has not approved it. They got to go to the meeting, and they should disclose that at the meeting that nothing has been approved by Planning Commission. They've reviewed it, but they don't think there's a need for a change. But then they can still vote on it, and it pass every single one. So anyway, I just wanted to come and talk again that I think the biggest thing is that you're really going to affect the financial position of these people who live there and some of the people who are going to vote on it. Town Council don't even live in the community, and I'm not understanding how that could be so but thank you for your time. [off mic] I'm sorry. That's true. I'm talking about in R-2 Ridgeview. So the Mayor does not live in Ridgeview. There might be other towns that might. And that's what you're talking about. You're talking about voting on Ridgeview. So but thank you for your time.

Terry Cooke: Thank you.

Dominic Mingione: And again, as I've said before, if you ever want to have a meeting and call me in, there's another builder here, Mr. Eldridge, who probably can say things a lot better than I can, but, you know, be happy to answer any questions, because I think the biggest thing is when you do get to the public meeting where you're presenting something just because you say, Oh, this is what we're presenting, really, what does that mean to that person? There should be examples that say if you live in a 7,400 square foot lot with all of this, this is what you're going to be able to do. And if they know that and there's no reason why you shouldn't say and that could affect your financial value of your home. So we might as well be just upfront and honest about it because I think that's what will happen. So but thanks again. I appreciate your time.

Dev Roszel: Thank you.

Terry Cooke: Thank you. Anyone else with comments this evening. Seeing none. We will conclude the public comment period.

Will Moore: I'll make a quick statement.

Curtis Hall: I live on 203 Sycamore Street, and I would invite any or all of you out and I'll show you what it's like for three adults to live in a 900 square foot house. And you can look at the two houses that have been built across the street, which has improved the neighborhood 100%. And you can see what it looks like and works like. And I'm sure he would probably give them a tour.

Dominic Mingione: Oh, yeah. You can see what a first floor [multiple speakers].

Curtis Hall: And you can walk around all the houses and yards and it's really not that much difference in the yard space. So I'll just say that I'm retired. Knock on the door. It's a house with the round columns and come by and check it out. I can even show you some of those.

Will Moore: Could you state your name for the record, sir?

Terry Cooke: Oh, I thought you did.

Curtis Hall: Curtis Hall, 203 Sycamore.

Terry Cooke: Sure. Thank you for your perspective.

Curtis Hall: So, yeah, anybody who wants to stop by any time, and I can show you some of the code violations too. [laughter]

Dominic Mingione: Don't tell them.

Terry Cooke: Thank you again, we will again close the public comment period. Next item is approval of minutes Planning Commission Work Session and Regular Meeting minutes for our meeting on May 22nd, 2023. Do we have a motion?

Bud Jacobs: I move we approve the work session and regular meeting minutes as presented.

Terry Cooke: Do we have a second?

Dev Roszel: I'll second that.

Terry Cooke: We have a motion and a second. Discussion? All in favor say aye. Aye. Those opposed? Abstained? Motion carries. All right. Next, we come to our scheduled public hearing on a proposed zoning text Amendment 23-03, an ordinance to amend Articles 2, 11, and 16 of the Middleburg zoning ordinance pertaining to the definition of professional office and associated regulations. Will, you want to set the table?

Will Moore: Sure. So a quick recap. You reviewed this for the first-time last month. This likewise was initiated by Council at the suggestion of staff. The quick background is that in 2003 there were some amendments to the Middleburg zoning ordinance, which specifically drafted to try to prioritize the C-2 district. So this is the core district downtown. It's West Washington or it's Washington Street from essentially the Plains Road to Liberty Street. It's portions of the north side of Federal Street and then some of the side streets like Pickering, Pendleton, Madison. To prioritize those for some of the pedestrian oriented active type businesses, specifically retail, personal service, and restaurant. In doing that, at that time, the Council adopted a provision that professional offices, if they were going to locate in C-2, could not locate on first floor ground level unless they obtained a special use permit. You could still locate upper story or if there were basement level spaces, that would still be in a by-right use. But you couldn't locate on the ground floor unless you applied for and received a special use permit. But for some reason at that time there was kind of a carve out made for real estate offices and they were given a different kind of categorization. There's been some concern over the years that that community of real estate offices has expanded. We did talk in December with our Economic Development Advisory Committee, and they agreed that we've probably reached the critical mass was the term of those types of uses in C-2. So the proposal here is to amend the various regulations such that real estate offices would be treated just like all other professional offices. That is, it would be a by right use in C-1, which we're talking further east on Washington Street such as the former Washington [off mic] properties that we're all familiar with, that building that will still be a by-right use. But if a real estate office would want to locate in C-2 on the ground level, street level, it would require a special use permit. And that SUP provision is in there currently for professional office. It would be Real Estate office would be considered just like professional office because there still might be places where it's appropriate. Again, north side of Federal Street, there's C-2 zoning on there that might be an okay space as opposed to a space right on Washington Street. But again, those would be evaluated through a special use process. We have kind of a listing of the current tendency of various real estate offices in C-2. [off mic] The staff report were in seven different offices, real estate offices on ground floor in C-2 currently, right now, I think it's important to note that any of those uses, if this were to be adopted, would be allowed to continue seamless non-conforming uses. This is by no means to say that we're not happy that they're here in Middleburg. We absolutely are. It's just we would welcome any more in C-2 on the ground level unless you had [off mic]. But we have other districts like C-3 and C-1 where [off mic]

Terry Cooke: Thank you, Will. One question I had is and maybe I missed this when we talked about this earlier in an earlier meeting, we're taking out some of the parking requirements for a few designated uses. What's up with that? Why are we doing that?

Will Moore: Yes, good point. So these are uses for which we don't have definitions. [laughter] So currently we have a definition of professional office. We don't have definition of a corporate office, so I'm not sure how to distinguish that without. We have no definition of a general office. Medical office, Doctors and physicians are listed under professional

offices and it's the same requirement. It does not need to be listed separately. So this we just take the professional office requirement which has been applied to all uses that have applied for office space. Again, because there's no definitions of the others ordinance standard, [off mic] which is that would be the one standard for all.

Terry Cooke: Thank you.

Will Moore: Yes sir.

Dev Roszel: A quick question.

Terry Cooke: Yes, Commissioner Roszel.

Dev Roszel: Yes. Hi, Will. Thank you. So in order to get in on the first floor, ground floor, you'd have to submit under this new thing, you'd have to do a special use permit. What is entailed with that? Just submitting it because, okay. I mean, so what do they have? What's the, yeah process.

Terry Cooke: The application?

Dev Roszel: What's the process? What do they have to do to get a special use permit and how does that change for what's already there?

Will Moore: Right. So there's a process outlined in the ordinance for applying for a special use permit. The level of detail that the application has to go into is going to vary circumstance by circumstance. You know, if you think about the proposal for an Inn that was currently was recently before this body that required a lot of information, but it was because there were additions to the building proposed, there were parking improvements proposed. If this were simply somebody proposing to do a Real Estate office in an existing building that had no proposed improvements, it already had some off-street parking that would meet the requirements. It literally would just be an application form.

Dev Roszel: Thank you. [multiple speakers] Yeah. Okay.

Terry Cooke: Commissioner Fleischman.

Ed Fleischman: Thank you, Chairman. I'm not sure the town of Middleburg has a problem with Real Estate offices. I don't know where this came from. I think, again, there's some vocal people who don't like it and they brought it up to Council and Council as a knee jerk reaction to it. I walk along Washington Street a lot. And I see shoppers and strollers and they sort of stopped these real estate offices where they have the board out in front. And it shows these farms that are \$5 million and \$2 million dollars. And people really like it. They like looking at those things. They said, Oh, yeah, look at Middleburg. I just don't think there's a big problem with having Real Estate offices. I'm more a free market person. I just don't think we need any additional restrictions. I think that real estate offices are okay. Look, we turned down what I thought was a very good proposal for an inn. And now we instead of approving things, we're working on restricting things. I think that we ought to think about it. So I'm against further restrictions. Thank you.

Terry Cooke: Just as a counterpoint to Ed's comment, it's my understanding that the catalyst for this was really the economic development folks who believe that there are opportunities for more retail or pedestrian oriented uses on the first floor or the street level of some of these buildings.

Will Moore: So there were discussions between myself as planning staff and our business and community partnerships director about the deficit of storefront space for businesses that want to locate here. We have a deficit of, there were many discussions seven years ago about the empty storefronts now. Right now we we have businesses that actively want to come here and don't have the opportunities. Again, this is no slight against the existing real estate offices that we have here. I agree. I think they fit in pretty well. But we've had a couple of recent ones. As soon as the space came open, [off mic] otherwise fits. And again, we go back and make zoning recommendations decisions. So the purpose of the district always look to the purpose of the district. The purpose of the district is for the active, pedestrian oriented spaces and steps have been taken to prioritize retail, personal services, and restaurants. That's why this is coming. So it's not because somebody who lives five miles out of town got on a Facebook page and complained about the number

of real estate offices. It's nothing like that at all. It's trying to make sure that our regulations match the purpose of the district. There are plenty of other spaces that could be ideal for if additional real estate firms wanted to locate here, but not in C-2 on the ground level. So it might be in the [off mic] Washington [off mic] properties operated for years and years [off mic] East Washington Street very successfully that was [off mic] space. That space is open. Other spaces in C-1 and C-3 [off mic].

Terry Cooke: And just to be clear, I mean, it's not going to displace anybody that's already operating a real estate office there. They're going to be grandfathered. [multiple speakers] Right. Right. So and anyone, I mean, assuming this were to pass, I mean, any real estate agency who still wanted to avail themselves of space on street level could do so via a special use permit. So they're not being foreclosed from it. Did you have something Mimi, Commissioner Stein?

Mimi Stein: I had a quick question. Commissioner Stein, Thanks. I'm remembering a long time ago Thomas and Talbot was they were supposed to have some kind of retail component in their window. Do you remember anything about that?

Terry Cooke: Yeah.

Mimi Stein: And that was, I suppose, to counteract the, you know, the non.

Will Moore: No, that was a. That's a very good memory. [laughter]

Mimi Stein: I don't know where my coffee cup is from this morning.

Will Moore: It's very good recollection. It's not such a good memory. [laughter] But that was an issue. That was a signage issue where there was signage [multiple speakers] Premise signage, and there was utilization of a window to advertise for a business that's not located, not only not on that property, but not in this town. [off mic] Had a retail component of that business in their real estate office. [off mic]

Mimi Stein: Thank you.

Will Moore: Yes, if I might suggest feel free to continue to deliberate, but maybe do the process of opening the hearing and we blew right past that. [off mic]

Terry Cooke: It is a public hearing, isn't it? Yeah. Is anyone, Rhonda on the phone that wants to speak to this?

Rhonda North: No.

Terry Cooke: Okay. We'll invite anyone who is among us this evening who has an interest in this to come forward and speak at this time. Seeing no one, we will return to comments from the Commissioners if there are any further before we move to action.

Dev Roszel: I have a quick question. Commissioner Roszel as always, the last minute.

Terry Cooke: That's what I'm here for. [laughter]

Dev Roszel: Was it set up like that for the real estate agents because they had walk in traffic as opposed to maybe a law office or somewhere where it wasn't always just I mean, you have people that walk in and want to see a realtor. Was that why they were excluded from that?

Will Moore: I can't give you a full report as to why that was 11 years before I started here. The best I can gather from what I read and as the recollection of a couple of people who remembered the deliberations was that certain members of the Real Estate community one didn't fully comprehend that they would be protected by [off mic] provisions. And but it meant that they were going to get kicked out, [off mic]. And then there was other concerns from individual agents in offices who were potentially thinking about branching out on their own, wanting to preserve the right to grab [off mic] the ground floor space on their own. So there was pushback from the Real Estate community. [inaudible]

Dev Roszel: All right. Thank you.

Terry Cooke: Anyone else? This is an action item. Anyone care to offer a motion on this? Please. So. All right.

Dev Roszel: I've read through this several times. I'm not sure where I.

Terry Cooke: All right. Well, I don't as we all know, I don't vote except in the case of a tie. But I don't think there's any restriction on my being able to offer a motion. So.

Bud Jacobs: Mr. Chairman, I'll make the motion.

Terry Cooke: You'll take me off the hook. Thank you. Council Member Jacobs.

Bud Jacobs: I move the Commission forward Zoning Text Amendment 20 3-03 to Council recommending approval as identified in draft one, dated 4-18-23 because the amendment will support the purpose of the C-2 District in promoting the most efficient and attractive use of the district and represents good planning practice.

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

Dev Roszel: I'll second that.

Terry Cooke: We have a motion and a second. Any discussion. All in favor, Please say aye.

Multiple Members: Aye.

Terry Cooke: Those opposed.

Ed Fleischman: Opposed

Terry Cooke: Abstentions. We have a majority in favor of the motion passes. Thank you. Next item is the Council Member Representative Report. Council Member Jacobs, please.

Bud Jacobs: I don't have much to share with you guys.

Terry Cooke: We'll close that matter. Move on. I'll say thank you, Bud.

Bud Jacobs: I could use fewer words even than that.

Terry Cooke: I'm sorry. I have a plane to catch.

Dev Roszel: You didn't say that earlier.

Terry Cooke: Next item is discussion. Any Members of the Commission have any matters they wish to bring up for discussion this evening. Hearing none. We'll close that item. Next item is quorum for our July 24th meeting. Everyone here plan on being here on the 24th?

Rachel Minchew: Yes.

Terry Cooke: Great.

Dev Roszel: As far as I know.

Terry Cooke: [off mic] Yeah. God willing. And the creek don't rise. That concludes the agenda of this evening, folks. Thanks. Thanks for all your input, comments. We are adjourned.

